

# Annual Report 2013

Annual Report 2013  
Research programme  
"Behavioural Approaches to Contract and Tort:  
Relevance for Policymaking"

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Erasmus School of Law  
Erasmus University Rotterdam, the Netherlands



Behavioural Approaches to Contract and Tort:  
Relevance for Policymaking

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## Table of Contents

Key Facts 2013 .....	2
The Programme .....	3
Professorial Appointments .....	4
Inaugural Lectures .....	6
Educating Students and Nurturing Research Talent .....	7
Conferences.....	8
Research Seminars .....	12
EDLE Seminars .....	13
PhD Defences .....	16
Awards, Distinctions, and Other Evidence of Reputation .....	25
Grant Applications and Funding - Awarded .....	27
Lectures and Presentations .....	28
Visitors .....	33
Current Researchers .....	34
Publications .....	39

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## Key Facts 2013

- In addition to appointing Prof. Ogus (2008), Profs. Buskens, Klick, and Wagner (2009), Profs. Heine and Rachlinski (2010), Profs. Hodges, Scheltema, Giard, Stadler, and Rickman (2011), and Profs. Engel, Paccès, and Kramer (2012), we were able to appoint two professors in 2013: Louis Visscher (Chair Legal Economic Analysis of Tort and Damages) and Peter Mascini (Chair Empirical Legal Studies).
- Peter Mascini joined Willem van Boom and Michael Faure as Programme Director of BACT.
- Eight PhD theses were defended.
- Our research team involved 29 researchers and 32 PhD students.
- Two international and multidisciplinary conferences were organised by members of the research team.
- We were proud to celebrate Cass Sunstein's acceptance of the doctorate honoris causa.
- The Research Excellence Initiative 2012 subsidy granted by the University Board for our research group was made final.

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## The Programme

People think, decide, and act, as do institutions and corporations (although in a slightly more complex way). By thinking, deciding, and acting, we display behaviour. In private law, behaviour is relevant in more than one respect.

Legislatures may have preconceived ideas about behaviour and about how private parties will respond to legislative intervention. For example, a legislature may enact specific legislation, holding directors of corporations to fault-based liability in the event of corporate insolvency, assuming that this will give directors the incentive to run the corporation's affairs appropriately. But will they do so in practice? Are there any behavioural side effects, such as overzealous risk avoidance or an increase in directors' salary demands? Likewise, courts may entertain implicit or even explicit concepts of behaviour. A court may consider the owner of premises to be under a duty of care to warn explicitly of dangers that are not readily noticeable to visitors. However, such a rule may need consideration of how individuals actually think about and perceive dangers, and even how they interpret warnings.

In the Behavioural Approaches to Contract and Tort research group, we examine how individuals and groups think, decide, and act regarding the relationship with private law, notably in contract, tort, property and corporate law, and civil procedure. We concentrate on issues of compliance, enforcement, and individual and group behaviour.

Our research methodology is interdisciplinary, and the research team includes legal scholars specialising in contract, tort, property and corporate law, and civil procedure, as well as scholars specialising in law and economics, socio-legal studies, empirical legal studies, and psychology.

The Behavioural Approaches to Contract and Tort: Relevance for Policymaking (BACT) research programme started in 2008. Profs. Michael Faure, Willem van Boom and Peter Mascini jointly head the research programme. In the Dutch Research Assessment Exercise 2009, the programme was rated 'excellent' (average score was 4.75 out of 5.0).

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## Professorial Appointments

The following professorial appointments were made in 2013. All appointments represent an invaluable resource to help Erasmus School of Law accomplish its comparative, empirical, and multidisciplinary research goals.

### *Programme Director BACT and Chair Empirical Legal Studies*

#### **Peter Mascini**



In December 2013, Peter Mascini joined Willem van Boom and Michael Faure as Programme Director. Prof. Mascini will be involved with the daily supervision of the research programme, while the three directors will jointly set out the programme's plan of action. As Programme Director, Prof. Mascini hopes to broaden the scope of the research programme, which will be facilitated by his disciplinary background as a sociologist and his professional network in this field. Prof. Mascini's goal is to contribute to a vibrant, creative, and stimulating research climate.

As Chair, Prof. Mascini will continue his own empirical research into the legitimisation, implementation, and enforcement of contemporary laws and regulations in changing social contexts. He will focus on the mutual interactions between different actors involved in these activities, and he aims to give this Chair a classic and timeless substance by placing it within the research tradition of the Sociology of Law. This means that he will start from the perspective that law does not stand above or outside society but is an inherent part of it; that informal norms play as important a role in the ordering of society as laws do; and that laws cannot be mechanically applied, as law in the books is different from law in practice.

### *Chair Legal Economic Analysis of Tort and Damages*

#### **Louis Visscher**

Prof. L.T. (Louis) Visscher was appointed professor of Legal Economic Analysis of Tort and Damages on 1 December 2013. This chair fits seamlessly within the BACT programme, which is one of the research focal points of Erasmus School of Law. The chair also strengthens the teaching of Law and Economics in the Erasmus Mundus recognised programmes European Master in Law and Economics (EMLE) and the European Doctorate in Law and Economics (EDLE). The chair thereby contributes to the international and interdisciplinary approach to law, which ESL advocates.



Visscher graduated in economics (1993) and law (1994, cum laude) from Erasmus University Rotterdam. In 2005 he defended his PhD on a Law and Economics Analysis of Dutch Tort Law at this university. Among other subjects, Visscher teaches the bachelor course 'Rechtseconomie' and the EMLE course 'Economic Analysis of Torts and Insurance'. He also gives guest lectures regularly within and outside the EUR. His publications mostly concern tort law and the law of damages, but he is also interested in contract law, insurance law, consumer law, harmonisation of law, and procedural law.

Prof. Visscher is coordinator of the 'Mr.drs.-programma voor economie en rechten', a study programme within which talented and motivated students can graduate in six years both in economics and in law. During Visscher's coordinatorship, 300 students have successfully completed the programme, and about 450 students are currently enrolled.

In addition, Visscher is director of the Rotterdam Institute of Law and Economics (RILE), general programme coordinator of the research group 'Liability and Insurance' of the Ius Commune Research School, and editor of the journals *Aansprakelijkheid, Verzekering & Schade (AV&S)*, *Ars Aequi Kwartaalsignaal*, and the *European Review of Law and Economics*.

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## Inaugural Lectures

### *Chair Costs and Benefits of Regulation*

#### **Neil Rickman**

On 21 March 2013, Prof. Neil Rickman held his inaugural address 'Regulating legal costs: Praise or folly?' Professor of Economics and Research Director in the Department of Economics at the University of Surrey, Neil Rickman was appointed part-time Chair Costs and Benefits of Regulation at Erasmus School of Law on 1 July 2011.



In 2011, Rickman joined our interdisciplinary research team. His research and teaching focus is on costs and benefits of regulation within the master programme EMLE, the doctorate programme EDLE, and the Rotterdam Institute of Law and Economics in general.

### *Chair of Law and Finance*

#### **Alessio Paccès**

On 26 April 2013, Alessio Paccès gave his inaugural lecture 'The Future in Law and Finance'. This endowed chair was established in the context of the Tinbergen tenure-track programme.

Prior to entering academia, Paccès had a career in financial policymaking, working first for the Italian Securities Authority and then for the Italian Central Bank, where he was senior researcher in Law and Economics until 2007. In January 2008, Alessio Paccès defended at the EUR a PhD *cum laude* on an important Law and Finance subject: the Law and Economics of control powers in public companies. Alessio Paccès has published extensively in the fields of economic analysis of corporate law, corporate governance, and the economics of (financial) regulation.



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## Educating Students and Nurturing Research Talent

Within the research programme, we nurture talent by creating a stimulating environment for intellectual development. The Erasmus School of Law sets favourable conditions by offering PhD and tenure-track positions. Scouting for students has been made possible by the successful European Master in Law and Economics programme (EMLE).

Moreover, the set-up of the Master in Private Law (and the new Master in Liability and Insurance Law) also gives ample opportunity to identify and nurture new talent. For example, with the master thesis projects initiated by Profs. Lindenbergh and Van Boom, outstanding private-law master students are offered the opportunity to co-author a book of academic stature. In 2013, this resulted in the edited volume 'Politiek Privaatrecht', which focuses on the relationship between private law and politics. The book was edited by this year's project supervisors, Willem van Boom and Siewert Lindenbergh, and was published in the faculty's Young Masters series.

In terms of specific research education needs, we aim to find the right course for the right person. Some of our PhD students participate in the *research school Ius Commune*, while a large number of PhD students are also part of the educational programme of the European Doctorate in Law and Economics (EDLE).

### *Lecture Series on Empirical Legal Studies by Prof. Jonathan Klick*

Though it is part of the second year of the EDLE programme, this lecture series by [Jonathan Klick](#) is also open to other participants. The lectures highlight strategies used in empirical law and



economics to isolate how legal and regulatory changes affect individual behaviour. The course is an introduction to statistical methods used in law and economics, and in empirical legal studies. The course ensures that participants can be critical consumers of empirical research used in modern social-science scholarship, and offers a starting point for attendees to perform their own empirical law and economics research.

Prof. Klick (1975) is professor of law at the University of Pennsylvania Law School, and has been appointed as part-time Erasmus Chair of Empirical Legal Studies at Erasmus School of Law. Klick is a lawyer and an economist, specialising in empirical law and economics. He has ample experience in the methodology of empirical law and economics, which constitutes an invaluable resource for the empirical aspirations of Erasmus School of Law research.

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## Conferences

Our research programme organised numerous conferences, workshops, and other academic gatherings in 2013. Some of these are highlighted here.

### **Master class 'Complex Litigation' and conference 'The Future of Collective Redress in Europe'**

The Erasmus School of Law organised the master class 'Complex Litigation' and the conference 'The Future of Collective Redress in Europe', which ran from 16-20 September 2013.

The master class focused on several issues of complex private litigation. In a week-long afternoon programme the following topics were introduced: special enforcement tools, the law



and economics of enforcement, consumer law enforcement and different types of damages, cross-border issues, and the financing of collective actions. LLM (Private law) students were given a brief introduction to the topics, after which various speakers presented cases from different jurisdictions, and discussed the issues and pathways towards sustainable solutions.

The Master class culminated in a conference on Friday 20 September 2013 on the recent European policy documents on collective redress. The conference aimed at discussing the general implications of the European

Commission's Recommendations on current legislation and practices in EU member states. The conference was hosted by Christopher Hodges (Oxford/Rotterdam), Astrid Stadler (Konstanz/Rotterdam), Willem van Boom (Rotterdam/Durham), and Gerhard Wagner (Berlin/Rotterdam).

After Burkhard Hess's keynote address, speakers from various member states reported on current legislation and practices in their jurisdictions (Stefaan Voet, Belgium; H el ene van Lith, France; Astrid Stadler, Germany; Elisabetta Silvestri, Italy; Ilja Tillema, the Netherlands; Cristian Oro, Spain; Antonina Bakardjieva Engelbrekt, Sweden; and Rebecca Money-Kyrle, UK).

A panel discussion closed the conference. Xandra Kramer (Rotterdam), Astrid Stadler (Konstanz/Rotterdam), Gerhard Wagner (Berlin/Rotterdam), Roger Van den Bergh (Rotterdam), Christopher Hodges (Oxford/Rotterdam), and Burkhard Hess (Max Planck Institute Luxemburg) discussed the general implications of the recommendations. Some main conclusions were that



the European Commission does not express a clear view on the goal(s) of collective redress, cross-border issues, and the role of public enforcement.

## **Nudging and beyond: current applications and new perspectives on behavioural insights**



On 7 and 8 November 2013, BACT proudly organised the conference '*Nudging and beyond: current applications and new perspectives on behavioural insights*'. On this occasion, our university had the honour of welcoming an excellent panel of international speakers from both academia and policy making to discuss the relevance of behavioural insights in designing more effective policies.

The conference was a great success, and was attended by more than 150 participants from all over the world. On the first day, the audience learned about new behavioural insights, with captivating talks provided by Christoph Engel, Urs Fischbacher, Jeff Rachlinski, Jan Schnellenbach, and Anthony Ogus. The following day was dedicated to the concrete applications of behavioural insights into policy making at both the national and international level, and featured presentations by Will Tiemeijer (NL), David Howarth (UK), and Emanuele Ciriolo (EU). The highlight of the conference was the keynote talk given by Cass Sunstein, who later that day was awarded an honorary doctorate degree by our university.

Following the success of Thaler & Sunstein's *Nudge*, academics and policy makers alike have increasingly directed attention to behavioural insights in conducting research, and to the potential role of research in designing more effective policies. Some government agencies have even set up specialised task forces with prominent names – such as the British Behavioural Insights Team – in order to apply insights from behavioural economics and psychology in public policy making.

New behavioural insights continue to surface as to how people react to laws, how judges make decisions, and how even basic economic behaviour is guided by less tangible motives such as trust. These new outcomes, in turn, also provide interesting challenges for policy makers. Still, many crucial questions remain unanswered.

It was for this reason that the BACT research group organised the conference 'Nudging and



beyond: current applications and new perspectives on behavioural insights'. The aim of this conference was not only bring together policy makers and academics to enhance their understanding of current applications of behavioural insights in policy making, but also to present new findings and perspectives from expert behavioural scientists.

We were proud to host eminent experts from both the fields of both academia and

policy making (national and international), who were invited to present and share their ideas with [Cass Sunstein](#), professor of law at Harvard Law School, and one of the authors of *Nudge*.

### **Experiments at the Crossroads of Law and Economics**

On 1 July 2013, the first workshop 'Experiments at the Crossroads of Law and Economics' took place. Workshop participants discussed and further explored similarity, overlap, and differences in experimental research in economics and in law. Contributors were Susanne Neckermann (ESE) ('Money Meets Recognition: A Field Experiment on Worker Effort'), Vincent Buskens ('What Does Promote Collective Good Provision Better? Small Frequent Sanctions or Large Infrequent Sanctions'; jointly with Roeline van Es and Pieter Desmet), Robert Dur (ESE) ('The Power of a Bad Example – A Field Experiment in Household Garbage Disposal'; jointly with Ben Vollaard), and Christoph Engel ('Maverick: Making Sense of a Conjecture of Antitrust Policy in the Lab'; jointly with Axel Ockenfels).

### **Guest lecture from Prof. Ejan Mackaay**

On 1 October 2013, Prof. Ejan Mackaay (Emeritus Professor of Law, Université de Montreal, and Fellow, CIRANO, Canada) held a guest lecture on the following topic: *'If Law and Economics is about impacts, how does it fit in with civil law lawyering?'*

Law and economics aims at laying bare the principal social consequences of legal rules: namely, their impact. The traditional image of lawyering still conveyed in many civil law settings focuses on law as texts to be drafted, interpreted, and applied. How does a tool to look at the impact of rules correspond to that image? We will look at this for different segments of the legal profession: legislators, scholars and students, contract negotiators, pleaders, and judges. In all of these activities, consideration of the impact of rules has its place. Why then do lawyers focus so strongly on texts? They are an economical way of creating sufficient certainty at acceptable cost for social actors to plan and coordinate their activities. Beyond a certain level of complexity, the instrument takes on a life of its own – the autonomy of law. Yet ultimately the test for good law lies in its social consequences (the social function of law – Pitlo). L&E offers a promising tool for tracing them.

### **Other guest lectures**

- 20 March, 2013: Guest lecture by Prof. Jeffrey Rachlinski on 'The Future of Empirical Legal Studies'.
- 6 June, 2013: Guest lecture by Prof. Jason Scott Johnston on 'From Nudges to Mandates: Dodd Frank and Behavioral Policy Paradox'. See also '[Visitors](#)'

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## Research Seminars

In 2013, the following speakers held a seminar with our group:

Jan 25	Willem van Boom & Mark van Dam	<i>Understanding and acting in consumer decision making</i>
Feb 22	Frederik Zuiderveen Borgesius	<i>Consent to behavioral targeting. What are the policy implications of insights from behavioral economics?</i>
Apr 26	Colin Mayer	<i>Firm Commitment: Why the Corporation is Failing Us and How to Restore Trust in It</i>
Jun 21	Xandra Kramer	<i>Global civil justice and national icons: the case of Dutch WCAM settlements and European civil procedure</i>
Oct 25	Thomas Braendle	<i>Does Remuneration Affect the Discipline and the Selection of Politicians? Evidence from Pay Harmonization in the European Parliament</i>
Nov 22	Joasia Luzak	<i>To Withdraw Or Not To Withdraw? Evaluation of the Mandatory Right of Withdrawal in Consumer Distance Selling Contracts Taking Into Account Its Behavioural Effects on Consumers</i>
Dec 20	Jef De Mot	<i>Appellate caseloads and the switch to comparative negligence</i>

Our research seminars mainly involve staff of the Erasmus School of Law. We encourage researchers to present their draft papers, and we also invite distinguished scholars from other faculties to hold a presentation at the seminars. For instance, in April, Professor Colin Mayer gave a lecture within the BACT seminar series on his book [\*Firm Commitment\*](#). He explained how the corporation is failing us, why it is happening now, what the consequences are and what we should do to fix it. He illustrated an agenda for reform that would re-establish the corporation as an institution that we value and trust.

Scholars from different disciplines attended the seminar, which led to a very lively discussion.



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## EDLE Seminars

The Rotterdam Institute of Law and Economics (RILE), whose researchers are involved in our programme, participates in the PhD programme *European Doctorate in Law and Economics* (EDLE). This is the academic response to the increasing importance of an economic analysis of law in Europe. The programme is offered by the Universities of Bologna, Hamburg, and Rotterdam (RILE), in association with the Indira Gandhi Institute of Development Research, Mumbai (India). PhD students are given the unique opportunity to study Law and Economics in three different countries. The programme prepares highly promising economists and lawyers for an academic career in an increasingly important research field, or for responsible positions in government, research organisations, and international consulting firms. The European Commission sponsors the EDLE as an excellence programme under the prestigious Erasmus Mundus scheme. Prof. Faure is the managing director of the programme.

In spring and autumn of 2013, the following EDLE-seminars took place:

Jan 10	Alexandre Biard	The Role of the Judge and Group Litigation
	Martin Chudej	Law and Economics of Investment Treaty Shopping
Jan 17	Elena Demidova	Takeover Regulation in Developing Economies: the Case of Russia
Jan 24	Shuo Wang	Patent Litigation in China
	Huojun Sun	Trust, truth and social norms: Experimental evidences on institutional design
Jan 31	Xufeng (Jess) Jia	Economic Analysis of Chinese Overseas Merger and Acquisition
	Penio Penev Gospodinov	The Application of EU Competition Law in Arbitration Proceedings
Feb 7	Arun Kaushik	Trade Secrecy – The ignored facet of Intellectual Properties
	Damian Proniewski	Impact of Environmental Taxes on Eco-Innovation
Feb 21	Ana Jakovljevic	Building Market Institutions in Serbia
	Xiao (Sarah) Xun	Director’s Fiduciary Duty and Economics - A comparative perspective

Feb 28	Katherine Hunt	Microfinance: For the poor or for profits?
	Elena Reznichenko	A Law and Economics Analysis of Optimal Enforcement: Monetary vs. Non-Monetary Punishments
Mar 7	Rahul Sapkal	Essays on Labour Law and Economics: Theory and Empirical Evidence from India
	Hong Wei	China's Participation in the WTO
Mar 14	Jaroslav Kantorowicz	Fiscal Constitution
	Marco Fabbri	Essays on Law and Economics of Social Interactions
Oct 10	Elena Reznichenko	The Law and Economics of Day Fines
	Hong Wei	Compliance with the WTO obligations: Chinese government behavior study
Oct 17	Stephan Michel	Endogenous Parliamentarism
	Maria Pia	The Law and Economics of International Corporate Crime -A study on International Corruption-
Oct 24	Ignacio Cofone	The Right to be Forgotten in Online Exchanges: Rationality, Discounting and Welfare
	Min Lin	Law and Economics of Security Interests in Intellectual Property
Oct 31	Yugank Goyal	Informal Market Institutions of Footwear Industry of Agra
	Klea Maliqi	Standards of Review in Investment Treaty Arbitration
Nov 14	Miriam Buiten	To Harmonize or Not To Harmonize? The Problem of Fragmented Enforcement for European Consumer Protection
	Shilpi Bhattacharya	Should Competition Law Consider the Behavioural Biases of Firms?
Nov 21	Tobias Hlobil	How often do Judges agree and why?
	Enmanuel Cedeno Brea	The Banking Firm, the Market and the Flaws: Commercial Bank Organizational Forms in the Aftermath of the Financial Crisis

Nov 28	Diogo Castro	Unemployment Insurance, Job Destruction and Work Effort
	Ilja Tillema	The Good, the Bad, or the Ugly? On Representative Organizations with a Commercial Interest
Dec 5	Faiz Ur Rehman	The (In)Effectiveness of Counterterrorism Measures of Pakistan: A Spatial Analysis
	Alice Guerra	Precautions Under Tort Law: An Experimental Investigation
Dec 12	Maximilian Kerk	Find someone right: An experimental study of partner choice for public good games
	Jess Jia	Chinese Overseas M&A performance – Sense and Sensibility

### **5<sup>th</sup> Joint Seminar 'The Future of Law and Economics' (21-22 March 2013)**

On 21 and 22 March 2013, the Joint Seminar 'The Future of Law and Economics' took place in Rotterdam. This seminar is organised annually for PhD students of Paris X (Paris Ouest), Paris II (Panthéon Assas), Maastricht University, Erasmus School of Law and the European Doctorate in Law & Economics (EDLE). The seminar provides a forum for PhD students working on topics relating to the economic analysis of law (also law and economics) to present their ongoing PhD research, and to receive feedback from their colleagues, from senior law and economics scholars, and from other institutions. The seminar was a great success, and it was considered extremely fruitful to have this mutual exchange of ideas and stimulating critiques.



The seminar's title highlights the fact that the PhD candidates constitute the future of law and economics, and that much of the research they undertake is in fact ground-breaking and innovative.

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## PhD Defences

In 2013, eight PhD defence ceremonies took place within our research group.

Meltem Bayramli (EDLE), January 31 – Patent Strategies and R&D in Complex Product Industries (supervisors: Klaus Heine and Vincenzo Denicolò)

Vania Karapanou (EDLE), January 31 – Towards a Better Assessment of Pain and Suffering Damages. A Proposal based on Quality Adjusted Life Years (supervisors: Louis Visscher and Michael Faure)

Weiqiang Hu (EDLE), April 25 – An Economic Analysis of the Regulatory Compliance Defense (supervisors: Willem van Boom en Michael Faure)

Alejandra Martinez (EDLE), April 25 – The Law and Economics of Eco-labels (supervisors: Marco Lamandini and Michael Faure)

Deniz Akün (EDLE), June 24 – Banking Regulation in Turkey and Russia: An economic analysis (supervisors: Alessio Paccas and Gabriella Chiesa)

Malgorzata Sadowska (EDLE), June 24 – Committed to Reform? Pragmatic antitrust enforcement in electricity markets (supervisors: Klaus Heine and Massimo Motta)

Rolinka Wijne, September 12 – Liability For Care-related Harm. A study regarding obstacles in civil liability and alternatives to recover care-related harm (supervisor: Siewert Lindenbergh)

Claudio Tagliapietra (EDLE), December 2 – A threshold hypothesis of institutional change – collective action in the Italian Alps during the 13th – 19th centuries (supervisors: Klaus Heine and Marco Casari)

### **Meltem Bayramli - Patent Strategies and R&D in Complex Product Industries**

On 31 January 2013, Meltem Bayramli defended her PhD thesis 'Patent Strategies and R&D in Complex Product Industries' (supervisors: Klaus Heine and Vincenzo Denicolò).

The objective of this thesis is to fill a gap in the literature, and it is concerned with the law and economics analysis of the functioning of the patent system in complex product industries, given the fragmentation of intellectual property rights and cooperative market solutions. The starting point of the analysis is not an identified market failure, as is done in the classical law and economics approach, but involves investigating whether there actually is a market failure, as is often claimed in the literature. The reason for following this approach is that regulation – in the absence of knowledge regarding the real dynamics of a system – bears the risk of creating

additional externalities. This risk is potentially higher in complex product industries than in simple ones.

While investigating possible inefficiencies of the patent system, the thesis provides a quantitative understanding of the contemporary patenting behaviour of firms, and of the consequences. Firstly, it is seen that firms in complex product industries are interacting over patent portfolios. Secondly, it is observed that such patent portfolio races are taking place especially in industries that relied previously on other mechanisms such as trade secrets or lead-time advantages rather than on patent production to appropriate returns from their investments. The conventional wisdom is that these patent portfolio races are mainly derived for strategic reasons with the aim of negatively affecting the competition in the markets and of creating transaction costs for other firms operating in the same or similar technological areas. As a result, some scholars suggest that policy should be aimed at preventing large volumes of patent applications. The thesis underlines that the main facilitators behind these portfolio races are inherent in the complexity of modern day technology, and are partly inevitable. Due to the fact that the production of many new high-technology products often requires numerous complementary innovative components, each of which may be protected by one or more patents, complex product industries are unavoidably associated with the fragmentation of intellectual property rights.

The study aims at providing a framework conceptualising patenting activities under the condition of intellectual property rights fragmentation. Such a framework has to deal with the interrelated problems of technological complexity in the modern patent landscape. In that respect, ex-post licensing agreements have been incorporated into the analysis. More precisely, by consolidating the right to use patents required for commercialisation of a product, private market solutions, such as cross-licensing agreements and patent pools, help firms to overcome problems triggered by the fragmentation of intellectual property rights. Thereby, private bargaining between parties as such cannot be isolated from the legal framework. A result of this analysis is that policies ignoring market solutions and focusing only on static gains can mitigate the dynamic efficiency gains as induced by the patent system. The evidence in this thesis supports the opinion that legal reforms that aim to decrease the degree of patent protection or to lift it altogether can hamper functioning of the current system.

A second policy layer, apart from the optimal design of patent protection in complex product industries, can be found in the competition rules governing private market solutions of cross-licensing agreements, patent pools, or standard settings. The costly litigation in complex product industries that has been observed in the last couple of years has generated discussions about implementing a stricter approach towards these market solutions. However, such restrictions should only be justified if there are not enough efficiency gains from these private agreements. The empirical research presented in this thesis shows that at least in certain industries there are benefits associated with these practices, especially increased R&D incentives, which can justify a more lenient approach towards these arrangements.



## Vania Karapanou - Towards a Better Assessment of Pain and Suffering Damages. A Proposal Based on Quality-Adjusted Life Years

On 31 January 2013, Vania Karapanou defended her thesis 'Towards a Better Assessment of Pain and Suffering Damages. A Proposal Based on Quality-Adjusted Life Years' (supervisors: Louis Visscher and Michael Faure).

As shown from ongoing discussions on the topic in several European countries, legal scholars, legislators, and judges recognise the difficulty of assessing pain and suffering damages for non-fatal personal injuries, along with the need to facilitate and improve the assessment. The importance of a correct assessment of pain and suffering damages lies in the fact that, from a legal perspective, these damages are intended to compensate the victim – and in a satisfactory manner – for the harm she incurred. Given that different assessment approaches exist across legal jurisdictions, which are also likely to result in diverging amounts, the question emerges as to which approach can generate damages that are able to fulfil these goals. However, a correct assessment of pain and suffering damages is also important from a Law and Economics point of view, because according to the economic analysis of tort law, pain and suffering damages are a means to achieve optimal deterrence and loss spreading, and to reduce the administrative costs pertaining to the legal system. Attaining these goals would generate significant benefits for the tort system in general: e.g. though the more efficient use of resources. Hence, it is desirable that the approach used to assess pain and suffering damages also strives to generate amounts that fulfil the goals of the economic analysis of tort law.

This study explores the goals of tort law as regards pain and suffering damages, and the criteria that should be taken into consideration in assessing them. A comparative law methodology is used to investigate how pain and suffering damages for personal injuries are currently treated in England, Germany, Greece, Italy, and the Netherlands. The analysis shows that the legal approaches followed in these countries fail to include the stipulated criteria, and as a result they do not attain the goals of tort law. The study further discusses the goals of tort law relating to pain and suffering damages



according to Law and Economics. In order to fulfil these goals, a set of criteria is proposed that should be incorporated into the assessment. After reviewing existing proposals in Law and Economics scholarship for the assessment of pain and suffering damages, it is concluded that an assessment approach that could incorporate these criteria is lacking.

Based on conclusions drawn from the analysis, the study takes on the challenge of developing a framework to arrive at pain and suffering damages that fulfil the goals of tort law, both from a legal perspective and a Law and Economics point of view. However, given that an evaluation of the impact of personal injury falls outside the competence of tort law and the economic analysis of tort law, the study suggests using tools from health economics, a specialised field of research dealing exactly with how personal injuries and other health conditions affect individuals. In the context of health economics, the Quality-Adjusted Life Year is a measure used to evaluate different health care programmes and medical interventions in terms of the benefits they

generate for quality of life, as well as the costs they require for their implementation. It is shown that using the existing information from QALY research can contribute the framework that was lacking in legal and Law and Economics scholarship, bringing about a significant improvement in the current assessment of pain and suffering damages. Examples of how this framework could be used to assess pain and suffering damages in cases of deafness, paralysis, lower leg amputation, loss of sight in one eye, and HIV contraction are provided, and demonstrate further the applicability and practicability of the proposed approach. The resulting pain and suffering damages are juxtaposed with the amounts that have been awarded in actual personal injury cases.

### **Weiqiang Hu - An Economic Analysis of the Regulatory Compliance Defense**

On 25 April 2013 Weiqiang Hu defended his PhD thesis 'An Economic Analysis of the Regulatory Compliance Defense' (supervisors: Willem van Boom and Michael Faure).

A regulatory compliance defense is the central part of the coordination issue between regulation and tort law, and it is still largely unsettled both practically and theoretically. Hence, an economic analysis of that issue is required. Before making such an analysis, a critical literature review is undertaken in order to lay the theoretical foundations for the subsequent research. Firstly, the comparisons between regulation and tort law in seminal papers by Shavell and in other follow-on papers are addressed as a starting point. The debate on the role of each institution in relation to the other is discussed in detail in the next section, where the advantages and drawbacks of each institution are also compared. After that, some findings from empirical research are put forward to test the arguments made in the literature. The relation between these two institutions is yet to be confirmed, but evidence does show certain problems with each institution, such as over-deterrence by tort law in some fields and regulatory failures in some cases. Finally, it can be said that the combination of regulation and tort law to control harmful externalities is justified, but a feasible framework is still needed.

From Chapter 3 through to Chapter 5, an analytical framework based on insights gained from the literature review is gradually established. In Chapter 3, an optimal regulatory standard is assumed. By relaxing the assumptions, the interactions between regulation and tort law are presented accordingly. After that, distinctions within liability rules and regulation are made, and some features of these different instruments are also discussed. In Chapter 4, a list of factors bearing on the optimality of regulatory standards is fully discussed. These factors are as follows: heterogeneity and variability; deliberation and antagonism; externality, including both negative and positive sides; effectiveness of each instrument and administrative costs consisting of standard-setting costs, enforcement costs, and error costs. Meanwhile, the relative performance of regulation and liability with regard to these factors is also compared, from not only a static perspective but a dynamic one, which can be seen in appendix II. Following the description of these factors and comparison of the relative performance of each legal instrument in relation to these factors, in Chapter 5, a well-balanced approach is finally proposed to deal with the optimality issue of relevant regulatory standards, by synthesising the risks, the competency of standard-setters, the heterogeneity of regulated entities, the two-side externality, the effectiveness of each instrument, the costs, and other considerations with an attempt to make a qualitative judgment about the possible optimality of relevant standards.

Furthermore, the regulatory compliance defense issue is analysed under different liability rules: a negligence rule and a strict liability rule. Under a negligence rule, three possible situations can

be further distinguished: 1) the case of regulatory standards likely to be optimal or superior; 2) the case of regulatory standards likely to be less than optimal or minimal; and 3) the case of regulatory standards likely to be too stringent. Under situations 1) and 3), in principle, a full defense should be granted by courts to exempt a complying injurer from being held liable. Under situation 2), on the other hand, such a defense would not, in general, preclude the complying injurer from liability. It is also argued that, even under situations 1) and 3), liability can still play an important role in the following regard: to facilitate the enforcement of public regulation; to disclose unanticipated risks or new risks; and to check the accuracy of relevant information and the behaviour of relevant public authorities.

Under a strict liability rule, the regulatory compliance defense issue is not as significant as under a negligence rule since courts will not set up their own standards. Nevertheless, the proposed framework is still meaningful as to the use of other legal concepts such as punitive damages under a strict liability regime, which is discussed in Chapter 8.

In Chapter 6, three easy or extreme types of torts are used as examples to show the applicability of the proposed framework. In the vaccine and nuclear accident cases, it has been argued that regulation should take a dominant role in controlling the risks under consideration, and liability in the form of strict liability rule can still play a role regarding manufacturing defects in the vaccine case, and for non-substantive losses in the nuclear accident case. As for nuisance, liability in the form of a negligence rule should be given priority to control this kind of conduct. Regulation, on the other hand, can complement liability in some specified situations.

After the process of constructing a framework in the previous parts of this thesis, from Chapter 7 onwards, the proposed approach is put into the legal context to enable courts to make full use of such a framework. In Chapter 7, the manner in which courts treat a regulatory compliance defense is discussed in detail whereby factors bearing on the optimality of relevant standards have been transformed into legal terms if necessary and a non-conclusive list of considerations has been proposed in order to facilitate qualitative decision making by the courts. In addition, ways to assign the burden of proof between two parties is also discussed, and comments are made with regard to recent changes in some states on this matter. In the last section of this chapter, an exceptional treatment of examples of unlawful conduct by an informed party is suggested, with certain justifications.

In Chapter 8, three related legal doctrines or concepts are discussed under the proposed framework. The first is the pre-emption doctrine, which deals primarily with the relationship between federal and state laws with the similar consequence of precluding injurers from being held liable in the same way a regulatory compliance defence does. Nevertheless, the wide and inconsistent use of such a doctrine has been criticised, and some suggestions have been made as well. The next doctrine involves the negligence *per se* rule, by which it is easier to hold a violating injurer liable in courts. In this thesis, the use of such a doctrine has been justified under the proposed framework: it will enhance the deterrence level of liability at a relatively low cost. The last concept regards punitive damages, the wide use of which has been criticised fiercely. In this thesis, the use of punitive damages has been distinguished in two different situations: those having the effect of over-deterrence when injurers are compliant, and those acting as an additional incentive mechanism when injurers are non-compliant. In the latter case, the intelligent use of punitive damages might be efficient in terms of giving an added incentive to those potential injurers to comply with relevant regulatory standards.

It is argued in the final part of this thesis that the suggested framework should be taken as a starting point, not as a final solution to all types of torts, and the application of this framework should always involve close attention being paid to particular features of the tort cases under discussion.

### **Alejandra Martinez - The Law and Economics of Eco-labels**

On 25 April 2013, Alejandra Martinez defended her PhD thesis 'The Law and Economics of Eco-labels' (supervisors: Marco Lamandini and Michael Faure).

In recent years, eco-labels and certification have become among the many environmental policy tools currently under scrutiny. This is because damages resulting from environmental degradation are becoming more apparent. Hence there is pressure to come up with tools that help solve even minor parts of the problem. Eco-labels have been around for over 30 years, but the market, the environment, and eco-labels have changed drastically during this period. Moreover, in the last five years there has been a sudden increase in eco-labels, making them more visible in the market and to the average consumer. All this has served to demonstrate that little is known about the effectiveness of eco-labels as environmental policy tools. Therefore, there is a call to find answers regarding the actual effects of eco-labels on the market and on the environment. While this work cannot address whether eco-labels have an environmental impact, it addresses the effects of eco-labels on the markets. Moreover, it aims to determine the role of law in eco-labelling, as well as seeking a legal solution that will improve the performance of eco-labelling and certification.

Eco-labels are on-pack, independently verified labels that communicate to the market that a product has certain environmental or social attributes. This simple marker is intended to trigger a mechanism called eco-labelling, which will ultimately lead to environmental improvements. It was seen that in the eco-labelling mechanism there are three main actors: consumers, producers, and the eco-labelling or accreditation entity. Being on the demand side of the eco-label market, consumers are the trigger of the eco-labelling mechanism. Each time a consumer chooses an eco-labelled good, it signals his pro-environmental preferences to the market. Producers will take note of a consumer's signals, and if it is within their private interests they

will adjust the production processes to comply with the eco-label's criteria. Once this is done, producers seek certification from an accredited certification body. This accreditation entity or eco-label organisation is in charge of setting the criteria, accrediting independent certifiers, and monitoring compliance. The firm and the eco-label will sign a license agreement for a specific time. It is up to the eco-label to keep the credibility and reputation of the eco-label, which is why it is in charge of monitoring and sanctioning the use of the eco-label both by its members and third parties.



As with all tools, eco-labels have advantages and disadvantages. Among the advantages is that they are capable of capitalising on the pro-environmental attitudes of market actors.

Additionally, because they are normally privately run, their reach goes beyond jurisdictions. Thus, for international trade, they might level the playing field by assuring that the quality of the eco-labelled good is constant in the different geographic markets. However, if the eco-label is publicly owned, this might become a disadvantage, as it can be regarded as a technical regulation, which is considered a protectionist measure. However, the largest disadvantage is that due to the nature of environmental and social attributes, it is extremely easy to cheat the market. The market is plagued by opportunistic behaviour because the law is simply too lax or is non-existent. Hence a law is needed to stop this opportunistic behaviour, because it has the capacity to completely discredit eco-labels. Eco-labels and certification depend upon their credibility.

This work provides a comprehensive regulatory strategy for eco-labelling based on the 'smart regulation' principles. It therefore takes into consideration the roles of each actor as well as their interactions. Above all, it focuses on the role of the government in the optimal eco-labelling regulatory strategy. In this optimal setting, government has a behind-the-scenes role where it provides the system with legal underpinning. This underpinning consists of the recognition of eco-labels as intellectual property rights as well as a structured liability system that allows eco-label owners to vindicate their rights when these are affected. In addition, certain specific reforms are proposed to the current systems that are likely to improve the performance of eco-labels.

### **Deniz Akün – Banking Regulation in Turkey and Russia: An economic analysis**

On 24 June 2013, Deniz Akün defended her PhD thesis 'Banking Regulation in Turkey and Russia: An economic analysis' (supervisors: Alessio Paces and Gabriella Chiesa).

This dissertation aims at understanding the impact of regulations and supervision on banks' performance, focusing on two emerging market economies – Turkey and Russia. It aims at examining the way in which regulations matter for financial stability and banking performance from a law & economics perspective. A review of the theory of banking regulation, particularly as applied to emerging economies, shows that the efficiency of certain solutions regarding banking regulation is open to debate. Some of the regulations contribute to the performance of banks by preventing their risk-taking incentive, and thus supporting financial stability, whereas some of them might have a detrimental effect on this stability. In addition, banks respond differently to regulation under different institutional settings. Therefore, in the context of emerging countries, this dissertation tries to answer the empirical question as to whether a certain approach is efficient.

### **Malgorzata Sadowska – Committed to Reform? Pragmatic antitrust enforcement in electricity markets**

On June 24 2013, Malgorzata Sadowska defended her PhD thesis 'Committed to Reform? Pragmatic antitrust enforcement in electricity markets' (supervisors: Klaus Heine and Massimo Motta).

In recent years, a wave of antitrust scrutiny has swept across European energy markets. For fear of drawn-out competition law investigations and high fines, targeted energy firms voluntarily offered far-reaching commitments to the European Commission, oftentimes selling off substantial parts of their business.

The Commission has an ambitious plan to create a single market for energy, but liberalisation often meets opposition from governments and industry. Whenever the EU energy reforms become stuck in political deadlocks, the Commission eagerly resorts to competition enforcement, and pushes forward its energy agenda through the back door of negotiations with investigated energy companies. Does this instrumental use of competition rules really foster energy market integration? Or does it backfire, and actually hinder rather than serve its purpose?

This book provides theoretically informed in-depth case studies of EU competition enforcement in the electricity sector. It shows how the Commission bends and stretches competition law beyond its proper limits to accommodate non-competition goals. The book's cross-disciplinary approach and clear, straightforward language make it a good read both for lawyers and economists interested in the interplay between EU competition and energy policies and in their impact on electricity markets.

### **Rolinka Wijne - Liability For Care-related Harm. A study regarding obstacles in civil liability and alternatives to recover care-related harm**

On 12 September 2013, Rolinka Wijne defended her PhD thesis 'Liability For Care-related Harm. A study regarding obstacles in civil liability and alternatives to recover care-related harm' (supervisor: Siewert Lindenbergh).



A considerable number of medical-care cases involve avoidable injury. Where claims for compensation of injury are possible, only a fraction of these cases actually result in a recovery of such damages. This is remarkable, raising the question as to what the reasons might be. It can be concluded from increasing media attention that the recovery of such damages by the patient is a very complicated, difficult, time-consuming, and costly undertaking. All of this therefore raises the question as to which obstacles civil liability law poses when it comes to recovering medical care-related damages. If detected obstacles could justify – in whole or in part – the problems associated with the recovery of damages, the next question would be which alternatives could possibly provide a solution.

This book is a report of the author's research regarding answers. After an analysis of the relevant aspects of civil liability, Rolinka Wijne concludes that the obstacles identified can result in frustration of the recovery of medical care-related damages, and that they make the path to recovery of damages a complicated, time-consuming, and costly affair. It is therefore plausible that the obstacles can explain some of the discrepancy between the number of medical care-related injuries and the number of patients who actually file a claim. After an analysis and evaluation of possible alternatives, it has become evident that the alternatives contain positive elements, but that there are objections as well, making it impossible to conclude that one alternative can provide an all-encompassing solution. However, the pluses are such that they could form a basis for a recommendation or that they provided inspiration.

The most important recommendations relate to a reallocation of the burden of proof with respect to the violation of standards and the set-up of a medical division at one court. In addition, a few supporting recommendations have been made as well.

Boom Juridische Uitgevers, The Hague, has published the thesis as well as the commercial edition (ISBN 978-90-8974-801-0).

### **Claudio Tagliapietra - A threshold hypothesis of institutional change – collective action in the Italian Alps during the 13th – 19th centuries**

On 2 December 2013, Claudio Tagliapietra defended his PhD thesis 'A threshold hypothesis of institutional change – collective action in the Italian Alps during the 13th – 19th centuries' (supervisors: Klaus Heine and Marco Casari).

This dissertation concerns collective action issues in common property resources. Its focus is the 'threshold hypothesis', which posits the existence of a threshold in group size that drives the process of institutional change. This hypothesis is tested using a six-century dataset concerning the management of the commons by hundreds of communities in the Italian Alps. The analysis seeks to determine the group size threshold and the institutional changes that occur when groups cross this threshold.

The dissertation consists of four parts. The first comprises three chapters: Chapter 1 outlines the research effort; Chapter 2 describes the case study; Chapter 3 discusses the data sources that were accessed in the research. The second part consists of an investigation of the existence of a group size threshold, spanning Chapters 4-6. Chapter 4 contains a discussion of theories cited in the literature about group size, thresholds in collective action, fission–fusion strategies, institutions for property rights on the commons, and institutional change, and it sets the background for the formulation of the threshold hypothesis of institutional change. Chapter 5 contains a discussion of the identification of the group size threshold and of its determinants. Finally, Chapter 6 is a discussion of the role and rationale for fission–fusion strategies. The third part includes Chapters 7 and 8, and encompasses a discussion of the internal functioning of formal institutions beyond the threshold with a particular focus on the determinants of institutional design. Chapter 7 contains a discussion of literature related to group heterogeneity and institutions, with a particular focus on the study of resource management and collective action. Chapter 8 is dedicated to the role of social and resource heterogeneity and group size in forging institutions. Chapter 9 offers a synthesis of the findings as well as a discussion of the implications and potential further studies.

There are five main findings. Firstly, the number of individuals in villages remained stable for six centuries, despite the population in the region tripling in the same period. Secondly, the longitudinal analysis of face-to-face assemblies and community size led to the empirical identification of a threshold size that triggered the transition from informal to more formal regimes to manage common property resources. Thirdly, when groups increased in size, gradual organisational changes took place: for instance, large groups split into independent subgroups or structured interactions into multiple layers while maintaining a single formal organisation. Fourthly, resource heterogeneity seemed to have had no significant impact on various institutional characteristics. Fifthly, social heterogeneity showed statistically significant impacts, especially on institutional complexity, consensus, and the relative importance of governance rules versus resource management rules. Overall, the empirical evidence from this research supports the 'threshold hypothesis'. These findings shed light on the rationale of institutional change in common property regimes, and clarify the mechanisms of collective action in traditional societies. Further research may generalise these conclusions to other domains of collective action and to present-day applications.

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## Awards, Distinctions, and Other Evidence of Reputation

### IUCN Academy of Environmental Law Award for Michael Faure

On 22 July 2013, Prof. Michael Faure was awarded the Senior Scholar Award 2013 of the IUCN Academy of Environmental Law. The award recognises outstanding contributions to environmental law scholarship. In announcing the award, the Research Committee's commendation specifically mentioned Faure's wide-ranging research work and academic leadership.

### 'Van smart naar geld' - Siewert Lindenberg

On 22 November 2013, at the 'Letselschade Raadsdag 2013', Siewert Lindenberg presented the first copy of his book 'Van smart naar geld' to Aleid Wolfsen (chairman of '[Het Platformoverleg van De Letselschade Raad](#)'). The book consists of 10 interviews with personal injury victims on their experiences: namely, how their case moved through the court system right up to the Dutch Supreme Court; what this meant to them; and how this coincided with their own interests.



The book can be ordered [here](#). The author's fee will be donated to Fonds Slachtofferhulp (Victim Support Fund).

### Harvard Forum posts on inaugural lecture Prof. Paces

A post regarding the inaugural lecture titled 'The Future in Law and Finance' was published on the Harvard Forum on Corporate Governance and Financial Regulation. The post is based on Professor Paces' inaugural lecture for the Chair in Law and Finance. Please [click here](#) for the Harvard Law School Forum on Corporate Governance and Financial Regulation.

In addition, an interview with Alessio Paces about the role of the central bank was published in [SC Online](#) (in Dutch).

### Chris Hodges appointed as Honorary Professor at the China University for Political Science and Law

Chris Hodges has been appointed as Honorary Professor at the China University for Political Science and Law, Beijing 2013-2016. He has also been appointed as Guest Professor at Wuhan University, Wuhan 2013-2016, and as Life Member at Wolfson College, Oxford. He has also been appointed as Member of the Advisory Board of the Research Centre for the Law and Policy of Global Consumer Protection, Wuhan University, China, and Member of the Academic Committee of the Collaborative Innovation Centre for Global Governance and the Rule of Law (the only non-Chinese member). In addition, he is a Visiting Professor in the Katholieke Universiteit Leuven's Global Law School Programme.

### **Xandra Kramer appointed as Visiting Professor – Global Law School at Leuven University**

Xandra Kramer has been appointed as Visiting Professor – Global Law School at Leuven University for the academic year 2013-2014. During this period, Prof. Kramer will also hold the TPR chair at the same university. The TPR chair is endowed by the Belgian private law journal *Tijdschrift voor Privaatrecht* (TPR). Prof. Kramer will collaborate with several colleagues from Leuven University in teaching and research in the area of private international law and European civil procedure. Spearheads of research are effective access to justice and enforcement in cross-border civil matters as well as the role of private international law in global social responsibility. Prof. Kramer will give a series of lectures on global justice and private international law, specifically with a view to the ongoing unification and codification of private international law at the EU level. At 4 p.m. on 5 May 2014, she will give her inaugural lecture to officially accept the appointment to the TPR visiting chair (2013-2014) at Leuven University, endowed by the Belgian private law journal.

### **Willem van Boom appointed as member of the ICCA-Queen Mary Task Force**

Willem van Boom has been appointed as member of the ICCA-Queen Mary Task Force on Third-Party Funding in International Arbitration (2013- ).

### **Xandra Kramer invited to membership of the Social Sciences Committee**

Xandra Kramer has accepted an invitation to become a member of the Social Sciences Committee of the Innovational Research Incentives Scheme VIDI of the Netherlands Organisation for Scientific Research (NWO), 2013.

### **Siewert Lindenbergh appointed as member of the committee of the Violent Offences Compensation Fund**

Siewert Lindenbergh has been appointed as member of the committee of the [Violent Offences Compensation Fund](#) as per 1 October 2013. The Violent Offences Compensation Fund provides financial support to victims of violent crimes who have sustained serious injuries. Examples of such crimes are violent theft, mugging, threat with a weapon, assault or rape, as well as domestic violence, stalking, and incest. Recently, the Fund has also begun to deal with claims pertaining to sexual abuse in child-care institutions. The committee determines the policy of the Fund, and handles appeals against the allocation or rejection of claims.

### **Louis Visscher appointed as chairman of the WODC steering committee ‘Experiences of Dutch crime victims with damage redress’**

Louis Visscher has been appointed as chairman of the WODC steering committee ‘Vervolgonderzoek Civiel Schadeverhaal’ (Dutch crime victims experiences with damage redress).

### **Astrid Stadler joins the International Steering Committee of the EU-project on Collective Redress at the BIICL**

As of January 2013, Astrid Stadler is a member of the International Steering Committee of the EU-project on Collective Redress at the British Institute of International and Comparative Law in London (BIICL). The project involves academics from all over Europe and includes the collection of national reports on the situation of collective redress, their publication on a particular website and a series of conferences and workshops in London: a) February 2013, Conference on ‘Settlements and Alternative Mechanisms in Collective Redress’ (presentation A. Stadler: ‘Recognition of Mass Settlements in Europe’); b) 14-15 October 2013, Conference on the EU Commission’s collective redress policy - presentation on the role of representative entities in collective redress (presentation A. Stadler: ‘Collective Redress: Representative Actions – who should have legal standing?’).

### **Roger Van den Bergh joins research project ‘Competition in the legal professions’**

Roger Van den Bergh was asked by [Ecorys](#) (an economic consultant) to join the research proposal ‘Competition in the legal professions’, submitted to the Dutch Ministry of Economic Affairs. The research has recently been awarded to Ecorys. Van den Bergh will be participating in the project as an external advisor and as a member of the research team. The research will run for a period of six months.

### **Pieter Desmet becomes member of editorial board of Organizational Behavior and Human Decision Processes**

Pieter Desmet has accepted the invitation to become a member of the editorial board at Organizational Behavior and Human Decision Processes (OBHDP). The peer-reviewed OBHDP is considered one of the top academic journals both in business and in the area of management and psychology. The journal publishes fundamental research on organizational behaviour, organizational psychology, and human cognition, judgment, and decision-making. It features articles that present original empirical research, theory development, literature reviews, and methodological advancements.

As well as representing a significant personal honour for Pieter Desmet, the invitation also reflects the fact that BACT harbours and develops scholars whose work has an international impact. For more information about OBHDP, please [click here](#).

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## **Grant Applications and Funding - Awarded**

- *December 2013* – Peter Mascini, Judith van Erp, Jelle Jaspers: ‘Sanctiebeleving bij ontbreken van een level playing field’. Research subsidy from the Dutch Centre for Crime Prevention and Safety, department ‘Nalevingsexpertise’: research programme ‘Handhaving en Gedrag’ (€48.000).

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## Lectures and Presentations

### **Boom, W.H. van**

- 'The Reasonable circumspect, the gullible and the plain stupid - Consumer protection under the Unfair Commercial Practices Directive and the financial services industry'. Research Conference 'Conceptualising "Consumers" of financial services: A new approach?' (convenors: Lorna Fox & Folarin Akinbami): Durham Law School, England, 12 April 2013.
- Discussant. ECTIL workshop 'Mass torts' (European Centre of Tort and Insurance Law): Vienna, Austria, 24 May 2013.
- 'Hoe leesbaar is de Hoge Raad?' (How readable is the Dutch Supreme Court?), Erasmus School of Law workshop 'Empirical Legal Studies': Rotterdam, The Netherlands, 19 June 2013.
- Paper presentation 'If it's easy to read, it's easy to claim' – Reading Ease in Standard Contract Terms and Consumer Behaviour', Durham Law School staff seminar, England, 30 October 2013.
- Paper presentation 'Mass Torts in Europe – debates, positions and pathways' - *Munich Re* business conference, 22 November 2013.
- Paper presentation 'If it's easy to read, it's easy to claim' – Reading Ease in Standard Contract Terms and Consumer Behaviour', *Ius Commune* Annual Conference (Liability and Insurance stream); Maastricht, 29 November 2013.

### **Camesasca, P.D.N.**

- 'Cartel follow on-litigation - in the US, Europe and Asia'. GCR Live 2nd Annual Law Leaders Asia-Pacific, Singapore, 14 March 2013.
- Panel discussion: IP/antitrust interface. IBC London, Advanced EC Competition Law, 16 April 2013.
- 'Economics of patent pools and FRAND: what are relevant economic theories behind patent disputes such as smart phone wars?' IBC London, Competition Economics, 25 April 2013.
- 'Leniency: what is total co-operation? How to?' Brussels, Premier Cercle (Competition Summit 2013; forthcoming), 5 December 2013.

### **Engel, C.**

- Organizer Workshop 'Experiments at the Crossroads of Law and Economics', Rotterdam, 1 July 2013.

### **Faure, M.G.**

- Speaker at a conference about European and International Law, St. Louis University in Brussels, Belgium, 15-16 November 2013.

### **Giard, R.W.M.**

- 'De vele valkuilen bij het vaststellen van causaal verband bij medische aansprakelijkheid', Vereniging voor Gezondheidsrecht (Association of Health Law), Rotterdam, 19 April 2013.
- 'De opdracht aan deskundigen: antwoordgestuurd vragen of vraaggestuurd antwoorden', LSA Study meeting, Zeist, 25 April 2013.

**Heine, K.**

- 'European State Aid Control and Corporate Governance', Kassel University, 40th Hohenheimer Oberseminar, 19 April 2013 (together with Ph. Hanke).
- Comments on Christophe Boone & Serden Ozcan 'Why do cooperatives emerge in a world dominated by corporations?', Tilburg, Workshop Economic Governance and Organizations, 6 June 2013.
- Lecturer course 'Introduction to the economic fundamentals of grid law' in Master of Business, Competition and Regulatory Law Position at: Freie Universität Berlin, 2013.
- Co-organizer Conference 'Company tax integration in the EU - a necessary step to neutralize "excessive" behavior within the EU?', Rotterdam, 11 June 2013.
- 'The logic of law and economics meets organizational studies - the case of organizational wrongdoing' (co-author: Kateryna Grabovets), Montréal, 29th EGOS Colloquium (European Group of Organizational Studies), 4 July 2013.
- Organizer of Second Bournemouth University - EUR Workshop on Organisational Behaviour and Legal Development, Second Bournemouth University - EUR Workshop on Organisational Behaviour and Legal Development, Rotterdam, 8-9 July 2013.
- 'Subsidies and Corporate Governance, An Agency Approach', Toronto, Canadian Law and Economics Association annual conference (CLEA), 28 September 2013 (together with Ph. Hanke).
- 'Subsidies and Corporate Governance? An Agency Approach', Urbana Champaign, Illinois, Midwest Law and Economics Association annual conference, 12 October 2013 (together with Ph. Hanke).

**Hodges, C.**

- Lectures on enforcement of consumer law, Leuven University, Visiting Professor from 25 February – 9 March 2013.
- Lecture on 'EU Consumer ADR', Max Planck Luxembourg Institute for Procedural Law, 12-13 March 2013.
- Speaker at the Conference and Opening Ceremony of the Max Planck Institute for International, European and Regulatory Procedural Law in Luxembourg, 6- 8 May 2013.
- Presentation at the meeting of the European Justice Forum in Paris, 13 – 14 May 2013.
- Lecture on EU Consumer ADR at the Swiss Re conference, Rüschtikon, Switzerland, 15-16 May 2013.
- Presentation at a conference organized by the Royal Association of Irish Architects, Dublin, Ireland, 21 May 2013.
- Presentation about EU Consumer ADR, Annual Cooperation Day of members of the ECC-Net, Dublin, Ireland, 23 May 2013.
- Presentation 'Collective redress and competition enforcement policy', Irish Presidency conference on Competition Enforcement, Dublin, Ireland, 24 May 2013.
- Lecture on Consumer ADR at Lisbon University, Portugal, 27 May 2013.
- Malcolm Carlisle Memorial Lecture in the Apothecaries Hall in London, Association of British Healthcare Industries, England, 6 June 2013.
- Presentation about EU Consumer ADR at the DRI Arbitration Conference, Prague, Czech Republic, 13 June 2013.
- Lecture at the Max Planck Institute for Collective Goods, Bonn, Germany, 17 June 2013.
- Presentation of paper on enforcement at the conference on 'Transformation of Enforcement', EU law conference, EU Institute, Florence, 27-28 June 2013.

**Klick, J.**

- Visiting professor at Yale Law School, 2013-2017.

**Kramer, X.E.**

- Visiting Professor (TPR Chair) at Catholic University Leuven, Belgium, 2013-2014.
- 'Current Gaps and Future Perspectives in European Private International Law: Towards a Code on Private International Law?' Brussels, European Parliament, Interparliamentary Committee Meeting, 23 January 2013.
- Keynote: 'Enforcing Judgments in Commercial Matters Worldwide', AKD, Rotterdam, Book launch Enforcement of Judgments, Awards & Deeds in Commercial Matters, 14 February 2013.
- Keynote: 'Features and Accomplishments of the European Small Claims Procedure', Warsaw, Poland, 4th COJEF Meeting, 22 February 2013.
- 'The Dutch Act and Collective Redress of Investors: Private International Law Aspects', Luxembourg, Max Planck Institute, Seminar Collective Actions and Investor's Protection: European Developments and Perspectives, 25 March 2013.
- Lecture and workshop 'How to obtain a judgment abroad faster and more easily: European procedures and practical application', Trier, Germany, Summer Course Civil Litigation in Europe, Europäische Rechtsakademie (ERA), 18 June 2013.
- 'National Application of European Civil Procedures: An Empirical Approach', Rotterdam, Empirical Legal Studies at Erasmus School of Law (ELS at ESL), 19 June 2013 (together with E.A. Ontanu).
- 'Global civil justice and national icons: the case of Dutch WCAM settlements and European civil procedure', Rotterdam, BACT seminar, 21 June 2013.
- 'What Did the ESCP Bring to the EU Justice Table?' Lithuanian Presidency Conference; European Small Claims Procedure: How Civil Law Instruments Serve the Interests of EU Citizens, Vilnius, Lithuania, 12 September 2013.
- 'European Procedures: Nothing or Noting? Experiences and Future Prospects', Uppsala University, Sweden, Conference on Civil Justice in the EU: growing and teething?, 17 October 2013.
- 'The structure of the proceedings: differences, common denominators and prospects of harmonisation', ELI-UNIDROIT conference and expert meeting 'From Transnational Principles to European Rules of Civil Procedure', Vienna, Austria, 18 October 2013.

**Lindenbergh, S.D.**

- Presentation 'Schockschade', Sirius Playground Utrecht University, 2013.
- Chairman of expert meeting on 'Smartengeld', De Letselschaderaad, 2013.
- Chairman of expert meeting on 'medische aansprakelijkheid', Verbond van Verzekeraars (Dutch Association of Insurers), 2013.
- Chairman symposium 'Ervaringen van slachtoffers', 2013.

**Oded, S.**

- 'Documenting Innocence Along with Guilt: The Economics of Self-Policing Under Vicarious Liability', Annual Meeting of the European Association of Law and Economics, Warsaw, Poland, 26 September 2013 (together with E. Carbonara).

**Paccès, A.**

- Workshop on 'Smart Regulation of European Private Law', 'SMART' Regulation of European Private Law, Maastricht, 18 January 2013.

- Speaker at the Roundtable of ECGI Research Members with the European Commission, European Commission Action Plan on Company Law and Corporate Governance, Brussels, 23 January 2013.
- Inaugural Lecture on 'The Future in Law and Finance', Erasmus University Rotterdam, 26 April 2013.
- Presentation of 'The Case for an Unbiased Takeover Law (with an Application to the European Union)', University of Maastricht, METRO seminar, 26 June 2013 (together with R.J. Gilson).
- Presentation of 'Strict Liability for Credit Rating Agencies', Bozen, Annual Meeting of the German Law & Economics Association, 14 September 2013 (together with A. Romano).
- Paper presentation 'Corporate Governance of Banks: Is More Board Independence the Solution?' (co-author: E. Dorenbos), Annual Conference of the European Association of Law & Economics, Warsaw, Poland, 27 September 2013.
- Presentation of 'Smart Regulation and EU Financial Law: A Law and Economics Perspective', Annual Conference of the European Association of Law & Economics, Warsaw, Poland, 27 September 2013.
- Lecture on 'The Economic Foundations of Corporate Law', LUISS Guido Carli, Graduate school, Faculty of Law, Rome, 13 December 2013.

#### **Scheltema, M.W.**

- Several lectures for attorneys on human rights, Beijing, China, 14-21 June 2013.
- Presentation 'Assessing effectiveness of transnational private regulation in the corporate social responsibility arena', Conference at the UCD in Dublin, 11-12 October 2013.
- Speaker and chair of several sessions in the conference 'Bridging the Gap between International Investment Law and the Environment', Dutch Ministry of Foreign Affairs, The Hague, 4-5 November 2013.

#### **Stadler, A.**

- 'Recognition of Mass Settlements in Europe', Conference on "Settlements and Alternative Mechanisms in Collective Redress", British Institute of International and Comparative Law, London, February 2013.
- Presentation on 'Mass Torts in Europe – Allocation of Jurisdiction – Cross-border Multidistrict Litigation', project "Mass Damage in Europe", European Centre of Tort and Insurance Law (ECTIL, Vienna) and Munich Re, May 2013.
- 'Master class: Complex Litigation', ESL Rotterdam, 16-20 September 2013.
- 'Collective Redress: Representative Actions – who should have legal standing?', Conference on the EU Commission's collective redress policy, 14-15 October 2013.
- 'European developments in collective redress', Conference on developments in consumer protection law, Prague, 29-30 November 2013.

#### **Visser, L.T.**

- 'Time is Money? A Law and Economics approach to 'loss of time' as non-pecuniary loss', 2013 Asian Law and Economics Association annual meeting, Tokyo, 15 March 2013.
- Two lectures about Law and Economics ('Inleiding in het Rechtseconomisch denken' and 'Contractenrecht, onrechtmatigedaadsrecht en schadevergoeding') for the module 'Rechtseconomie. Aanbevelingen voor de wetgever' at the Academie voor Wetgeving, The Hague, 13 May 2013.

- Paper presentation 'Custodian's Liability in the Netherlands and Belgium: A Legal and Economic Analysis' (co-author: Jef De Mot) at the 15<sup>th</sup> Joint Seminar of the European Association of Law and Economics and The Geneva Association in Girona, Spain, 14 June 2013.
- Paper presentation 'Custodian's Liability in the Netherlands and Belgium: A Legal and Economic Analysis' (co-author: Jef De Mot), 30th Annual Conference of the EALE, Warsaw, Poland, 28 September 2013.
- Organization of the *Ius Commune* workshop 'Aansprakelijkheid en verzekering' (together with Giuseppe Dari-Mattiacci), Maastricht, 29 November 2013.

**Weber, F.**

- 'Abusing loopholes in the legal system – efficiency considerations of differentiated law enforcement approaches in misleading advertising', Seminar at the Amsterdam Centre for the Study of European Contract Law - Consumer Law Series, March 2013.
- 'Art. 77 Contracts of Indeterminate duration - a comment from a German perspective', Workshop 'Content and effects of contracts: the CESL in the European multi-level system of governance' at the Groningen Centre for Law and Governance, May 2013.

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## Visitors

The research programme offers scholars the opportunity to visit our group for a short research stay. We offer an exciting environment for multidisciplinary legal research, and enjoy the exchange of thoughts and ideas with academics having research interests similar to our own. In 2013, we accommodated the following visitors:

- Dr. Vikas Kumar (Azim Premji University in Bangalore) (16 – 30 September) – EMLE Erasmus Mundus Visiting Scholar
- Prof. Ejan Mackaay (Emeritus Professor of Law, Université de Montreal and Fellow, CIRANO, Canada) (1 October)

### **Prof. Jason Scott Johnston visiting scholar**

From 3-14 June 2013, [Prof. Jason Scott Johnston](#) was a visiting scholar. Law and economics expert Johnston joined the Virginia Law faculty in 2010 and serves as the Henry L. and Grace Doherty Charitable Foundation Professor of Law and the Nicholas E. Chimicles Research Professor in Business Law and Regulation. He served formerly as Robert G. Fuller, Jr. Professor of Law and director of the Program on Law, Environment and Economy at the University of Pennsylvania Law School.



Johnston's scholarship has involved subjects ranging from natural resources law to torts and contracts. He has published dozens of articles in law journals, such as the *Yale Law Journal*, and in peer-reviewed economics journals, such as the *Journal of Law, Economics and Organization*. He is currently working on a book that critically analyzes the foundations of global warming law and policy, a series of articles on the economics of regulatory science and another series of articles on various aspects of the law and economics of consumer protection. He has served on the Board

of Directors of the American Law and Economics Association, on the National Science Foundation's Law and Social Science grant review panel, and on the Board of the Searle Civil Justice Institute. He won Penn Law's Robert A. Gorman Award for Teaching Excellence in 2003.

### **George Zhou and Kai Purnhagen ESL Distinguished International Visitor**

George Zhou has been re-appointed, and Kai Purnhagen has been appointed as Erasmus School of Law's Distinguished International Visitor. The Erasmus School of Law highly values their willingness to engage in the BACT and RILE research efforts.

[George Zhou](#) is Associate Professor of Law at the School of Law, University of Leeds. His research interests lie in the fields of contract law, regulation and law and economics. Zhou is particularly interested in the regulatory features of different types of legal instruments.

[Kai Purnhagen](#) is Assistant Professor in Law at the Law and Governance Group of Wageningen University. His main research focus is on European Integration, Risk Law and Regulation, European and International Economic Law (especially European Private Law), Insurance Law and Legal Theory (esp. Behavioural Law and Economics).

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## Current Researchers

### Full Professors

Prof. R.J. Van den Bergh  
Prof. W.H. van Boom  
Prof. V.W. Buskens  
Prof. C. Engel  
Prof. M.G. Faure  
Prof. R.W.M. Giard  
Prof. K. Heine  
Prof. C.J.S. Hodges  
Prof. N.J.H. Huls  
Prof. J. Klick  
Prof. X.E. Kramer  
Prof. S.D. Lindenbergh  
Prof. P. Mascini  
Prof. A.M. Paces  
Prof. J.J. Rachlinski  
Prof. N. Rickman  
Prof. M.W. Scheltema  
Prof. A. Stadler  
Prof. L.T. Visscher  
Prof. G. Wagner

### Associate Professors

Dr. A. Arcuri (until Autumn 2013)  
Dr. A.M.I.B. Vandenberghe  
Dr. R. Westrik

### Assistant Professors

Dr. P.D.N. Camesasca  
Dr. M.L. Tuil  
Philip Hanke (Autumn 2013)

### Postdocs

Dr. P.T.M. Desmet  
Dr. M. Kogelenberg  
Dr. S. Oded  
Dr. F. Weber (until Autumn 2013)

**PhD students**

Alexandre Biard (EDLE)

**Topic/Title***Optimization of Mass Litigation in Europe and the Role of the Judge*Shilpi Bhattacharya  
(EDLE/Erasmus Mundus)*Should Competition Law Consider the Behavioral Biases of Firms?*

Yuan Bo (China Law Centre)

*Legal Issues of Carbon Tax: From an International and Comparative Perspective*

Miriam Buiten (EDLE)

*Regulatory Competition and Consumer Law Enforcement in Europe*

Vijit Singh Chahar (EDLE)

*Addressing Agency Problems in Constitutional Law Using Insights from Corporate Governance*

Claes-Henrik Claesson

*Law and Economics of Collateral Management Regulation*Ignacio Cofone  
(EDLE/Erasmus Mundus)*Privacy Trade-offs in Information Technology Law*Elena Demidova  
(EDLE/Erasmus Mundus)*Takeover Regulation in Developing Economies: The Case of Russia*

Goran Dominioni

*Neuro-, Behavioral and Experimental Economics in the Law of Torts*

Elena Fagotto (EDLE)

*Risk and Food: Rethinking Food Regulatory Regimes in Europe*Penio Penev Gospodinov  
(EDLE/Erasmus Mundus)*The Application of EU Competition Law to Alternative Dispute Resolution Proceedings*

Kateryna Grabovets (EDLE)

*Organisational Design and Liability Rules*

Philip Hanke (EDLE)

*Law and Economics of State Aid*

Monique Hazelhorst

*Cross-Border Enforcement and Fundamental Principles of Civil Procedure*

Ifrah Jameel

*Financial markets regulation*

Xufeng Jia

*Economic Analysis of Chinese Overseas FDI Through M&A*

Claire Leger (EDLE)

*Securities Regulation – Comparative European Policies*

Kleopatra Maliqi (EDLE/Erasmus Mundus)	<i>Standards of Review in Investment Arbitration – The Search for New Balances in the Interplay Between Facts Law and Interpretation</i>
Tomasz Mielniczuk (EDLE/Erasmus Mundus)	<i>The role of corporate compliance programs in competition law enforcement in the European Union and the United States</i>
Sergio Mittlaender Leme de Souza (EDLE)	<i>Why Do People Follow the Law, Especially Private Law?</i>
Hossein Nabilou (EDLE)	<i>Hedge Funds Investment Strategies and Financial Instability: The Case for Regulation of Hedge Funds</i>
Shaheen Naseer (EDLE/Erasmus Mundus)	<i>Composition of Power, Public Expenditures and Economic Growth: A Dynamic Analysis</i>
Alina Ontanu	<i>Uniform European Procedures, a way to Efficient Cross-border Litigation and Enforcement? A Comparative Research</i>
Ekaterina Pannebakker	<i>Are Intentions Binding? Developing a Harmonised Legal Approach to Letter of Intent in International Contracting</i>
Shivans Rajput (EDLE)	<i>Maximum Retail Price – Analyzing its Anti-Competitive Effects</i>
Elena Reznichenko (EDLE)	<i>Empirical Analysis of Optimal Enforcement: Monetary vs. Non-Monetary Punishment</i>
Erlis Themeli	<i>Civil Justice Competition and Choice of Court in the EU</i>
Ilja Tillema	<i>Third Party Funding of Mass Litigation and its Influence on the Conduct of Mass Litigation</i>
Ziyu Wang (China Law Centre)	<i>Financial Regulations in China</i>
Hong Wei (EDLE)	<i>The Impact of China-related WTO Cases on Chinese Trade Law and Practice</i>
Xun (Sarah) Xiao (China Law Centre)	<i>Director's Fiduciary Duty and Economics - A Comparative Perspective</i>
Yixin Xu (China Law Centre)	<i>Investing Carbon Funds and Carbon Sinks Project in Developing Countries</i>

### Other EDLE PhD Candidates and their research topics

- Ritchele Alburo, *Should Water be Privatized? A Theoretical and Empirical Analysis of Ownership – Performance Nexus*
- Bashir Assi, *European Investment Funds Regulation - Focusing on Compensation Practices*
- Marco Baudino, *Urban economics, migration and growth theory*
- Cintia Bezerra de Melo Pereira Nunes, *Regulation of petroleum industry in Brazil*
- Paola Bertoli, *An Empirical Analysis of Public Procurement and the Demand for Medical Malpractice Liability Insurance in Italy*
- Mulugeta Asefa Bogale, *Labor L&E*
- Victor Livio Enmanuel Cedeno Brea, *Bank Organizational and Capital Structures in the Aftermath of the Financial Crisis*
- Diogo Gerhard Castro de Britto, *Unemployment Insurance, Employment Outflow and Work Effects*
- Marco Fabbri, *Social Norms in Law and Economics*
- Etleva Gjonca, *Rules and Regulations for a Sound Banking System*
- Yugank Goyal, *Informal Market Institutions: Select Experience from India*
- Alice Guerra, *Tort Law and Economics: Theoretical versus Empirical Approach*
- Cicek Gurkan, *The Role of Banks for Corporate Governance*
- Dirk Heine, *Optimal Institutional Setup for Environmental Fiscal Policy Considering Interaction Effects with Environmental Law Pursued by other Institutions and Labor Market Consequences*
- Tobias Hlobil, *The production of private law and legal change*
- Katherine Hunt, *Mortgage Market Comparison*
- Hadar Jabotinsky, *The Structure of Financial Supervision: Consolidation or Fragmentation for Financial Regulators?*
- Ana Jakovljevic, *Building Market Institutions in Serbia*
- Xufeng Jia, *Economic Analysis of Antimonopoly Law (AML) in China: Legislation and Implementation*
- Jaroslaw Kantorowicz, *Essays on Fiscal Constitution*
- Arun Kaushik, *Trade Secrecy - The Ignored Facet of Intellectual Properties*
- Maximilian Kerk, *Essays on Experimental Methods on Legal Development*
- Bryan Kareem Khan, *The Rights of Broadcasting Organization and International Markets for Audio-visual Services*
- Dusko Krsmanovic, *Are There Economic Reasons to Regulate Lobbying in the EU?*
- Min Lin, *Law and Economics of Security Interests in IP*
- Di Liu, *Mass litigation in Europe*
- Jingyuan Ma, *A Comparative Perspective on Merger Policies of Antitrust Law*
- Maximiliano Marzetti, *The Elusive Rationale of Trade Mark Dilution*
- Stephan Michel, *Endogenous Constitutions*
- Valerijus Ostrovskis, *Multilateral Trading Facilities and Their Impact on European Financial Markets*
- Peng Peng, *Platform Competition in Search Engine Market*
- Daniel Pi, *Foundations of Law and Economics*
- Faiz Ur Rehman, *Essays on counter-terrorism Policies of Pakistan*
- Alburo Ritchele, *Institutional Structure as an Information-Processing device in the Context of Trade Policy Decision-making process: Case of the Philippines*

- Filippo Roda, *Economic Analysis of Law- Fee-shifting Rules in Litigation*
- Maria Pia Sacco, *Optimal deterrence of International Bribery*
- Rahul Sapkal, *Essays on Labour Market Segmentations - A Law and Economics Approach*
- Huojun Sun, *Inequalities, Truth and Social Trust: Experimental Evidences on Institutional Design*
- Shuo Wang, *International Trade Policies*
- Federico Wesselhoefft, *Multiparty Contracts & Non-Recourse Finance (Project Finance) Law and Economics*

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## Publications

In this section, we list the main publications in 2013 of our researchers. Minor publications, editorials, and case notes are omitted.

### Arcuri, A.

- Arcuri, A. (2013). Law and Economics of the SPS Agreement: A Critical Perspective. In Van Calster, G. and Prevost, D. (Ed.), *Research Handbook on Environment, Health and the WTO* (pp. 164-206). Edward Elgar Publishing.
- Arcuri, A. (2013). Reimagining risk regulation: from reason to compassionate reason. In E. Palmerini and Stradella (Ed.), *Law and Technology: The Challenge of Regulating Technological Development* (RoboLaw Series, 1) (pp. 215-229). Pisa: Pisa University Press.
- Arcuri, A. (2013). International Economic Law Meets Lifestyle Risks: What Role for International Standards? *The European Journal of Risk Regulation*, 542-547.
- Arcuri, A. (2013). The TBT Agreement and Private Regulation. In Trebilcock and Epps (Ed.), *Research Handbook on the TBT Agreement*. Edward Elgar Publishing.

### Bergh, R.J. van den

- Bergh, R.J. Van den (2013). Behavioral Antitrust: Not Ready for the Main Stage. *Journal of competition law & economics*, 203-229.
- Bergh, R.J. Van den (2013). Private Enforcement of European Competition Law and the Persisting Collective Action Problem. *Maastricht Journal of European and Comparative Law*, 12-34.
- Bergh, R.J. Van den & Jingyuan Ma (2013). Enforcing Antitrust Law in China: Is Decentralization Desirable? In: M.G. Faure & G. Xu (Eds.), *Economics and regulation in China (The Economics of Legal Relationships, 17)*, Oxon: Routledge 2013, pp. 134-161.
- Bergh, R.J. Van den & Giannaccari, A. (2013). Behavioral Economics: Un Attore Non (Ancora) Protagonista Sulla Scena Antitrust. In *Mercato Concorrenza Regole* (pp. 9-44).
- Bergh, R.J. Van den (2013). Violations of the Cartel Prohibition, Actions for Damages by Indirect Buyers and the Passing- On Defence, Comments on the Judgement of the German Bundesgerichtshof. *Zeitschrift für Europäisches Privatrecht*, 147-164.

### Boom, W.H. van

- Büyüksagis, E. & Boom, W.H. van (2013). Strict Liability in Contemporary European Codification: Torn Between Objects, Activities, and Their Risks, 44 *Georgetown Journal of International Law* 2, p. 609-640.
- Dekker, E. & Boom, W.H. van (2013). Arbiters en aansprakelijkheid – drie aandachtspunten bij herziening arbitragerecht, *NJB* 2013/26, p. 1702-1707.
- Boom, W.H. van (2013). Empirisch privaatrecht: enige beschouwingen over de rol van empirisch onderzoek in de hedendaagse privaatrechtswetenschap, *TPR*, 2013-1, p. 7-84.
- Boom, W.H. van, I. Giesen, I. & Verheij, A.J. (2013). *Capita Civilologie – Handboek Empirie en Privaatrecht*, Den Haag: Boom Juridische Uitgevers.
- Boom, W.H. van & Faure M.G. (2013). Handboek Empirie en Privaatrecht. In W.H. van Boom, I. Giesen & A.J. Verheij (Eds.), *Capita Civilologie - Handboek empirie en privaatrecht*, Den Haag: Boom Juridische Uitgevers, p. 906-1173.

- Faure, M.G. & Boom, W.H. van (2013). Gedragsveronderstellingen en verzekeringen. In W.H. van Boom, I. Giesen & A.J. Verheij (Eds.), *Capita Civilologie - Handboek empirie en privaatrecht*, Den Haag: Boom Juridische Uitgevers, p. 693-732.
- W.H. van Boom, Prevention through Enforcement in Private Law, in: Luboš Tichý, Jiří Hrádek (eds.), *Prevention in law*, Prague: Centrum právní komparatistiky Právnické fakulty Univerzity Karlovy v Praze (Charles University Prague; ISBN 978-80-87146-90-3) 2013, p. 31-42.

#### **Buskens, V.W.**

- Raub, W., Buskens, V.W. & Frey, V. (2013). The Rationality of Social Structure: Cooperation in Social Dilemmas through Investments in and Returns on Social Capital. *Social Networks (Online)*, 35, p. 720-732.
- Montoya, E.R., Terburg, D., Bos, P.A., Will, G.J., Buskens, V.W., Raub, W. & Honk, J. van (2013). Testosterone Administration Modulates Moral Judgments Depending on Second-to-Fourth Digit Ratio. *Psychoneuroendocrinology*, 38, p. 1362-1369.
- Büchel, B. & Buskens, V.W. (2013). Dynamics of Closeness and Betweenness. *Journal of Mathematical Sociology*, 37, p. 159-191.
- Buskens, V.W. (2013). Rational Choice Social Research on Social Dilemmas: embeddedness effects on trust. In R. Wittek, T.A.B. Snijders & V. Nee (Eds.), *Handbook of Rational Choice Social Research* (pp. 113-150). Stanford, CA: Stanford University Press.
- Tsvetkova, M. & Buskens, V.W. (2013). Coordination on Egalitarian Networks from Asymmetric Relations in a Social Game of Chicken. *Advances in Complex Systems* 16(1): doi: 10.1142/S0219525913500057.
- Monsma, E., Buskens, V.W., Soudijn, M. & Nieuwbeerta, P. (2013). Partners in Crime: An Online Cybercrime Forum Evaluated from a Social Network Perspective. In F. Hsu & D. Marinucci (Eds.), *Advances in Cyber Security: Technology, Operation, and Experiences* (pp. 146-170). New York: Fordham University Press.
- Kuipers, R.M., Hoijsink, H., Buskens, V.W. & Raub, W. (2013). Combining Statistical Evidence from Several Studies: A Method Using Bayesian Model Selection and an Example from Research on Trust Problems in Social and Economic Exchange. *Sociological Methods & Research*, 42(1), p. 60-81.
- Dolder, D. van & Buskens, V.W. (2013). *Individual Choices in Dynamic Networks: An Experiment on Social Preferences*. Rotterdam: Erasmus School of Economics.

#### **Camesasca, P.D.N.**

- Camesasca, P.D.N. (2013). Ecosystems Wars and the New Antitrust Challenges in the EU. *Journal of Competition*.
- Camesasca, P.D.N. (2013). Willenserklärungen im Kartellrecht. *Wirtschaft und Wettbewerb*, 17-24.
- Camesasca, P.D.N. (2013). Cartel Appeals to the Court of Justice: The Song of Sirens? *Journal of European Competition Law & Practice*, 1-9.
- Camesasca, P.D.N. (2013). Injunctions for Standard-Essential Patents: Justice is not blind. *Journal of competition law & economics*, 285-311.
- Camesasca, P.D.N. (2013). Cooperation Bonus or Damages Roadmap? Leniency in EU Anti-Cartel Enforcement, with Reference to the KFTC Process. *Journal of Competition*.

**Desmet, P.T.M.**

- Luyten, J., Desmet, P.T.M., Dorgali, V., Hens, N. & Beutels, P. (2013). Kicking against the pricks: vaccine sceptics have a different social orientation. *European Journal of Public Health*, 2013, 1-5.

**Engel, C.**

- Glöckner A., Engel C., Can We Trust Intuitive Jurors? Standards of Proof and the Probative Value of Evidence in Coherence Based Reasoning, *Journal of Empirical Legal Studies*, vol. 10, no. 2, pp. 230-252, 2013.
- Engel C., Glöckner A., Role Induced Bias in Court: An Experimental Analysis, *Journal of Behavioral Decision Making*, vol. 26, pp. 272-284, 2013.
- Engel C., Nudged to Be Consistent, *Journal of Institutional and Theoretical Economics*, vol. 169, no. 1, pp. 45-48, 2013.
- Engel C., Kurschilgen M., The Coevolution of Behavior and Normative Expectations. Customary Law in the Lab, *American Law and Economics Review*, vol. 15, no. 2, pp. 578-609, 2013.
- Engel, C. (Ed.), Behavioral Theory of Institutions, *Journal of Institutional and Theoretical Economics (JITE)*, vol. 169, pp. 1-197, 2013.
- Engel, C.W. (2013). Aufgaben. In H. Kube & et al. (Eds.), *Leitgedanken des Rechts: Paul Kirchhof zum 70. Geburtstag, Volume 1* (pp. 57-69). Heidelberg: Müller.
- Engel C. (2013). Legal Experiments: Mission Impossible?, *Erasmus Law Lectures 28*.
- Bünstorf, G., Engel, C.W., Fischer, S. & Güth, W. (2013). *Win Shift Lose Stay - An Experiment Test of Non-Compete Clauses*. Bonn: Max Planck Institute for Research on Collective Goods.
- Chmura, T., Engel, C.W. & Englerth, M. (2013). *Selfishness As a Potential Cause of Crime. A Prison Experiment*. Bonn: Max Planck Institute for Research on Collective Goods.
- Engel, C.W. (2013). *Behavioral Law and Economics: Empirical Methods*. Bonn: Max Planck Institute for Research on Collective Goods.
- Engel, C.W. (2013). *Deterrence by Imperfect Sanctions - A Public Good Experiment*. Bonn: Max Planck Institute for Research on Collective Goods.
- Engel, C.W. & Ockenfels, A. (2013). *Maverick - Making Sense of a Conjecture of Antitrust Policy in the Lab*. Bonn: Max Planck Institute for Research on Collective Goods.
- Engel, C.W. & Kleine, M. de (2013). *Who is Afraid of Pirates? An Experiment on the Deterrence of Innovation by Imitation*. : Max Planck Institute on Research on Collective Goods.
- Engel, C.W. & Zhurakhovska, L. (2013). *Words Substitute Fists - Justifying Punishment in a Public Good Experiment*. : Max Planck Institute for Research on Collective Goods.
- Engel, C.W. & Zhurakhovska, L. (2013). *You Are In Charge. Experimentally Testing the Motivating Power of Holding (Judicial) Office*. Bonn: Max Planck Institute for Research on Collective Goods.

**Faure, M.G.**

- M.G. Faure & G. Xu (Eds.), *Economics and regulation in China (The Economics of Legal Relationships, 17)*, Oxon: Routledge 2013.
- M.G. Faure & X. Zhang, *The Chinese anti-monopoly law*. Cheltenham, Northampton: Edward Elgar 2013.

- Faure, M.G. & Zhang, X. (2013). Towards an Extraterritorial Application of the Chinese Anti-Monopoly Law that avoids Trade Conflicts. *The George Washington International Law Review*, p. 501-538.
- Faure, M.G. & van Boom, W. (2013). Handboek Empirie en Privaatrecht. In W.H. van Boom, I. Giesen & A.J. Verheij (Eds.), *Capita Civilologie - Handboek empirie en privaatrecht*, Den Haag: Boom Juridische Uitgevers, p. 906-1173.
- Faure, M.G. & Boom, W.H. van (2013). Gedragsveronderstellingen en verzekeringen - handboek empirie en privaatrecht. In W.H. van Boom, I. Giesen & A.J. Verheij (Eds.), *Capita Civilologie - Handboek empirie en privaatrecht*, Den Haag: Boom Juridische Uitgevers, p. 693-732.
- Faure, M.G. (2013). Towards effective compensation for victims of natural catastrophes in developing countries. In M. Faure & A. Wibisana (Eds.), *Regulating disasters, climate change and environmental harm. Lessons from the Indonesian experience*, Cheltenham, Northampton: Edward Elgar, p. 243-270.
- Faure M. & Weber, F. Security Mechanisms for Insolvencies in the Package Travel Sector: an Economic Analysis. *Journal of Consumer Policy*, 2013(36), p. 425-442.
- Heine, K. & Faure, M.G. (2013). An Insurance Approach for Preventing Financial Crisis. In R. Olivares-Caminal, J.R. LaBrosse & D. Singh (Eds.), *Financial Crisis Containment and Government Guarantees*, Cheltenham, Northampton: Edward Elgar, p. 174-188.
- Faure, M.G., Smedt, K. De & Pedraza, J. (2013). Compulsory financial guarantees for environmental damage: what can we learn from Spain? *Environmental Liability*, p. 227-237.
- Faure, M.G. & Hu, J (2013). Towards a deposit guarantee insurance in China? A Law and Economic perspective. *The Chinese Journal of Comparative Law*. *The Chinese Journal of Comparative Law*, p. 256-288.
- Faure, M.G., Bergkamp, L., Herbatschek, N. & Schmedt, K. De (2013). Sanctions and enforcement. In L. Bergkamp & B.J. Goldsmith (Eds.), *The EU Environmental Liability Directive. A commentary*, Oxford: Oxford University Press, p. 315-332.
- Faure, M.G. (2013). CADR and settlement of claims - a few economic observations. In C. Hodges & A. Stadler (Eds.), *Resolving mass disputes. ADR and settlement of mass claims*, Cheltenham, Northampton: Edward Elgar, p. 38-60.
- Faure, M.G. (2013). Climate change adaptation and compensation. In J. Verschuuren (Ed.), *Research handbook on climate change adaptation law*, Cheltenham, Northampton: Edward Elgar, p. 110-141.
- Faure, M.G. (2013). Responsabilité pénale environnementale en Europe: quo vadis? In D. Bernard, Y. Cartuyvels, Chr. Guillain, D. Scalia & M. van de Kerchove (Eds.), *Fondements et objectifs des incriminations et des peines en droit européen et international*, Limal: Anthemis, p. 331-347.
- Faure, M.G. & Hu, W. (2013). Environmental liability in China: recent developments and case studies in an ex post analysis. In M.G. Faure & G. Xu (Eds.), *Economics and regulation in China (The Economics of Legal Relationships, 17)*, Oxon: Routledge, p. 269-293.
- M. Faure & A. Wibisana (Eds.), *Regulating disasters, climate change and environmental harm. Lessons from the Indonesian experience*, Cheltenham, Northampton: Edward Elgar 2013.
- Faure, M.G. & Smedt, K. de (2013). The ELD's effects in practice. In L. Bergkamp & B.J. Goldsmith (Eds.), *The EU Environmental Liability Directive. A commentary*, Oxford: Oxford University Press, p. 299-314.

- Faure, M.G. & Visser, M.J.C. (2013). Handhaving van milieustrafrecht in Nederland: een rechtseconomische en empirische analyse. In M. Groenhuijsen, T. Kooijmans & J. Ouwerkerk (Eds.), *Roosachtig strafrecht. Liber amicorum Theo de Roos*, Deventer: Kluwer, p. 179-197.
- Faure, M.G. & Philipsen, N., *Access to Justice in Environmental Matters - A Socio-Economic Analysis*, The Hague: Eleven International Publishing 2013.
- Faure, M.G., Philipsen, N.J., Fernhout, F.J., Mühl, M., Choukroune, L. & Backes, C. (2013). *Possible initiatives on access to justice in environmental matters and their socio-economic implications*. Bruxelles: European Commission.

#### **Giard, R.W.M.**

- Giard, R.W.M. (2013). Informed consent. In W.H. van Boom, I. Giesen, A.J. Verheij (Eds.), *Capita Civilologie – Handboek Empirie en Privaatrecht*, Den Haag: Boom Juridische Uitgevers, p. 237-267.
- Giard, R.W.M. (2013). Reflecteren over publiceren. In G. van Dijk e.a. *Cirkels. Een terugblik op een vooruitziende blik*. Deventer: Kluwer, p. 181-189.
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