

**Research Assessment 2008**

**Onderzoekcentrum Onderneming & Recht (OO&R)  
(Business & Law Research Centre)**

**Radboud University Nijmegen**

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## 1 Introduction

### 1.1 The Netherlands System of Quality Assessment of Research

This quality assessment of research is part of the assessment system for all public Dutch university research, as organised by the universities in the Netherlands. The aims of the assessment system are:

- Improvement of the quality of research through an assessment carried out according to international standards of quality and relevance;
- Improvement of research management and leadership;
- Accountability to higher levels of the research organisations and funding agencies, government, and society; and
- Evaluating both retro- and prospective aspects (performance and vision).

The assessment takes place at the level of research institutes and research programmes. The research institutes submit a description of the results that have been achieved in each research programme during the previous six years (including quantitative data about staff input, five key publications and a full list of publications), a short outline of the 'mission' statement of each programme, and developments anticipated in the context of the research profile of the faculty or institute. Important elements of the assessments are the self-evaluation report and the interviews, which the Peer Review Committee conducts with the management and the programme leaders, the plans for the next six years, and the visits to the facilities. This evaluation of the research institute OO&R was commissioned by the Executive Board of Radboud University Nijmegen.

### 1.2 The Peer Review Committee

The Peer Review Committee was appointed in August 2008. Its members were:

- Professor M.W. den Boogert, emeritus University of Groningen, and of counsel, to both Allen & Overy and Loyens & Loeff, the Netherlands;
- Professor Dr. Dr. h.c. E. Dirix, University of Leuven, and Supreme Court, Belgium (Chair);
- Professor E.G. McKendrick BCL MA LLB, University of Oxford, England; and
- Professor Dr. Dr. h.c. mult. R. Zimmermann FBA, Max Planck Institute, Hamburg, Germany.

Mr. J.W.A. Biemans was appointed secretary of the Peer Review Committee. A short curriculum vitae of each of the members is included in Appendix 1.

### Independence

All members of the Committee signed a declaration and disclosure form to safeguard that:

- the panel members judge without bias, personal preference or personal interest, and
- the judgment is made without undue influence from the institute, the programme or other stakeholders.

Any existing professional relationships between Committee members and programmes under review were reported and discussed in the Committee meeting. The Committee concluded that there was no risk in terms of bias or undue influence.

### **1.3 Scope of the Assessment**

This assessment covers the research and the activities of the OO&R. The period of assessment is 2002 - 2007, and recent developments have been taken into account as much as possible.

The Committee was asked to operate according to the *Standard Evaluation Protocol Law (December 2005)*.<sup>1</sup> This Protocol specifies the criteria for the assessment and the information that must be provided to the Committee.

### **1.4 Data provided to the Committee**

The Peer Review Committee received an extensive, clear, and informative Self-Evaluation Report provided by the institute, consisting of three parts: Part I – Description of the Institute; Part II – Description of the Research Programmes ;and Part III – Full list of publications. For each programme, five key publications were specified in the report and copies of these publications were provided to the Committee. During the meeting the Committee also received information by the OO&R staff in the form of various publications displayed in the meeting room. Several of these publications were also provided to the Committee before the meeting. The documentation included all the information required by the Protocol.

### **1.5 Procedures followed by the Committee**

This assessment is based on the documentation provided by the institute, the key publications of each programme, the interviews with staff and Ph.D-researchers. The Committee interviewed members of the Board of the Faculty of Law, members of the executive board of the OO&R, including its chairman and secretary, the programme leaders of the four research programmes and other members of staff as well as a number of Ph.D-researchers. All members of the Committee were familiar with the facilities, which was the reason, also considering the time available, not to include a tour of the facilities in the site visit. The interviews took place on Thursday 20 November 2008. The programme for the site visit is included in Appendix 2.

At its first meeting, the Committee agreed upon procedural matters, major targets of assessment, and the questions to be directed to each of the four programmes and the institute as a whole.

The interviews with the management and programme leaders took place during the day of the site visit, 20 November 2008. All interviews and discussions were held by the entire Committee. The Committee did not report its preliminary findings at the end

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<sup>1</sup> Standard Evaluation Protocol Law (December 2005) to the Report 'Judging Law' ('Oordelen over rechten') (October 2005), of the Committee Preparation Research Assessment Law (Commissie Voorbereiding Onderzoeksbeoordeling Rechtsgeleerdheid).

of the site visit. It was agreed that the Committee would try to finish the report within two weeks after the site visit.

A draft version of the report was sent to the institute on 5 December 2008 for factual corrections and comments. On 8 December 2008 the comments from OO&R were received and discussed within the Committee. This led to adjustments, corrections, and clarifications. The final report was subsequently submitted to the Board of Radboud University Nijmegen on 9 December 2008.

### **1.6 Aspects and Assessment Scale**

The Protocol requires the Peer Review Committee to assess the research on five main aspects, namely:

- Quality (international recognition and innovative potential);
- Productivity (scientific output);
- Relevance (scientific, societal and socio-economic impact);
- Vitality and feasibility (flexibility, management, and leadership); and
- Originality, profundity and thoroughness.

The ratings used are: Excellent (5); Very good (4); Good (3); Satisfactory (2); Unsatisfactory (1). In giving its judgment the Committee has taken into consideration the Self-Evaluation Report 2008, part I-III and the site visit, as well as other relevant information such as a list of the Ph.D research proposals submitted within the framework of the Open Competition of NWO which was handed to the Committee during the day of the site visit.

Note: The ratings specified in the Standard Evaluation Protocol Law differ from the ratings specified in the Standard Evaluation Protocol.

For a description of this system, please refer to 'Oordelen over rechten. Rapport Commissie Voorbereiding Onderzoeksbeoordeling Rechtsgeleerdheid, VSNU 2005, p. 36-40'





## 2 The OO&R

1. Leadership	5
2. Mission and goals	4-5
3. Strategy and policy	5
4. Funding	4
5. Quality of resources and facilities	5
6. Academic reputation	5
7. Societal relevance	5
<b>Overall assessment of the institute</b>	<b>5</b>

### 2.1 Leadership

The OO&R is part of the Faculty of Law. In addition to the Faculty of Law, a number of renowned law firms and companies participate as partners in the centre. The OO&R has both an Executive Board and an Advisory Board. During the period under evaluation, upon his appointment as Rector Magnificus of the Radboud University Nijmegen on 10 May 2007, Professor Dr. S.C.J.J. Kortmann was the chairman of the Executive Board. At present the members of the Executive Board of the OO&R are Professor Dr. C.J.H. Jansen (Chairman), Professor Dr. N.E.D. Faber, Professor Dr. M.P. Nieuwe Weme, Professor Dr. S.E. Bartels (as from 1 March 2008), and Professor Dr. H.W. Heyman (on behalf of the partners). Professor Dr. S.C.J.J. Kortmann is Honorary Chairman and Advisor to the Board. During the period under evaluation, Professor Dr. C.J.H. Jansen and Professor Dr. Y. Buruma were Dean of the Faculty of Law.

The present programme leaders of the four research programmes are:

- Professor Dr. G. van Solinge (programme 1.1: Company law, during the day of the site visit represented by Professor Dr. M. van Olffen);
- Professor Dr. N.E.D. Faber and Professor Dr. S.E. Bartels (programme 1.2: Finance, Security Rights and Insolvency Law);
- Professor Dr. C.H. Sieburgh and Professor Dr. S.E. Bartels (programme 1.3: Business and Patrimonial Law); and
- Professor Dr. I.P. Asscher-Vonk (programme 1.4: Business and Employees).

In the Committee's judgment, OO&R has excellent overall leadership in its chairman and members of the Executive Board and in the programme leaders of the respective research programmes. All leaders interviewed share an ambitious coherent and enthusiastic vision of the institute's present and future position in research nationally and internationally. As for the day to day management of the OO&R, Professor Jansen and Professor Faber have served as constant factors. Having gone into the administration of the University, Professor Kortmann is indirectly still very much involved in the management of the OO&R, in his position of Rector Magnificus, Honorary Chairman and Advisor to the Board.

### 2.2 Mission and goals

One of the goals of the OO&R is intensive collaboration with legal practice. This makes the research institute unique in its kind in the Netherlands and possibly also in

the world. It is one of the major factors contributing to the outstanding position of the institute.

One of the reasons for the intensive cooperation with legal practice is the focus on businesses in the law. The research of the OO&R covers a wide range of activities, positioned in four research programmes, which are: (1.1) Company law, (1.2) Finance, Security Rights and Insolvency Law, (1.3) Business and Patrimonial Law and (1.4) Business and Employees. The OO&R recently established research programme 1.5 on Financial Law, which is led by Professor Dr. M.P. Nieuwe Weme, Professor Dr. C.M. Grundmann-van de Krol and Dr. D. Busch.

With respect to the OO&R mission and goals, the Committee is convinced of their uniqueness and success in the Netherlands. The OO&R has an excellent reputation both in the Netherlands and abroad and has barely any competition in the Netherlands. Its successfulness is reflected in the ease by which the OO&R is attracting outstanding, already established and internationally renowned researchers, such as Professor Hartkamp and Professor Grundmann-van de Krol and new and very promising researchers such as Professor Sieburgh, Professor Bartels and Professor Verburg, not seldom from other universities. The OO&R has no difficulty in finding members for its international working groups. The institute is frequently commissioned by the Ministries of Justice, Finance and Economic Affairs to prepare or draft new legislation or to assist and advice in various matters. The partners of the OO&R belong to the top of regulatory and business in the Netherlands.

In many respects, law is national and the contribution to Dutch law is excellent. However, seeing it as a challenge and a greater ambition, the OO&R could do more internationally. It is not an easy step. However, in two of the four research programmes, programmes 1.2 and 1.3, this step has already been taken, and they have done that excellent. Given the enormous strength of the research institute in the eyes of the Committee the internationalization could easily be done without losing the dominant position in the Netherlands, possibly even reinforcing it. The OO&R could readjust its balance by operating more in international networks and publishing more in international law journals. This suggestion is specifically directed to programmes 1.1 and 1.4. Programmes 1.2 and 1.3 have already to a great extent succeeded in the internationalization of their research, for example by publishing in English, in the Business and Law series, and by joining or leading international network, such as the international working groups on security rights and trust law. Programme 1.1 can learn from programmes 1.2 and 1.3 by doing more comparative law research and setting up international projects, for example in the field of corporate governance. The Committee has understood that a new professor, Professor Dr. E. Kimman S.J., an economist, will be joining who is very likely also to focus on international aspects. In programmes 1.2 and 1.3 there is room for advancement. The outstanding research in European private law for example could be brought to an international publication level and be shared with the international community to serve as an example for other Member States. The Committee has understood that plans for this exist and are being explored at the moment.

As for the organisation of the programmes, the Committee notes that given their size and success programmes 1.1, 1.2 and 1.3 should remain as they are. As for programme 1.4, despite the interesting ideas about the role of the government and

the good research output, it needs more critical mass to continue as a separate programme. The Committee would suggest either to heavily invest in the programme by hiring more staff or to investigate whether the programme could be integrated into one of the existing other programmes, such as programme 1.1 (company law and employees) and programme 1.3 (especially contract law). Some topics indeed deal with labour law only, such as the sick employee, but other topics such as the work council should already be regarded as part of programme 1.1. To continue as a separate programme, labour law would need a very considerable investment to make it viable. However, the OO&R should not spread itself too thinly in its programmes, and as it would be better for the OO&R to concentrate on its strong programmes, it would be better to integrate labour law in one of the existing other programmes, such as programme 1.1, and invest in this programme as a whole.

As for the creation of a new programme on Financial Law (programme 1.5), the Committee sees the creation as a logical step and strongly supports the OO&R in its decision to do so.

As for programme 1.3 the Committee feels that the purpose to bring much of the excellent research both in Dutch patrimonial law and European private law under the umbrella of business and law is somewhat artificial. Not every publication looks at the law from the business point of view. Yet the publications such as the two volume publication on European private law edited by Hartkamp and Sieburgh and the dissertations by Faber on set-off and Struycken on the *numerus clausus* in property law are of an outstanding quality. Such publications should not be narrowed down to the focus of business and law. In general, the whole of programme 1.3 should not be limited by the pretence only to deal with businesses. The Committee is of the opinion that the OO&R should openly and clearly describe the foundational character of the research on which all the other programmes can build. Programme 1.3 should exist within the umbrella concept of business and law, but would not have to meet the demand of having to focus on businesses in all its research. The Committee would recommend to consider that the mission and the title of programme 1.3 would be changed into 'Foundational research on Dutch and European patrimonial law'. As for European private law, the Committee would recommend a closer cooperation with the European law department and to include competition law in its programme.

The core of the publications of the OO&R is largely formed by text books, monographs and volumes in the OO&R-series on specific topics, for example the OO&R volume on professional and company liability, as opposed to publications in journals. The text books, monograph and OO&R volume are of an excellent quality. Also, the fact that the OO&R has a high participation of members of the OO&R staff in the text books in the Asser-series is a sign of excellence. The choice for text books, monographs and OO&R series volumes allows the researchers to publish on more fundamental topics and to carry out more lengthy research, as most publications in Dutch journals are relatively short, not exceeding 3 to 10 pages. Considering this legal publication culture in the Netherlands, the Committee supports the choice for this balance. Publishing more in English however could open up the way to publish more in international journals.

Multidisciplinary research is part of the OO&R research. In programme 1.1 research has been conducted into annual accounts and special court proceedings for

company and arbitrations. In the near future a new research professor of economics, Professor Dr. E. Kimman S.J., will be appointed to lead economic research in the company law department. In programme 1.2, for example, economic research was part of the evaluation of the current Insolvency Act. Research projects will be started in the future on, for example, receivable financing, in which the legal analysis is complemented by economic analysis. In programme 1.3, the research into the underlying principles of law includes a study into legal theory, philosophy, sociology of law and other disciplines. In programme 1.4, multidisciplinary research was conducted in various labour law projects in which sociological and economic perspectives were taken in addition to the social law approach. Researchers, such as Dr. Houwerzijl, publish sometimes together with researchers from other non-legal disciplines; and are part of both national and international interdisciplinary networks.

### **2.3 Strategy and policy**

One of the goals of the OO&R is intensive collaboration with legal practice, which makes the research institute unique in its kind in the Netherlands and contributes significantly to the outstanding position of the institute. The OO&R takes advantage of the fact that academic research conducted in the Netherlands is not only done at universities but also within legal practice. Most legal practitioners involved have an academic background and work or have worked at the OO&R, for example as a Ph.D-researcher. They are specialists in their field. Some practitioners such as Van Hees (De Brauw), Maatman (ABP, AFM), Doorenbos (Stibbe), Grundman-van der Krol (NautaDutilh), who are also part time professors, are excellent academics in their own right, more academic than many of the academics. By including legal practitioners within its network, the OO&R enlarges the feasibility of its projects and the viability of its organisation. The legal practitioners contribute to OO&R projects and publish in the OO&R series volumes. Half of the contributions of the OO&R volumes are of practitioners. They can also signal new developments earlier than the “pure” academics. The network is not shown in the statistics in the Self-Evaluation Report. Yet, it is a significant asset of the OO&R from which it richly profits. Between the OO&R and legal practice there is good cross-fertilization.

The OO&R also profits from its close connection with legal practice because the law firms and other partners of the OO&R also have extensive international networks which can readily be involved within the context of project undertaken by the OO&R, thereby enhancing the international component of the research. Again it should be stressed that this enormous strength of the OO&R does not appear from the formal statistics in the Self-Evaluation Report. One could say that in fact many researchers who work in legal practice and who have an excellent standing are working for the OO&R, but are not on its payroll.

The OO&R should, however, keep in mind the right balance between the input of legal practitioners and part time (0.20 fte) professors working in legal practice (the ‘outside’ researchers) and the fundamental research being done by the OO&R staff working full time. Fundamental research should not only be done by Ph.D-researchers, but also by senior researchers. There should be enough (more) research time available for senior researchers to do fundamental research. For example the research output of Hartkamp, who has significantly more research time than other professors, is not only impressive in quantity, but also in quality, belonging

to the very best research of the OO&R. The senior staff should also have more time to assist work of Ph.D-researchers in order to create an optimal, supportive internal research climate. The Committee recommends that there should be two to three senior researchers in each programme who spend at least 50% of their time on research. In this recommendation the Committee has taken into account that the actual research time spent per year may vary, and may be more than the official research time as shown according to the SEP Law in the numbers, referring to the research time in the formal contracts.

## 2.4 Funding

Funding for the OO&R comes from three sources. Category 1 includes research directly funded by the government, for example the lump sum OO&R receives from the university. Funding category 2 consists of research funded by the national research council NWO and the Royal Netherlands Academy of Arts and Sciences (KNAW). Funding category 3 is research funded by other organizations, such as the European Union, the Ministries of Justice, Finance or Economic Affairs and the partners of the OO&R.

Despite a reduction in category 1, the funding in this category has been overall consistent. However, it may come down after the credit crisis. Recognition by the KNAW is important for the OO&R, as the University Board allocates more funds to the OO&R within the University.

The funding in category 2 is problematic. Looking at the statistics in Part II of the Self-Evaluation Report it is striking that programmes 1.1 and 1.4 did not receive any category 2 funding, despite the excellent standing of the OO&R. Programmes 1.2 and 1.3 did receive funding in this category, but it is only a very small amount, considering the other two categories. In general, the funding of legal research by NWO is problematic, as law faculties have to compete with the sciences (neurosciences, psychology, economics etc.). The deans of the law faculties have complained about the small chances they get for research funding. The funding becomes even more problematic if the government is shifting more money from category 1 to category 2, as appears to be the case in the Netherlands.

In attracting funds in category 3 the OO&R has an excellent standing. Its category 3 funding is unusual in its kind, because of the structure of the OO&R, cooperating with partners which are predominantly businesses and law firms. These are long term contracts (five, six years) which can save the reduction in funding in category 1. In addition the OO&R is funded in category 3 by the Dutch government, such as the Ministries of Justice, Finance and Economic Affairs, and the European Union in relation to specific research projects. The OO&R also gets funding through its enormous network with legal practice in non monetary ways. Many researchers working in legal practice are not on the payroll of the OO&R but contribute significantly to its success. Such funding, whether it be from law firms and businesses or the (European) government, would be considered very positive in other countries such as the United Kingdom, as the OO&R would not only be considered successful in research but also successful in getting private funding.

Despite the excellent status of the OO&R in attracting funds in category 3, and despite the strong efforts of almost all of the research programmes in attracting funds in general, the Committee marks the funding of the OO&R not as excellent (5), but as very strong (4). This is not to criticise the OO&R, but the NWO.

The Committee wishes to point out that in view of the excellent standing of the OO&R and in view of the excellent fund raising qualities of the OO&R, NWO-funding is too low. As for programme 1.4 this is due to the lack of funding proposals handed in by the programme leader(s) of an understaffed department. However, as for programmes 1.1, 1.2 and 1.3 many excellent proposals have been handed in, but have not been successful. During the site visit, the Committee received, on request, a list of Professor Jansen listing all Ph.D research proposals in the period 2002-2007 submitted within the framework of the Open Competition of NWO. In total 17 research proposals have been submitted within the framework of the Open Competition of NWO, and only a few proposals have been successful. The Committee has a real concern that in the future programme leaders, after refusals for funding by NWO, will decide not to allocate any more (precious) time and energy into attracting NWO funds and decide to turn to other sources for funding. The general conception is that, instead of putting in a lot of effort in the application for NWO funding with a low probability of being awarded, it is more attractive to try to get funding elsewhere, where these chances of getting rewarded are far more in line with the excellent research status of the institute. The Committee finds this development alarming.

## **2.5 Quality of resources and facilities**

The quality of resources and the facilities is excellent. The Committee is familiar with the facilities of the OO&R, which are excellent. The OO&R can rely on an excellent administration and ICT-department. It has a very good library. The maintenance of the buildings, computers and technical support is outstanding. All researchers have spacious rooms. There are sufficient funds to attend international conferences, to do research abroad and to purchase legal books. The OO&R has moved into one building, which is a major improvement compared to the last evaluation. By doing so it has become far more easier to communicate and it has stimulated the internal research environment enormously.

## **2.6 Ph.D training and supervision**

The Committee interviewed five Ph.D-researchers (Spath, Vermunt, Van der Broek, Van der Plank, Van der Weijden), doing research in programmes 1.1, 1.2 and 1.3. The researchers are in their fifth year (1x) fourth year (2x) and second year (2x). Their research topics are a good reflection of the research topics of the various programmes. The time the researchers spend on research varies per researcher and per the period of the year. One Ph.D-researcher acts as the secretary of the Executive Board and has for this reason no teaching commitments. Many researchers have spend time abroad, for example at the University of Münster, Edinburgh, Oxford, Munchen (Max Planck Institute) and London, and are encouraged to go to international conferences or are exposed in other ways internationally, for example by acting as secretary to an international working group or by participating in Uncitral meetings. One Ph.D-researcher is writing his thesis on international tax law

in English, specifically for an international audience. The researchers either wish to go into legal practices or stay in the academia. Almost all Ph.D-researchers have their own office. There are ample funds to purchase law books or to go to (international) congresses. Financial support is not an obstacle for doing research. Every researcher has a specific fund allocated to him or her.

As for the internal research environment and interaction, there are monthly meetings in which Ph.D-researchers and professors talk about a research project. The social situation is very important for the young researchers and that has improved a lot. The atmosphere is very informal. There are frequent discussions in the private law department, especially 1.2 and 1.3, per sections and per institution. There is also an annual congress for OO&R researchers and monthly presentations of research. Every Ph.D candidate has the possibility to discuss his or her ideas.

The frequency of meeting with supervisors varies per researcher. Although it is promoted to have a meeting every month, some researchers only meet once per year or once per six months. For most researchers it is possible to meet their supervisor every day or twice a week, and at least on a very regular basis.

Almost all Ph.D-researchers have teaching and other obligations apart from their obligation to complete their Ph.D-thesis within five years. Teaching commitments are substantive. The reasoning behind the teaching obligations is convincing: their Ph.D-research concerns only a narrow subject and by teaching the Ph.D-researchers learn a lot and can develop in a broad way. However, the Committee points out that it is essential to keep the balance. The Ph.D-researchers may be involved in too much teaching and practical work, looking at the completion rates of the Ph.D's. The Committee is concerned about the teaching obligations: they come first and the young researchers will not object to it. They may be spending too much time on teaching. The great involvement of Ph.D-researchers in teaching has led to an extension of their contracts to six or seven years. However, it is the question whether such extension is desirable. Also, the new policy that young researchers do not have to teach in their first year does not apply to the researchers involved in private law, as in this department there is too much teaching to do. The Committee also points out that Ph.D-researchers are 'used' for various OO&R projects, such as helping in editing OO&R Series volumes. Although this may develop the young researchers, it also comes at the cost of taking away more valuable research time. Some researchers leave early and/or finish their theses when working at a law firm afterwards. The Committee recommends to make more the research time available to the Ph.D-researchers in order to improve the speed and the completion rate of Ph.D-research.

Another concern of the Committee is the supervision, which is quite informal and fluid. Although the Ph.D-researchers seem to be quite content with it, in the opinion of the Committee, seeing a supervisor every four to six months is not enough, especially not when looking at the completion rates of the OO&R Ph.D-research. The Committee recommends to invest more in supervision of Ph.D-researchers, and also to do it on a more structured basis.

## **2.7 Academic reputation**

The academic reputation of the OO&R is outstanding. The research institute has in many ways no competition in the Netherlands and is to be considered the absolute top.

The OO&R is often involved in preparing and drafting new legislation. Its advisory role is commissioned by third parties such as the Ministries of Justice, Finance and Economic Affairs. It is also responsible for the editing of many volumes in the highly authoritative Asser series, such as in the field of company law, representation and agency, property law, the law of obligations and European private law. The publication output is high and of an excellent quality. Many researchers frequently publish in authoritative law journals.

The OO&R benefits from a dynamic group of researchers with an excellent international focus in its research projects and has an outstanding national and international network which involves various national businesses, top law firms and government institutions as well as various legal research institutions abroad. The coherence and continuity of the programme is outstanding.

The OO&R has been able to attract new excellent researchers and explore new, extremely significant areas of research. The scientific output of the research group is also excellent, both nationally and internationally.

## **2.8 Societal relevance**

The societal relevance is without any question excellent. The relevance of the research by the OO&R is extremely relevant in the Netherlands. It is indispensable for government, legal practice and legal academia. The societal relevance is obvious from the close connection of the OO&R with legal practice and the goals and mission of the research institute, that is to collaborate intensively with legal practice to keep the societal ('practical') focus and to be able to detect the latest developments in the law, by keeping track of legal practice. Most OO&R researchers become after, or in the process of completion of their Ph.D-thesis either successful practitioners or successful academics; many OO&R researchers teach legal practitioners for their ongoing education. The research of the OO&R is excellent, often ground breaking and fundamental. The fact that the OO&R is broadly supported by the highest ranking businesses, law firms and governmental institutions in the Netherlands itself proves not only its excellence in its work and research but above all its relevance.

## **2.9 Summary impressions**

The Committee strongly recommends that this institute should continue to be recognised. The OO&R is an excellent research institute.



### 3 Assessments per programme

The Committee carried out an assessment at the level of the research programmes, as defined by the Institute. In the programme assessments scores are provided at the programme level.

The five point scale used in the assessment is as follows:

#### Excellent (5)

Work that is at the forefront nationally, and which most likely will have an important and substantial impact in the field. Institute is considered a national leader and can be compared to similar excellent institutes internationally.

Institute or programme is excellent regarding the aspects of quality, relevance, productivity, vitality and feasibility, originality, profundity and thoroughness.

#### Very good (4)

Work that is nationally competitive and is expected to make a significant contribution; nationally speaking at the forefront in the field.

If applicable, institute is considered international visible. Institute or programme is very good regarding the aspects of quality, relevance, productivity, vitality and feasibility, originality, profundity and thoroughness.

#### Good (3)

Work that is competitive at the national level and, if applicable, will make a valuable contribution in the international field.

Institute or programme is good regarding the aspects of quality, relevance, productivity, vitality and feasibility, originality, profundity and thoroughness.

#### Satisfactory (2)

Work that is solid but not exciting, will add to our understanding and is in principle worthy of support. It is considered of less priority than work in the above categories. Institute is nationally visible.

Institute or programme is satisfactory regarding the aspects of quality, relevance, productivity, vitality and feasibility, originality, profundity and thoroughness.

#### Unsatisfactory (1)

Work that is neither solid nor exciting, flawed in the scientific and or technical approach, repetitions of other work, etc. Work not worthy of pursuing.

Institute or programme is unsatisfactory regarding the aspects of quality, relevance, productivity, vitality and feasibility, originality, profundity and thoroughness.

<b>Institute:</b>	<b>OO&amp;R</b>	
Programme 1.1:	Company law	
Programme leader:	Professor Dr. G. van Solinge	
Academic staff in 2007:	11.30 fte	
Assessment :	Quality:	5
	Relevance:	5
	Productivity:	4-5
	Vitality and feasibility:	5
	Originality, profundity and thoroughness:	5

### *Overview*

The company law programme, also known as the Van der Heijden Institute, has a long history and an excellent reputation. As a research centre solely dedicated to company law it has no competition in the Netherlands. As such, the Van der Heijden Institute is often involved in preparing and drafting new legislation and their advisory role is commissioned by third parties such as the Ministries of Justice, Finance and Economic Affairs. It is also responsible for the editing of three volumes in the highly authoritative Asser series in the field of company law. Given its dominant position in the Netherlands, the main challenge for the Van der Heijden Institute is further to explore the comparative law and European law research and publish accordingly in international law reviews, and to start, similar to the International Working Groups in programmes 1.2 and 1.3, one or more international projects.

### *Detailed report*

Research in the Van der Heijden Institute covers the whole of company law. Standing in a long tradition the Van der Heijden Institute conducts its research in close cooperation with legal practice, being both commercial legal practice and government. Increasing attention has been paid to partnerships, including comparative law research. This particular research stands in a long tradition, as from the beginning the Van der Heijden Institute has been involved in drafting new legislation in this area and editing handbooks on this subject. Attention to the influence of European law is given especially in the research focusing on the law relating to groups of companies and the taxation of enterprises. Of recent origin is the research in the field of corporate litigation, which has expanded enormously in latter years. Another relatively new field which in practice has grown in importance and scope is the infiltration of corporate law by securities law. This research will become a part of the new programme 1.5 on Financial law, which new programme also includes other topics. The research programme of the Van der Heijden Institute comprises in total five fields:

1. The functioning of legal entities and their organs;
2. The law pertaining to groups of companies;
3. The infiltration of corporate law by securities law;
4. Corporate litigation; and
5. Taxation of enterprises.

*Evaluation of programme***Quality**

1. The approach and ideas	4-5
2. Significance of the contribution to the field	5
3. Coherence of the programme	4-5
4. Quality of publications (scientific impact)	5

Company law remains an excellent programme with a breadth of interests. The scientific impact of the publications is excellent, and the influence and dominance in the field of company law in the Netherland is without question. The significance of the contribution to the field is outstanding. The Van der Heijden Institute has no significant competitors in its field. Its ongoing national excellence is underlined by its role in preparing and drafting new legislation and advising third parties such as the Ministries of Justice, Finance and Economic Affairs. The Van der Heijden Institute responsible for the editing of the three volumes on company law in the highly authoritative Asser Series.

In the research period various new paths have been set out for comparative legal and European law research, for example in the research on limited liability companies and partnerships, corporate governance and the research on securities law and tax law. It is a major challenge for the Van der Heijden Institute to continue these projects and to build upon this change in strategy. In terms of ambition, the success at a national level, including the numerous invitations by government to do research, and the leading, preeminent position in the Netherlands may prevent the Van der Heijden Institute to go further and stretch its ambition internationally. Being excellent in the Netherlands, and having an outstanding network nationally, the next step is to claim this position internationally by publishing more in international law journals and by setting up one or more international projects as has been done in programmes 1.2 and 1.3. The quality of the programme could be improved by more international focus.

A concern for the Committee is that although the close cooperation with legal practice proves to be extremely fruitful in many ways, not only the Ph.D-researchers, but also the senior researchers the Van der Heijden Institute should be structurally involved in fundamental research. The topics of the research in programme 1.1 may be steered too much by legal practice. There is a real concern that too many people, including legal practitioners and senior researchers working part time in legal practice, are putting in too little time on fundamental research. The quality of the research could be improved by a more independent focus by senior researchers on fundamental research.

**Productivity**

1. Number of Ph.D theses	5
2. Number of publications	4-5

The group has an excellent record in terms of productivity. Publications are at an impressive pace and in high-impact journals. Various volumes have been published

in the OO&R Series and the productivity of the Van der Heijden Institute, both in number of Ph.D-theses and publications is excellent.

In the past, some of the Ph.D-researchers had not finished their research by the end of their contract, switching to legal practice. The Van der Heijden Institute has changed its coaching of researchers because of these experiences. Each researcher has a supervisor coaching him or her in the first year on a weekly basis, and less frequently as research progresses. After 1.5 years there is a serious evaluation of the research. There are 5 Ph.D-researchers inside and 4 Ph.D-researchers outside the university. The aim is to have each year one Ph.D-thesis finished. The current group of Ph.D-researchers is successful and promising and appear on the path towards finishing their Ph.D's.

As for the revision of the Asser Series volumes on company law there is a substantial and worrying delay in the revision of these volumes, which is only hesitation for the Committee to fully award excellent with regard to the productivity in this programme.

### **Relevance**

1. The advancement of knowledge	5
2. The dissemination of knowledge	5
3. The implementation of knowledge	5

The advancement, dissemination and implementation of knowledge is, given the central and dominant position of the Van der Heijden Institute in the preparation and drafting of new legislation, in advising the government and other social institutions, and in editing the Asser Series as well as considering the high output of publications in the field of company law, excellent. The relevance of the research by the Van der Heijden Institute is extremely relevant in the Netherlands. Its research is extremely valuable for government, legal practice and legal academia.

### **Vitality and feasibility**

1. In view of the past scientific performance	5
2. In view of future plans and ideas	5

Considering the long history and the overall excellent standing of the Van der Heijden Institute and its close connectedness to legal practice and its ability to deal with new, recent developments in company law, such as the influence of securities law on company law, the vitality and feasibility of the Van der Heijden Institute is excellent.

The Institute should pay attention to attracting new researchers on a full time basis in order to conduct fundamental research and supervise the day-to-day management of the Institute.

### **Originality, profundity and thoroughness**

1. Originality	4-5
2. Profundity	5
3. Thoroughness	5

The aspects of originality, profundity and thoroughness of the programme are, focusing on the national contribution, excellent. However, there needs to be a strong commitment to also focus on international research, so to claim the same excellent position the Van der Heijden Institute has nationally. By doing so the Institute could lead the field of company law in the Netherlands in new directions.

<b>Institute:</b>	<b>OO&amp;R</b>	
Programme 1.2:	Finance, Security Rights and Insolvency Law	
Programme leaders:	Professor Dr. N.E.D. Faber and Professor Dr. S.E. Bartels (previously: Professor Dr. S.C.J.J. Kortmann)	
Academic staff in 2007:	15.50 fte	
Assessment :	Quality:	5
	Relevance:	5
	Productivity:	4-5
	Vitality and feasibility:	5
	Originality, profundity and thoroughness:	5

### *Overview*

The Finance, Security Rights and Insolvency Law group is excellent and probably the most outstanding programme within the OO&R. It benefits from a dynamic group of researchers with an excellent international focus in its research projects. The coherence and continuity of the programme is excellent. Programme 1.2 has close ties with and profits very much from its excellent national and international network, both in legal academia and in legal practice. Through its chairman Professor Dr. S.C.J.J. Kortmann, among others, the OO&R has been involved in the drafting and preparation of a new Insolvency Act. The research of the programme into finance and security rights and insolvency law, under the flag of the Institute of Insolvency Law, belongs to the core research of the OO&R.

### *Detailed report*

Programme 1.2 has strong focus on finance, security rights and insolvency law. Special attention is to be given to the comparative research conducted in the International Working Group on European Security Rights, and in the International Working Group on European Insolvency Law, which resulted in the Principles of European Insolvency Law. On a regular basis the research group publishes in English in volumes of its Series Law of Business and Finance. The research group has strong ties with other universities in Europe which cover the same research topics. The following fields of research are covered by the programme:

1. Pledge and mortgage;
2. Fiduciary security, reservation of title, hire purchase and leasing;
3. Personal and contractual security rights;
4. Receivables financing; and
5. Principles of insolvency law.

The aspects of financial law which relates to capitals markets, securities and financial supervision law will be covered by the new programme 1.5 on Financial law.

Programme 1.2 sparkles with new ideas for coming international and multidisciplinary projects, such as a new project on insolvency law in Europe and beyond, involving not only countries such as the U.S.A., Japan and Australia, but also Argentina, Brazil and India, aiming at developing new, global principles of insolvency law, and a new project on financial institutions, their bankruptcy and supervision, and on the credit crisis combining both legal and economic perspectives. The programme is well integrated with programme 1.3.

*Evaluation of programme***Quality**

1. The approach and ideas	5
2. Significance of the contribution to the field	5
3. Coherence of the programme	5
4. Quality of publications (scientific impact)	5

The overall quality of the programme is excellent. Focus, coherence and continuity of the programme are outstanding. The scientific impact of the research and publications is excellent, also internationally. It is undisputed that this programme of the OO&R is leading in the Netherlands, not having an equivalent or near competitor. Not only in quality, but also in exploring new fields of research the OO&R is excellent. Various staff members are involved as editors and authors of prestigious handbooks, including the Asser Series. Many publications appear in Dutch journals and in large volumes in the Business and Law Series and the Law of Business and Finance Series of the OO&R, both in Dutch and in English. As for the manner in which the research is published, the Committee would encourage the researchers to further address the international community even more effectively by publishing in international journals and in this respect set new ambitions internationally.

**Productivity**

1. Number of Ph.D theses	4
2. Number of publications	5

Considering the number of staff of the programme, the productivity with respect to the number of publications is excellent. The number of Ph.D theses could improve. However, it should be emphasized that the quality of the Ph.D theses is excellent and that many Ph.D-theses, as far as depth and scope are concerned, reach far beyond what is normally expected of a Ph.D-thesis in the Netherlands. Yet, if the success of the Ph.D-theses is not measured in quality, but in time, there is room for improvement, and the programme leaders should consider either to cut down teaching obligations for Ph.D-researchers or to invest more in supervision, which could be more structurally organized.

The Committee has further taken into account that various projects within this programme such as the work done on the new Insolvency Act, a new volume in the Business and Law Series on this topic, a new volume in English on security rights in Europe of more than 700 pages and a completely new Asser volume on Insolvency law are extremely time consuming. Although the Committee strongly encourages the line set out by publishing in handbooks and in volumes of the OO&R Series, it would also like to point out that the fact that fewer articles are published in law journals may become a weakness. However, at this moment there is no evidence of this threat materializing.

**Relevance**

1. The advancement of knowledge	5
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2. The dissemination of knowledge	5
3. The implementation of knowledge	5

Considering the stated mission of this programme, the relevance of the research with respect to the advancement, dissemination and implementation of knowledge is excellent. Most researchers become after, or in the process of completing their Ph.D-thesis either successful practitioners or successful academics. Many researchers teach to legal practitioners and recently the knowledge of the OO&R with regard to insolvency law was drawn upon for the preparation and drafting of the new Insolvency Act. The cross-fertilization by the close cooperation with legal practice adds to the relevance of the research conducted. The Committee also here wishes to signal that there is room for improvement to advance and disseminate the knowledge to the international audience by publishing more in international journals.

### ***Vitality and feasibility***

1. In view of the past scientific performance	5
2. In view of future plans and ideas	5

Considering the present status and future developments of staff and facilities, the long-term viability and feasibility of the programme is excellent. The continuity of the programme is outstanding. Programme 1.2 sparkles with new ideas for coming international and multidisciplinary projects. Considering the extremely strong national and international network of this programme group, through which the actual set of researchers is far greater than on paper, the productivity of the research group and feasibility of the projects is excellent. The research group is strongly embedded in the whole of the OO&R and forms in many respects the core of it. The Committee has great confidence in the setting up of the new programme 1.5 on Financial law, which directly evolves from and is closely connected to this programme.

### ***Originality, profundity and thoroughness***

1. Originality	5
2. Profundity	5
3. Thoroughness	5

The originality, profundity and thoroughness of the programme are in one word excellent.



<b>Institute:</b>	<b>OO&amp;R</b>	
Programme 1.3:	Business and Patrimonial law	
Programme leaders:	Professor Dr. C.H. Sieburgh and Professor Dr. S.E. Bartels	
Academic staff in 2007:	19.05 fte	
Assessment :	Quality:	5
	Relevance:	5
	Productivity:	5
	Vitality and feasibility:	5
	Originality, profundity and thoroughness:	5

### *Overview*

The research covered by programme 1.3 is in all respects excellent. Its outstanding research is fundamental for the whole of the OO&R research, which is overall business oriented. The research programme has been able to attract new excellent researchers and explore new, extremely significant areas of research, in particular the area of European private law. The scientific output of the research group is also excellent, both nationally and internationally. The research group is, among other things, responsible for the editing of volumes in the highly authoritative Asser Series in all research fields covered (representation and agency, property law, the law of obligations and European private law). The research group deserves full freedom in its further development. Instead of trying to fit all research under the umbrella of 'business and law', which can sometimes appear as artificial, programme 1.3 should be recognized as the research programme dealing with the fundamentals of Dutch and European patrimonial law, emphasizing less the direct relevance for businesses.

### *Detailed report*

The research conducted within the scope of research programme 1.3 focuses on all issues of patrimonial law, and can further be divided into property law and the law of obligations (with a special focus on agency). In the research both Dutch and European perspectives are being taken. The research into European private law is ground breaking in the Netherlands and beyond. Programme 1.3 is unique because of its strong European law focus. Also in other respects the programme has a strong international focus, for example by participation in projects of the Acquis Group and UNIDROIT and by leading the International Working Group on European Trust Law. The necessity of this research programme for the whole of the OO&R is clear. Legal research directed to businesses in patrimonial law is without use if the core principles of patrimonial law are not well understood. All legal persons, whether being businesses or not, are in fact dealing with the same legal questions. The research covers the following themes:

1. Representation, agency and administration, including trusts;
2. Property law, such as acquisition of property, transfer of goods and real subrogation;
3. The law of obligations, including set-off and undue enrichment, the law of contract and liability and tort law; and
4. European law and Dutch patrimonial law.

The research programme has close connections with programme 1.2. In some specific cases research is overlapping, such as the research on set-off.

### *Evaluation of programme*

#### **Quality**

1. The approach and ideas	5
2. Significance of the contribution to the field	5
3. Coherence of the programme	5
4. Quality of publications (scientific impact)	5

The quality of the programme with respect to the approach and ideas, the significance of the contribution to the field, the coherence of the programme and the quality of publications is excellent. The research in European private law is fundamental and groundbreaking and deserves to be brought to the attention of the whole of Europe. Much time and energy is devoted to the editing of the highly authoritative Asser Series volumes, on property law (one volume), the law of obligations (three volumes), representation and agency (one volume) and a completely new volume on European private law. In addition, there are projects focusing on themes such as European private law, liability of the professions, or European trust law, which are published in the OO&R Series. Apart from that the number of publications in monographs and high standard journals is also outstanding. Researchers are using the various publications in a well chosen way to contribute to the field. The Committee would recommend to build on the outstanding position in the Netherlands by further exploring publishing in international journals. Looking at the development in the European private law research the Committee sees an extremely positive development in which more researchers of this programme will contribute to the international debate, keeping their outstanding national position. The Committee has understood in this respect that there are concrete plans to republish some works on European private law in translation, for example the general part on European private law in the OO&R Series, expanding a bit more on the examples. As the research was ground breaking, the main concern has been to serve the Dutch lawyers and judges. The Committee encourages the group to publish more in English, because there is such enormous strength in the programme from which the international community might benefit.

#### **Productivity**

1. Number of Ph.D. theses	4-5
2. Number of publications	5

Considering the number of staff members of the programme, the productivity with respect to the number of Ph.D theses and number of publications is excellent. In addition to the three Ph.D-researchers listed in the statistics, four more Ph.D-researchers have been hired. Apart from these Ph.D-researchers several lecturers are also working on a Ph.D and thereby contributing to the fundamental research of the programme.

Considering the length of time which some Ph.D-researchers take to finish their Ph.D thesis the Committee urges the programme leaders to consider either to cut down teaching obligations for Ph.D-researchers or to invest more in supervision, which should be more structurally organized. The fact that Ph.D-researchers are content with their teaching obligations and with the informal and fluid supervision does not mean that this is also beneficial for them and for the timely completion of their Ph.D-research or that more structure could be brought into the supervision and coaching of Ph.D-researchers.

### **Relevance**

1. The advancement of knowledge	5
2. The dissemination of knowledge	5
3. The implementation of knowledge	5

Considering the stated mission of this programme, the relevance of the research with respect to the advancement, dissemination and implementation of knowledge is excellent. Here, it can be repeated that the research in European private law is fundamental and groundbreaking and deserves to be brought to the attention of the whole of Europe, and that in all research areas of the programme, researchers are in charge of editing the highly authoritative Asser Series volumes. In addition, much research has been disseminated by the publication of grand research projects on for example European private law, liability in the professions and European trust law in volumes of the OO&R Series. It should also be mentioned that professors Hartkamp and Sieburgh have set up a special education programme for the high courts in the judiciary, such as the Dutch Supreme Court, to teach about European private law, thereby disseminating the new and extremely significant knowledge in European private law.

### **Vitality and feasibility**

1. In view of the past scientific performance	5
2. In view of future plans and ideas	5

Considering the present status and future developments of staff and facilities, the long-term viability and feasibility of the programme is excellent. Before the leave of professor Kortmann the OO&R has been able to attract new promising professors such as Bartels and Sieburgh and established professors such Hartkamp, not rarely from other universities. In view of future plans and ideas, the Committee has full confidence in the continuation of the excellent research standing. Remarks by previous peer reviews have been taken into account.

New professors such as Hartkamp, Sieburgh and Bartels have already contributed to the success of the OO&R in these programmes, for example in the field of European private law, and have shown to be extremely capable of leading the programmes and setting out news paths for the future.

### **Originality, profundity and thoroughness**

1. Originality	5
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2. Profundity	5
3. Thoroughness	5

The overall assessment of originality, profundity and thoroughness of the programme is excellent.

**General remark**

Although the Committee is fully convinced that the OO&R as a whole should keep its focus on business and law, the Committee finds the focus on business in programme 1.3 unnecessary and for that reason also artificial. Some of the most outstanding work in programme 1.3 is not related to business, although it is beyond doubt that it should be kept in the programme. Instead of trying to put all research topics under the umbrella of business and law, the title of the programme could better be changed into 'Foundations of Dutch and European patrimonial law', which would suit the content of the programme much better, and thereby openly and clearly state the focus of the research. This way no excuses have to be made when for example consumer directives are studied as part of the development of European private law as a whole. As the OO&R has chosen to integrate European private law in each research object within programme 1.3, seeing European law as another source of Dutch law, this would be a better option than to make European private law a separate, fifth or sixth programme. It would also be much better than to constrict the programme by obliging it to focus on business and law only; this would constrain the outstanding research and could have a negative effect on the excellence of this research programme.

<b>Institute:</b>	<b>OO&amp;R</b>	
Programme 1.4:	Business and Employees	
Programme leader:	Professor Dr. I.P. Asscher-Vonk	
Academic staff in 2007:	7.10 fte	
Assessment :	Quality:	3-4
	Relevance:	4-5
	Productivity:	4
	Vitality and feasibility:	3-4
	Originality, profundity and thoroughness:	4

### *Overview*

In the labour law group there are committed members of staff publishing good quality work in strong journals in the field. They have a good record in training Ph.D-researchers and the research is of considerably originality and very good to excellent societal relevance. There is nonetheless a lack of critical mass which is hindering the development of OO&R research in relation to focused, fundamental Dutch law research with an international component. There is also insufficient external funding to enable the research group to become stronger and more vital. The research group potentially has a very strong connection with programmes 1.1 (company law) and 1.3 (in particular, contracts).

### *Detailed report*

The programme 'Business and Employees' concentrates primarily on the part of social and labour law which is relevant to businesses. Attention is paid not only to the ever changing rights and obligations in labour law relationships, but also to the aims and paradigms behind those changes. The research programme focuses mainly on two topics:

1. Business or government?; and
2. Equality and differentiation.

The first theme focuses on the changes to the manner in which responsibilities are assigned in the field of labour and income provision, and particularly on the role the business plays in this, for example relating to the protection of income for employees on sick leave and the relationship between the law relating to dismissal and the Unemployment Insurance Act. Other aspect include research into the position of collective social security such as pension and the increasing privatization of social security. The second theme is linked to the growing needs of businesses and employees for customized solutions and freedom of choice and the increasing space to manoeuvre provided by the Dutch government.

### *Evaluation of programme*

#### **Quality**

1. The approach and ideas	4
2. Significance of the contribution to the field	3-4
3. Coherence of the programme	3-4
4. Quality of publications (scientific impact)	3-4

The research of programme 1.4 is unique to the extent that it focuses on the relationship between business and government. The quality of the programme with respect to approach and ideas, the significance of the contribution to the field, the coherence of the programme and the quality of publications is in principle very good, but is hindered by the lack of critical mass. In the Netherlands, the programme is highly regarded, but its overall importance is hindered by the fact that the international dimension is not in the centre of attention of the research programme. The fact that labour law is changing rapidly may make the demand for quick publications higher, but this comes at the same time at the cost of doing less fundamental research. Although the number of publications is impressive considering the number of staff, the Committee misses a focus on fundamental research as shown in the other programmes.

### ***Productivity***

1. Number of Ph.D theses	4
2. Number of publications	4-5

Considering the number of staff of the programme, the productivity with respect to number of publications is excellent. The staff has achieved an excellent output in publications, especially considered the many teaching obligations of the researchers. The number of Ph.D theses is very good, although with small numbers it is hard to assess. One of the two Ph.D's was not finished in time due to two maternity leaves of the Ph.D-researcher. More Ph.D-researchers could have been attracted considered the research projects undertaken, should there have more funding available.

### ***Relevance***

1. The advancement of knowledge	3-4
2. The dissemination of knowledge	3-4
3. The implementation of knowledge	3-4

The content of the labour law programme is in principle extremely relevant to society. The research topics of this programme are directly dealing with the current changes in society regarding labour law. Considering the stated mission of this programme, the relevance of the research with respect to advancement, dissemination and implementation of knowledge is however lower compared to the other programmes because the research group is smaller. There is also little advancement internationally, which further reduces the relevance of the research conducted.

### ***Vitality and feasibility***

1. In view of the past scientific performance	3-4
2. In view of future plans and ideas	3-4

In terms of future plans and ideas the research programme is in theory very strong. The vitality and feasibility of the research as a separate research programme within the OO&R structure are good to very good considering the overall perspective of the programme.

One of the concerns of the Committee is the lack of initiative in the search for external funding, combined with the lack of critical mass. Although the shaping of the programme is collective, most work is done by the researchers individually. The same seems to be true for management and fundraising tasks. Attracting funds has not been a priority of the research group, whereas sufficient funds should be available, considering the high societal relevance of labour law. The lack of attracting external funding may be due to specific circumstances, such as the lack of critical mass, the heavy teaching load of the staff and the teaching management obligations of the former assistant-professor serving on the Board of the Faculty of Law, but they are also due to a lack of focus, as publishing at a high rate has clearly been prioritized over attracting funds. In terms of leadership, this has not been an optimal choice for the vitality of this research group. There have been recent changes in the staff, which should enable this programme to become more focused and to expand the research group by attracting more funding. While this development is to be welcomed, it must be questioned whether this is sufficient on the long term. The issue is not helped by the fact that in 2009 the current programme leader, Professor Asscher-Vonk, will be departing (as professor emeritus) and no clarity exists as to the succession. Although a new professor of labour law, Professor Verburg, has been attracted, who is focusing on employee participation, it is doubtful whether he will do so full time after the leave of Professor Asscher-Vonk. It is also unclear to what extent the research of the new professor has been integrated successfully in programme 1.4. This is a restraint on making plans for the future.

Considering the present status and future developments of staff and facilities, the long-term viability and feasibility of the programme, there is a strong recommendation to integrate this programme in other programmes. In order to keep its excellent strength the OO&R would be advised to focus on investing more in programmes which are clearly successful and in expanding in new areas that have the same promise, such as the new programme on Financial law. As the labour law research group has a very strong connection with programmes 1.1 (employee participation), and 1.3 (research on labour law rights and obligations and labour law directives), it would be a logical choice to bring the research of programme 1.4 under these two programmes. The only other alternative would be to make a significant investment in this research area to get the critical mass needed. However, this would also imply that within the limited financial means the same investment could not be used to make the more successful programmes even more excellent.

### ***Originality, profundity and thoroughness***

1. Originality	4
2. Profundity	4
3. Thoroughness	4

In terms of originality, profundity and thoroughness of the programme is very good. There is room for improvement, if the international aspect would be added.





## Appendix 1: Curricula Vitae of the members of the Peer Review Committee

### **Prof. M.W. den Boogert**

Michael den Boogert (° 06.07.1943) obtained his law degrees from the Katholieke Universiteit Nijmegen in 1969 (cum laude) and in 1973. He is a barrister in Amsterdam as from 1973 and was a partner in the international law firm Loeff Claeys Verbeke (1976-2000).

He is (a.o.) a member of the State Commission for Company Law of the Ministry of Justice, a member of the Committee Capital Markets of Autoriteit Financiële Markten, a member of the Board of Nederlands Arbitrage Instituut and chairman of the Permanent Arbitration Panel of the Dutch Securities Institute.

Prof. Den Boogert was a member of the academic staff for private (patrimonial) law of Prof. W.C.L. van der Grinten (1969-1973) and was appointed endowment professor of securities law at Rijksuniversiteit Groningen (1997-2008).

Prof. Den Boogert has published on topics of company law, securities law, corporate governance and private law.

### **Prof. Dr. Dr. h.c. E. Dirix**

Eric Dirix (° 28.12.1953) graduated in 1983 as Dr.Jur. from the University of Antwerp. Since 1998 he is a member of the Belgian Supreme court (Hof van Cassatie). He is also a law professor at the University of Leuven where he teaches Insolvency law.

He is the president of the Belgian Association of Comparative Law and secretary of the Association of the Comparative Study of the Laws of Belgium and the Netherlands. He was a member of the Committee Assessment of Research Quality Law Faculties of the Netherlands (2001).

He was a visiting professor at the University of Rwanda (1982, 1984, and 1985) and Strasbourg (1996) and was invited to give lectures in different universities: Antwerp, Gent, Essex, Nijmegen, Stellenbosch, Tilburg, and Pretoria (UNISA).

In 2006 he occupied the Francqui-chair at the University of Brussels and in 2008 he received an honorary doctorate from the Radboud University Nijmegen.

He wrote a variety of books and articles on contract law, insolvency law and secured transactions.

### **Prof. E.G. McKendrick BCL MA LLB**

Ewan McKendrick (° 23.09.1960) graduated in 1984 as B.C.L. from the University of Oxford, Pembroke College, and in 1982, with honours, as LL.B from the University of Edinburgh. He served as Lecturer in Law at Lancashire Polytechnic (now University of Central Lancashire), University of Essex, and London School of Economics and Political Science. In 1991 he became Fellow of St. Anne's College, and Linnells Lecturer in Law in the University of Oxford. In 1995 he was appointed Professor of English Law at the University College London. From 2000 he is Herbert Smith Professor of English Private Law, University of Oxford and Fellow of Lady Margaret Hall. From 2004 through 2006 he served as Chair of the Board of the Faculty of Law (the Oxford equivalent of the Dean of the Faculty), University of Oxford. From 2006 he is Pro-Vice-Chancellor with responsibility for Research, Academic Collections and University Services at the same university.

Professor McKendrick is a member of the Editorial Board of Current Legal Problems, the Journal of International Banking and Regulation Law and the Journal of Obligations and Remedies. He is the Editor of Building Law Monthly and since 2005

the Editor of the Oxford Journal of Legal Studies. He is a barrister in practice at 3 Verulam Buildings; his practice is largely an advisory one. Professor McKendrick has also been involved in various international arbitrations. He lectures regularly for major City Law firms and has given a number of lectures for the Judicial Studies Board. He is an external examiner at University of Edinburgh, University of Aberdeen, University of Hull, London School of Economics and Political Science, King's College, London, Queen Mary and Westfield College, London and the University of Hong Kong. Professor McKendrick is a member of the co-ordinating committee of the Study Group on a European Civil Code and a specialist advisor on Unjust Enrichment and Sales, Services and Long-term Contracts. He is also a correspondent of UNIDROIT. Professor McKendrick has published widely in the areas of contract law, commercial law, tort law, law of restitution and labour law.

**Prof. Dr. Dr. h.c. mult. R. Zimmermann FBA**

Reinhard Zimmermann (° 10.10.1952) obtained his state examinations in law in 1976 and 1979; in 1978 he graduated as Dr. jur. from the University of Hamburg. After having held posts in the universities of Hamburg and Cologne, he was called to the W.P. Schreiner Chair of Roman and Comparative Law at the University of Cape Town in 1981. He was Deputy Dean and Dean of his faculty as well as Vice-President and President of the Society of South African Teachers of Law. In 1988, Professor Zimmermann accepted a call to the chair of Roman Law, Comparative Legal History and Private Law at the University of Regensburg. Here, too, he has served as Deputy Dean and Dean of his faculty. In 2002, he was appointed Academic Member and Director of the Max-Planck-Institute for Comparative Private Law in Hamburg. In 2006 he was elected Chairman of the Social Sciences, Arts, and Humanities Division of the Max Planck Society. Professor Zimmermann has been visiting professor at the Universities of Edinburgh (1990, 1999-2008), Tulane (1991), Berkeley (1994), Stellenbosch (1996-99), Yale (1998) and Cornell (2000). In 1993 he served as Max Rheinstein Professor at the University of Chicago, and he spent the academic year of 1998/99 as A.L. Goodhart Professor of Legal Science and Fellow of St. John's College, Cambridge. In 2006 he was a Visiting Fellow at All Souls College, Oxford; in the spring of 2007 he was the New Zealand Legal Research Foundation Distinguished Scholar in Auckland.

Professor Zimmermann holds honorary doctorates from the Universities of Chicago, Aberdeen, Maastricht, Lund, Cape Town, Edinburgh and Lleida. He is an ordinary member of the Academy of Arts and Sciences of Göttingen and corresponding member of the Bavarian Academy of Arts and Sciences, the Royal Dutch Academy of Arts and Sciences, the Austrian Academy of Sciences, and the Accademia delle Scienze di Torino. He is a corresponding fellow of the Royal Society of Edinburgh and the British Academy. In 1996 he won the Leibniz prize of the German Research Foundation. His main areas of interest include the law of obligations in historical and comparative perspective, the relationship between the English common law and the continental civil law, mixed jurisdictions (Scotland, South Africa) and the harmonization of European private law.

## **Appendix 2: Programme of the site visit of the OO&R**

### **Wednesday 19 November 2008**

- 19.00 Welcome Reception hosted by Dean Jansen (on behalf of the University Board)  
19.30 Dinner

### **Thursday 20 November 2008**

- 8.30 Internal Committee Meeting to prepare site visit and tasks  
10.00 Discussions with programme leaders and others (starting with 5 minute presentation by programme leaders; followed by interviews; after each session there is a short break for makes notes and review)  
10.00 General introduction  
10.45 Programme 1.2: Finance, Security Rights and Insolvency Law  
11.20 Break  
11.30 Programme 1.3: Business and Patrimonial Law  
12.05 Programme 1.4: Business and Employees  
12.40 Lunch  
13.30 Programme 1.1: Company Law  
14.05 Interview with Ph.D-researchers  
14.40 Break  
14.45 Internal Committee Meeting for draft conclusions and further procedure  
16.00 Departure Professor Den Boogert and Professor Zimmermann  
19.00 Dinner (optional)