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Key Facts 2012

- In addition to appointing Prof. Ogus (2008), Profs. Buskens, Klick, and Wagner (2009), Profs. Heine and Rachlinski (2010), and Profs. Hodges, Scheltema, Giard, Stadler, and Rickman (2011), we were able to appoint two professors in 2012: Profs. Engel and Paccès. Furthermore, Prof. Kramer joined the research team.
- Six PhD theses were defended.
- In 2012, our research team involved 29 researchers and 30 PhD students.
- Six international and multidisciplinary conferences were organised by members of the research team.
- We obtained further financial resources from the Erasmus University Board, allowing us to proceed and extend our research efforts for 2013-2017.

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 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 appropriately run the corporation's affairs. 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 explicitly warn 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 warning signs.

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 by nature. 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 and Willem van Boom jointly head the research programme. The programme was rated "excellent" in the Dutch Research Assessment Exercise 2009 (average score was 4.75 out of 5.0).

Professorial Appointments

The following professorial appointments were made in 2012. All appointments provide an invaluable resource to help us accomplish the comparative, empirical, and multidisciplinary research goals of Erasmus School of Law.

Chair 'Sanders Wisselleerstoel'

[Christoph Engel](#)



In 2012, Prof. Engel accepted the Erasmus School of Law 'Sanders Wisselleerstoel'. Prof. Engel is director of the Max Planck Institute for Research on Public Goods (Bonn). His work is interdisciplinary, combining law with economics and psychology. Prof. Engel built the only German lab for experimental law and economics, and one of the few such labs worldwide. His work has been published by first-rate law journals (*Journal of Empirical Legal Studies* and *Journal of Competition Law and Economics*) and economics journals (*Experimental Economics*, *Journal of Institutional and Theoretical Economics*, and *Journal of Institutional Economics*). Prof. Engel ranks high on SSRN (197th worldwide, fourth among German authors).

Furthermore, he is one of the founders of the International Max Planck Research School on Adapting Behaviour in a Fundamentally Uncertain World, and is chairman-elect. Prof. Engel joins our research team to further strengthen the group's empirical research efforts into behaviour of individuals, institutions, and organisations.

Chair of Law and Finance

[Alessio Paces](#)

Prof. Paces was appointed endowed Chair of Law and Finance in 2012. The chair is established in the context of the Tinbergen tenure-track programme. With the establishment of this new chair in Law and Finance, the Erasmus School of Law reinforced its leadership in the economic analysis of corporate law and governance.

In 2008, Prof. Paces defended his PhD, cum laude, at the Erasmus University of Rotterdam. He holds a cum laude degree in economics from the LUISS University of Rome (1994) and the European Master in Law and Economics (Universities of Hamburg and Manchester, 1995), which was awarded with distinction and first prize for best thesis. In 2003, he was visiting scholar at UC Berkeley Boalt Hall School of Law. Since 1994, he has researched and published in many

fields of Economic Analysis of Law: Banking and Securities Regulation, and Corporate Governance. His current research interests are in corporate governance, law and finance, comparative law and economics, and the economics of financial regulation. He is a member of the Italian, European, and American Associations of Law and Economics.



Other professorial news

Chair of European Civil Procedure

[Xandra Kramer](#)



In 2012, Prof. Kramer, together with her four PhD candidates, joined the research group. Prof. Kramer acquired her PhD at Leiden University (provisional measures and private international law), and was assistant and associate professor at ESL. She was appointed Endowed Chair of European Civil Procedure at Erasmus School of Law in 2011. Her research interests include private international law, (European) civil procedure, European private law and international dispute settlement, on which she has published numerous articles and several books. In 2010, she acquired a five-year research grant from the Dutch organisation for scientific research (Vidi) on Securing Quality in Cross-border Enforcement.

Willem van Boom appointed professor at Durham Law School

In March 2012, Prof. van Boom was given part-time tenured professorship at Durham Law School (UK), where he teaches comparative private law. Durham Law School is consistently rated one of the top UK law schools and was rated as the fourth-best law school in the latest UK research assessment. Prof. van Boom thus holds part-time positions at both Rotterdam and Durham.

Inaugural Lectures

Chair of European Civil Procedure

[Xandra Kramer](#)

On January 20, Prof. Kramer held her inaugural lecture at Erasmus School of Law, entitled Procedure Matters. Construction and Deconstructivism in European Civil Procedure.

As a consequence of economic globalisation and peoples' increased mobility, the number of cross-border disputes between private parties is increasing. The enforcement of cross-border rights is complex due to differences in civil procedure, language, and other legal and practical obstacles. These complications jeopardise the right of access to justice and fair trial, and have triggered debate on harmonising civil procedure. The EU legislature has been particularly active in the past decade in enacting rules on civil procedure. However, the construction of this new European civil procedural order is largely ad hoc and lacks vision and an architectural plan. The incoherence between the different EU instruments, and the deficient interaction with national law and global developments, are a potential source of injustice and may endanger, rather than improve, access to justice. This requires a fundamental debate on the foundations and future architecture of European civil procedure.

In 2011, Kramer was appointed professor in the Chair of European Civil Procedure, on behalf of the Erasmus Trustfonds. She specialises in private international law, international litigation and European civil procedure. In 2010, she acquired a prestigious Vidi grant for her research, Securing Quality in Cross-Border Enforcement, from the Netherlands Organisation for Scientific Research (NWO).

Chair of Methodology and Tort Law

[Raimond Giard](#)

On February 10, Prof. Giard delivered his inaugural lecture, entitled *Dokteren aan het aansprakelijkheidsrecht. Over binnendijks denken, de buitengrenzen van waarheidsvinding en betrouwbare kennis [Tinkering with Tort Law]*.

A legal decision is only as good as the facts upon which it is based. However, the procedure must also be legally correct. Therefore, form and content are both important, and neither should predominate. Incomplete or inaccurate facts can lead to an inaccurate verdict. Tort law is particularly fact-sensitive. When a person has suffered damages and assumes this to be the result of somebody else's negligent behaviour, the true cause of the mishap must be carefully established. The methodology for investigation, judgment, and decision-making must be well-tested to ensure objectivity.



Who is ultimately responsible for the quality of a legal procedure? In Dutch civil law, this control is primarily in the hands of the parties engaged in the conflict. The magistrate's role is passive. However, this is not realistic. To avoid any miscarriage of justice, the judge should not only direct the procedure but also actively supervise fact-finding and interpretation. In tort law, inference to the best explanation of an accident is of the utmost importance, not only for a fair judgment but also to truly learn from mistakes. Therefore, fact-finding must be taken seriously. From this follows the need for evidence-based investigation, as well as active participation in these processes by the magistrates. That is why, although it is necessary to tinker with tort law, doing so always comes at a price.

Prof. Giard studied medicine at Leiden University, followed by a specialisation in internal medicine and oncology. He was subsequently trained as a clinical pathologist. After his certification, he began work as a clinical pathologist at the *Maasstad Ziekenhuis* in Rotterdam. He also undertook training in clinical-decision analysis and clinical epidemiology, and worked as a part-time assistant professor of clinical-decision analysis, first at Rotterdam University and later at Leiden University. His thesis was on the biopsy diagnosis of inflammatory bowel disease. Because of the normative character of decision analysis, he became interested in the study of medical errors, especially in his own professional field. Therefore, he was often consulted as a medical expert in negligence cases. As a result, he became interested in the legal sciences, and began his law studies in 1999. In 2005, he defended his second PhD thesis, which was on medical malpractice. He then became a researcher in the private law group of the Erasmus School of Law. In 2009, he was appointed assistant professor. In his legal work, Giard focuses on the methodology of fact-finding and legal judgment, and decision-making in tort law: namely, how to obtain and use reliable information. Because this knowledge is also relevant for criminal justice, Giard regularly contributes to courses. He promotes the use of insights from psychology and epistemology in legal practice for guiding and judging human conduct, which is well in line with the ongoing research carried out in our research programme.

Chair of Enforcement Issues in Private Law

[Martijn Scheltema](#)

On February 17, Prof. Scheltema delivered his inaugural lecture, entitled *Effectiveness of Private Regulation: Can it be Measured?*

The prerogative of government regulation is gone. In an international context, rules regarding business and communities are set in a melting pot of government and private regulations. The influence of private regulation is growing considerably and appears in many forms. All of this has made it important to assess the effectiveness of private regulation (also as an alternative to government regulation). This may help businesses decide whether or not to participate in private regulatory initiatives and private rules-making bodies to use effectiveness indicators to enact better regulations. There is a need for such indicators. Government regulation has a long tradition, which private regulation lacks. Governments could also use such indicators to assess the existence of private regulation that meets their purposes, which could reduce the need for government intervention. Measuring effectiveness is not easy. It calls for an empirical approach, using other disciplines, such as economy, sociology, and psychology. All these disciplines are needed to find indicators with which to assess the



effectiveness of private regulation. Despite their useful insights, these disciplines also have blind spots. Therefore, there is a need for an integrated approach. Furthermore, it is important to find indicators that can be assessed using information sources that are easy to access, such as public sources. Otherwise, it is necessary to conduct costly research. Measuring effectiveness of private regulation is not a mathematical exercise. One must assess whether indicators can be found regarding the effectiveness of private regulation.

Scheltema is also an attorney-at-law/partner at Pels Rijcken & Droogleever Fortuijn, a law firm based in The Hague.

Chair of Fundamentals of Private Law

Gerhard Wagner

On March 29, Prof Gerhard Wagner held his inaugural lecture at Erasmus School of Law. He addressed the audience with a lecture entitled 'Litigation as a Market: Competition between Civil Justice Systems'.



Traditionally, adjudication is classified as a governmental function rather than a service provided by civil servants. However, since the days of 1979 when Landes and Posner published their paper on "Adjudication as a Private Good" in the 8th volume of the *Journal of Legal Studies* it has become increasingly common to think of adjudication as a service like any other, offered in markets. In reaction to challenges from arbitral institutions and from neighbouring jurisdictions, states in Europe and the U.S. have reformed their judicial systems in order to make them more attractive to litigants. Some of these efforts have

proved quite successful, stimulating a process that bears obvious parallels to features characteristic of competitive markets in goods and services.

However, the theoretical and empirical foundations of competition in the litigation market have not been explored, and the question whether the outcomes of competition are desirable has not been answered systematically. The important discussion on whether competition in the legal arena results in a race to the top or rather a race to the bottom, looming so large in the area of corporate law, has never reached the present topic. This leaves lawmakers on the national and supranational levels with little clues as to whether they should think of ways to stimulate competition or rather of strategies to fence it in.

In 2011, Wagner was appointed professor in the Erasmus Chair of Fundamentals of Private Law. He also holds a Chair in European Private Law and Civil Procedure at the University of Bonn in Germany. He serves as director of the Institute of Civil Procedure and Dispute Resolution and is co-director of the Centre of Advanced Studies in Law and Economics. In 2010/11 he was visiting professor of law at the University of Chicago Law School. He has published widely on issues involving the choice between compensation systems, liability regimes, international arbitration, European civil procedure, mediation, negotiation and other modes of alternative dispute resolution. Prof. Anthony Ogus preceded Wagner as chair (2008–2011).

Chair of Comparative Mass Litigation

Astrid Stadler

On June 26, Prof. Stadler held her inaugural lecture at Erasmus School of Law, entitled *The Changing Role of Courts and Judges in Collective Redress Litigation*.

Collective redress and mass litigation is a topical issue in law. Securities, consumers, and antitrust damage are at the forefront of developments in this area. There are many different forms of such redress, ranging from the typical American class-action suit to recent European initiatives, such as the Dutch *Wet Collectieve Afwikkeling Massaschade* (WCAM; Collective Mass Claims Settlement Act). However, the global development of collective redress is still in its infancy. Many legal and practical issues require careful consideration. Teaching and research in this area is much needed. With the appointment of Prof. Stadler, Erasmus School of Law has fulfilled both needs.



The Chair in Comparative Mass Litigation is funded by *Stichting Onderzoek Collectieve Actie* (Foundation Research Collective Action). Stadler, who is currently professor at the School of Law, University of Konstanz, Germany, received her legal education at Konstanz University, Boalt Hall (University of California Berkeley), and Ludwig-Albrechts-University (Habilitation) in Germany. Stadler has extensive experience in the areas of comparative law and civil procedure law, with its international and European aspects. Since the late 1990s, her research has focused on mass

litigation, and she has been working as a legal consultant for policymakers in Germany and Austria. She joins us to study further the comparative legal aspects of mass tort litigation and alternative redress mechanisms.

Chair of Fundamentals of Private Law

Christopher Hodges

On June 26, Prof. Hodges held his inaugural lecture at Erasmus School of Law, entitled *Integrating Public and Private Redress and ADR into a Coherent Civil Justice System for Europe*.

Hodges outlined what European legal systems might look like in about five years' time. This was based on a three-pillar model for law enforcement (whether public or private norms), comprising public and private enforcement, and a middle space, which can sometimes be called alternative dispute resolution (ADR), negotiation, or voluntary restitution. Key features of the future system:

- A central role in dispute resolution will be occupied, not by courts or lawyers, but new dispute-resolution pathways, called consumer ADR (CDR), ombudsmen, or compensation schemes.
- Regulatory bodies will increasingly not only oversee businesses' compliance with public regulatory requirements, but also assume the responsibility to ensure that restorative actions are taken by those who have caused damage.
- As a result, courts will assume a more limited role in the civil justice system.

Hodges' research shows that ADR and CDR systems are quickly spreading, driven by user choice based on their advantages of faster speed, lower cost, and increased user-friendliness compared to traditional civil procedures, courts and lawyers. Data from CDR can also support powerful market and regulatory responses to improving traders' behaviour, providing a regulatory function. Online dispute resolution (ODR) is already integral to Internet trading.

Public regulators are also starting to exert effective pressure on traders to provide restorative justice (compensation or rectification) where they have sufficiently strong powers. Leading examples are the Danish Consumer Ombudsman and various authorities in the UK. The approach links with the familiar *partie civile* mechanism, in which private parties are able to piggy-back on a public prosecution to obtain compensation. These techniques are spreading and being refined. Regulators and CDR combine to provide powerful, effective, and swift techniques for behaviour control and redress.



Hodges is head of the CMS Research Programme on Civil Justice Systems at the Centre for Socio-Legal Studies, University of Oxford, and has been appointed part-time Chair of Fundamentals of Private Law at Erasmus School of Law. He is well-known for his expertise in European collective redress, ADR, product-regulatory law, and product liability. He brings many years of experience as a practising lawyer with far-reaching connections. Hodges joins the research team to pursue new strands of empirical and theoretical research for new models of European civil justice systems and dispute resolution. He has wide knowledge of comparative legal systems and is in the vanguard of the research on and the development of new techniques for dispute resolution. Recently, he acted as adviser on ADR to the European Commission. He will provide invaluable input with regard to accomplishing the empirical aspirations of Erasmus School of Law research.

Chair 'Sanders Wisselleerstoel'

[Christoph Engel](#)

On Dec. 6, Prof. Engel held his inaugural lecture at Erasmus School of Law, entitled *Legal Experiments: Mission Impossible?* Christoph Engel, Director of the Max Planck Institute for Research on Collective Goods in Bonn and Professor of Law at the Universities of Bonn and Osnabrück, was installed as holder of the Erasmus Chair of Internationalization at Erasmus University Rotterdam. Over the years, he has increasingly branched out into, mostly experimental, economics and also psychology. He specialises in experimentally testing legal issues. From this angle, he will contribute to the empirical branch of legal scholarship at Erasmus School of Law.

In his inaugural lecture, Prof. Engel discussed the merits and the challenges in using a scientific method for casting new light on the social problems the law means to address, and on the effectiveness of legal intervention. While lab experiments are common in the natural sciences, and have become increasingly popular in economics, they still meet considerable resistance in legal academia. Some lawyers claim they are too scientific. The ultimate goal of law and legal scholarship is governing people's lives, not solving empirical puzzles. Others think experiments suffer from an individualistic bias. They neglect that citizens look at the law for orientation and



identity. Yet others are afraid that experimentalists dissect legal rules too radically. As with all institutions, practical legal rules come in coherent units that lose meaning if unpacked. Unfriendly observers believe they spot experimentalists' dirty laundry. Experimentalists investigate what fits their method and strategically publish their papers in the best journals. Finally, legal critics sigh: it would have been enough to ask my grandmother to get your results! Not so rarely, experimental results often appear totally intuitive. None of these critiques is entirely without merit. Yet most of them can at least be mitigated, if not completely dispelled, by a design of the experiment that is congenial to the legal research question. The lecture explained the concerns, and used an example experiment to demonstrate how the concerns can be addressed.

Professor Willem van Boom held the TPR Wisselleerstoel Lecture at Leuven University

On May 16, 2012, Prof. van Boom officially accepted the TPR Wisselleerstoel at Leuven University. The TPR Chair is a year-long visiting professorship at a Belgian university, sponsored by the Belgian *Journal for Private Law* (*Tijdschrift voor Privaatrecht [TPR]*). The TPR Chair was hosted by Leuven University, where van Boom had ample opportunity to discuss the topic of his research with Belgian colleagues. In his lecture, entitled *Empirical Private Law*, van Boom stressed the need for improved methodology courses at Dutch law schools, better factual argumentation in court decisions, and renewed interest for empiricism in legal research. Others before him have raised these arguments, but van Boom adds a new dimension to the debate by empirically underpinning what others' conjectures and underlining the necessity of developing a true empirical multidisciplinary in the private-law domain. An extended version of the lecture is due to appear in *TPR*.

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 with academic stature. In 2012, this resulted in the edited volume *Hampers, Hitches and Holdups in Private Law*.



This year's theme focused on the effectiveness and side effects of various private law constructs and formalities, the underlying causes thereof, and how the relevant legal framework can be ameliorated to better serve its purposes. The book was edited by this year's project supervisors: Mark Tuil, Martijn van Kogelenberg and Willem van Boom. The volume 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*. A considerable number of PhD students are also part of the educational programme of the European Doctorate in Law and Economics (EDLE).

In addition to the regular seminar programme, our researchers attended the following guest lecture, Empirical Legal Studies, by [Jonathan Klick](#). The course is an introduction to statistical methods used in law and economics, and 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 economist, specialising in empirical law and economics. He has ample experience in the methodology of empirical law and economics, which provides invaluable input for the empirical aspirations of Erasmus School of Law research.



Conferences

Our research programme organised numerous conferences, workshops, and other academic gatherings in 2012. Here, we highlight some of these.

Competition Between Civil Justice Systems: The Market for Dispute Resolution Services

On the occasion of Gerhard Wagner's inaugural lecture, a seminar was held at Erasmus School of Law on March 29.

Adjudication is traditionally classified as a governmental function, rather than a service provided by civil servants. However, since 1979, when Landes and Posner published their paper on



Adjudication as a Private Good in the *Journal of Legal Studies* (8th vol.), it has become increasingly common to think of adjudication as a service like any other offered in the market. In reaction to challenges from arbitral institutions and neighbouring jurisdictions, states in Europe and the U.S. have reformed their judicial systems to make them more attractive to litigants. Some of these efforts have been quite successful, stimulating a process that bears obvious parallels to features characteristic of competitive markets in goods and services. However, the theoretical and empirical foundations of competition in the litigation market have not been explored. The question of whether or

not the outcomes of competition are desirable has not been systematically answered. The important discussion of whether competition in the legal arena results in a race to the top or the bottom looms large in the area of corporate law has never been fully explored. This leaves lawmakers at the national and supranational levels with little clues as to if they should think of ways to stimulate competition or rather of strategies to fence it in.

Keynotes were given by Mathias Siems (What are “Good” Legal Rules and Institutions - And are Indicators and Empirical Research the Way Forward?), Christopher Drahozal (The Choice Between Arbitration and Business Courts in the U.S.), Galf-Peter Calliess (Civil Justice “Made in Germany”), and Christopher Hodges (London – A City Competing for Disputes?).

BU-EUR Workshop on Organisational Behaviour and Legal Development

The first BU-EUR Workshop on Organisational Behaviour and Legal Development was held at Bournemouth University (UK) on May 24–25. The workshop was jointly organised by Prof. Klaus Heine and Dr. Fabian Homberg (Lecturer in Human Resources & Organisational Behaviour at Bournemouth University). The workshop addressed a broad range of topics on the intersection between law and organisational behaviour and contributed to our research on group behaviour.

Presenters from Erasmus University were: Meltem Bayramli, PhD-candidate (EDLE), on Cross-licensing Agreements on R&D Incentives in Complex Product Industries; Pieter Desmet, PhD, on Leaders' Responses to Transgressions in the Workplace; Petra Gyöngyi, PhD-candidate (Legal

Theory), on Judicial Reform in Hungary and New Public Management; and Joost Leunissen, PhD-candidate (Rotterdam School of Management), on Why Do People Apologize.

Resolving Mass Disputes: ADR and Settlement of Mass Claims

On June 27, a conference took place on the occasion of Profs. Hodges and Stadler's inaugural lectures. This conference examined two emerging responses to mass issues that are confronting European member States.

The problem of how to respond to multiple small claims by consumers, which has challenged European court systems, has possibly been solved with Consumer Alternative Dispute Resolution (CADR). The first part of the conference presents research findings on how CADR systems operate in different member states, and current European Commission legislative proposals to build national CADR systems that fully cover all types of consumer-to-business disputes, supported by an ODR (online dispute resolution) platform. CADR systems appear to offer a genuine alternative for resolving small disputes, and raise questions of how they should be designed to provide feedback that can regulate traders' behaviour, and what residual role courts may play. Speakers include leading ombudsmen and experts.



Mass claims cases seldom proceed as far as a final court judgment. Although the high number of claimants and the complexity of legal and factual issues make negotiations difficult, settlements are often reached. The Dutch Collective Mass Claims Settlement Act encourages out-of-court settlement by providing an opt-out court proceeding to declare settlements legally binding for all people affected by mass damages. It turned out to be a very successful tool for handling large, international securities cases and other mass claims. However, some important questions of international jurisdiction and recognition are still unresolved.

Mass settlements are a challenge for both lawyers and courts. Existing group litigation acts in Europe require court approval of mass settlements, following U.S. class-action rules. This puts judges in a difficult position, as legal regulations often provide only vague and abstract criteria to be applied. Courts must have sufficient information to consider the proposed settlement fairly. To what extent should the absent group members participate in, or comment on, the proposed settlement? In multinational mass claims, courts may have to compare settlement terms with the potential outcome of litigation despite the fact that a multiplicity of substantive laws must be applied.

Various speakers addressed the multifaceted aspects of CADR. Contributors included Dr. Iris Benöhr, CSLS University of Oxford; Dr. Naomi Creutzfeldt-Banda, CSLS University of Oxford; Dr. Stefaan Voet, University of Ghent; Jolanda Girzl, Director of ECC-SE; Dr. Julia Hörnle, Queen Mary, London University; Lewis Shand Smith, Ombudsman, Ombudsman Service, UK; Robert W. Hammesfahr, Managing Director, Executive Claims Counsel, Swiss Re; Prof. Ianika Tzankova, Tilburg University; and Prof. Deborah Hensler, Stanford University/Tilburg University.



KNAW Colloquium Civil Justice: Thinking and Deciding by Civil Courts

This invitational conference was organised by Profs. Jeff Rachlinski, Ivo Giesen (Utrecht) and Willem van Boom, and hosted and financed by the Royal Netherlands Academy of Arts and Sciences KNAW (July 5–6, Amsterdam). It focused on the empirical-legal dimensions concerning the judiciary’s cognitive processes and how the courts’ thinking and deciding in civil cases is shaped and moulded. Contributions focused on the methodology of using empirical insights in understanding the judicial decision-making process, what we do and do not know about cognitive processes in civil adjudicators, how potential pitfalls could be avoided, and how procedural restraints may either mitigate or amplify biases and heuristics in the adjudication process. Speakers included Dan Kahan (Yale), Mandeep Dhimi (Surrey), Tracey George (Vanderbilt), Christoph Engel (Max Planck Bonn, ESL), Reid Hastie (Chicago Booth), Theodore Eisenberg (Cornell), Chris Guthrie (Vanderbilt), Carsten de Dreu (Amsterdam UvA), Gerhard Wagner (Bonn, ESL), Riël Vermunt (Leiden), and Raimond Giard (ESL). Profs. Giesen and Van Boom made the opening statements and drew conclusions at the final session.

Max Planck Research School Uncertainty Topics Workshop: Policy Implications of Law and Behaviour

From October 16–18, the 6th International Max Planck Research School “Uncertainty” Topics Workshop took place at Erasmus School of Law. The workshop is part of the IMPRS graduate programme of the Max Planck institutes in Bonn, Jena, and Berlin. This year the workshop was hosted by ESL, within the framework of our research programme. BACT’s excellence in research and expertise in graduate teaching, namely its strong ties with the European Doctorate in Law and Economics, made it the ideal host for the workshop. The workshop’s title was Policy Implications of Law and Behaviour, and comprised five distinguished keynote speakers and 11 PhD-student papers.

All presentations addressed topical research problems, ranging from fundamental methodological questions of socio-legal research to pressing socio-economic problems. They also addressed the fact that effective institutional designs (legal rules) must deal with uncertainty and complex human behaviour. While the research output was remarkable in terms of scientific discussions, it was also a wonderful social experience for all participants. The cooperative spirit of Prof. Engel (Max Planck Institute Director, Bonn, and Sanders Wisselleerstoel ESL) triggered not only in-depth discussions at the workshop sessions between Max Planck students, EDLE students and the keynote lecturers, but his spirit paved also the way for even more discussions between all participants at the various social events, even beyond the workshop's topic.



The International Max Planck Research School on Adapting Behaviour in a Fundamentally Uncertain World combines approaches from economics, law and psychology to effectively explain human decisions under uncertainty and better design institutional responses. Its executive director is Prof. Engel.

Experiencing the Unfair Commercial Practices Directive. How the 2005 UCP Directive has impacted on Marketing, Sales Practices, Enforcement Strategies and National Legal Systems

In a joint venture of Erasmus School of Law Rotterdam and Durham Law School, this seminar brought together a variety of European legal scholars in Durham in December 2012. The speakers and the audience actively discussed the impact of the UCP directive on various legal systems. The contributions will appear in the next edition of the *Erasmus Law Review*. Ashgate will also publish an edited book as part of its prestigious *Markets and the Law* series (See <http://www.ashgate.com/default.aspx?page=2352> for an overview of the series).

Contributors included Geraint Howells (Head of Manchester School of Law), Hans-W. Micklitz (European University Institute), Antonina Bakardjieva-Engelbrekt (Stockholm University), Marine Friant-Perrot (Université de Nantes), Dörte Poelzig (University of Passau), Christopher Willett (University of Essex), Bert Keirsbilck (Hogeschool Universiteit Brussels, University Leuven), Charlotte Pavillon (University of Groningen) and Franziska Weber and Willem van Boom (Erasmus School of Law).

Research Seminars

In 2012, the following speakers held a seminar with our group:

Jan 20	Christopher Hodges	<i>Collective Redress</i>
Feb 17	Roger Van den Bergh	<i>Behavioural Antitrust: Not Ready for the Main Stage</i>
Mar 16	Martijn Scheltema	<i>Effectiveness of Private Regulation: Economic Approach</i>
May 25	Peter Mascini (FSW)	<i>Inequality in Sentencing Types: The Importance of Institutionalized Judicial Decision-Making</i>
Jun 15	Mathias Siems (Durham University)	<i>Mapping Legal Research</i>
Nov 16	George Zhou (University of Sheffield)	<i>Limitations of Mandatory Rules in Contract Law: An example in Agency Law</i>
Dec 14	Neil Rickman	<i>Individual Incentives and Workers' Contracts: Evidence from a Field Experiment</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, Dr. Qi (George) Zhou (ESL Distinguished International Visitor) gave a presentation within the BACT seminar entitled Limits of Mandatory Rules in Contract Law: An example in Agency Law, which led to a very lively discussion.



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 the 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 receive the unique opportunity to study Law and Economics in three different countries. The programme prepares economists and lawyers of high promise 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 2012, the following EDLE-seminars took place:

Feb 16	Federico Wesselhoeft	Multiparty Contracts and Non Recourse Finance (Project Finance) Law and Economics
	Shivans Rajput	Maximum Retail Price – Analyzing its anticompetitive effects
Feb 23	Talita Ramos Erickson	Legal/Political Institutions and Urban Poverty
	Jingyuan Ma	A Comparative Perspective on Merger Policies of Antitrust Law
Mar 1	Dusko Krsmanovic	Law and Economics of Corporate Lobbying (General)
Mar 15	Peng Peng	Essays on Loyalty Rebates and Exclusive Dealing
	Paola Bertoli	Competitive Analysis of the Allocative Mechanisms of the Medical Malpractice Risk in the Italian Public Health System
Mar 22	Philip Hanke	Law and Economics of State Aid
	Vijit Chahar	Addressing Agency Problems in Constitutional Law Using Insights from Corporate Governance
Oct 11	Elena Demidova	Takeover Regulation in Developing Economies: The Case of Russia
	Marco Fabbri	Social Norms in Law and Economics
Oct 25	Shuo Wang	International Trade Policies
Nov 1	Martin Chudej	Law and Economics of Investment Treaty Shopping
	Penio Penev Gospodinov	The Application of EU Competition Law in Alternative Dispute Resolution Proceedings
Nov 8	Alexandre Biard	The Role of the Judge and Group Litigation in Europe

	Xufeng (Jess) Jia	Economic Analysis of Antimonopoly Law in China: Legislation and Implementation
Nov 15	Huojun Sun	Inequalities, Truth and Social Trust: Experimental Evidences on Institutional Design
	Damian Proniewski	Reaching Optimal Taxation of Green Taxes in Europe: A Comparative Analysis of Green Taxes in Italy, the Netherlands and Germany
Nov 22	Arun Kaushik	Trade Secrecy – The Ignored Facet of Intellectual Properties’
	Xiao (Sarah) Xun	Director’s Fiduciary Duty and Economics - A Comparative Perspective’
Nov 29	Ana Jakovljevic	Building Market Institutions in Serbia
	Elena Reznichenko	Empirical Analysis of Optimal Enforcement: Monetary vs. Non-Monetary Punishment
Dec 13	Katherine Hunt	Mortgage Market Comparison
	Hong Wei	The Impact of China-Related WTO Cases on Chinese Trade Law and Practice
Dec 20	Rahul Sapkal	Essays on Labour Market Segmentations: A Law and Economics Approach
	Jaroslav Kantorowicz	Fiscal Constitution

PhD Defences

In 2012, there were six PhD defence ceremonies in our research group.

Pascal Kruit, March 15 – De ontbindingsbeschikking ex art. 7:685 BW getoetst (supervisors: Profs. C.J. Loonstra and A.R. Houweling).

Sharon Oded (EDLE), March 30 – Inducing Corporate Proactive Compliance: Liability Controls & Corporate Monitors (supervisor: Prof. M.G. Faure).

Olga Skripova (EDLE), March 30 – Civil Liability as an Enforcement Tool of Underwriter's Gate-keeping Duty (supervisors: Profs. M.G. Faure and M. Lamandini).

Alexander Vasa (EDLE), June 26 – The Effectiveness of the Clean Development Mechanism - A Law and Economics Analysis (supervisors: Profs. M.G. Faure and M. Lamandini)

Franziska Weber (EDLE), June 28 – Towards an Optimal Mix of Public and Private Enforcement in Consumer Law – A Comparative Law and Economics Analysis of European Consumer Law Enforcement (Package Travel vs. Misleading Advertising) (supervisors: Profs. M.G. Faure, W.H. van Boom and L. Franzoni)

Martijn van Kogelenberg, November 30 – Motive Matters! An Exploration of the Notion of Deliberate Breach of Contract and its Consequences for the Application of Remedies (supervisor: Prof. S.D. Lindenbergh)

Pascal Kruit - De ontbindingsbeschikking ex art. 7:685 BW getoetst

A great deal of value is attributed to published case law in the academic world as well as in day-to-day practice. Consequently, it is important that published case law correctly reflects the actual situation for the purpose of attaching correct conclusions to it. Kruit's research examines the question about the representative value of published case law in respect of the dissolution of an employment contract pursuant to Section 685, Book 7 of the Netherlands Civil Code. The choice for the termination proceedings under Section 685, Book 7 of the Netherlands Civil Code also arises from the fact that the prohibition on appeals stipulated in paragraph 11 of this Section in principle involves a decision by the sub-district court judge as to whether the employment contract should be dissolved, and if so, whether compensation should be awarded and what the amount should be. Apart from the above, the choice for the termination proceedings under Section 685, Book 7 of the Netherlands Civil Code relates to the Recommendations issued by the Sub-district Court Circle (*Aanbevelingen van de Kring van Kantonrechters*) with a view to creating unity of law. While the sub-district courts are not formally bound to adhere to the Recommendations, substantively the Recommendations cannot actually be disregarded. Focusing the research on the termination proceedings under Section 685, Book 7 of the Netherlands Civil Code simultaneously enabled an analysis to be performed of the extent to which the Recommendations are observed and following on from that, to what

extent the pursuit of the unity of law is achieved. The research therefore focused on two questions:

1. *To what extent does published case law on the dissolution of an employment contract pursuant to Section 685, Book 7 of the Netherlands Civil Code correctly reflect the actual situation?*
2. *To what extent are the Sub-district Court Circle Recommendations on the application of Section 685, Book 7 of the Netherlands Civil Code applied consistently in day-to-day practice?*

The answer to these two questions was sought by comparing two data sets containing orders for termination. The first data set comprised all of the 808 published cases of case law relating to Section 685, Book 7 of the Netherlands Civil Code in the research period 2005-2009. The second data set was made up of a random sample of 2,976 orders for termination dating from the same period. The orders were collected for empirical research purposes from four courts of law: Amsterdam, Rotterdam, The Hague and Breda. Ten objectively determined aspects of both data sets were analysed, and the outcomes subsequently compared. This enabled an answer to be given to the first question. The outcomes of the empirical research were then compared against the Sub-district Court Circle Recommendations, which provided an answer to the second question.

The research shows that published case law on the dissolution of the employment contract in respect of the application of Section 685, Book 7 of the Netherlands Civil Code - in particular the substantial reasons and compensation based on the principle of fairness - provides a correct picture of the actual situation. In published case law focus is placed on interesting procedural aspects, which return in the outcomes of the analysis on the number of refusals, employee requests and dissolutions of the employment contract during the notice period. It was subsequently demonstrated that the Sub-district Court Circle Recommendations concerning the use of the sub-district courts formula as the calculation method to determine the amount of severance pay are explicitly not widely applied. Consequently, there is a risk that the unity of law pursued by the Recommendations will not be achieved in this area. I therefore propose that the sub-district courts formula be anchored in Section 685, Book 7 of the Netherlands Civil Code as the calculation method, while at the same deleting the prohibition on appeals stipulated in paragraph 11 to ensure that the non-committal nature of applying the sub-district courts formula ceases to apply. The research furthermore shows that the manner in which sub-district courts deal with the duty of ascertaining the prohibition of termination stipulated in Section 685(1), Book 7 of the Netherlands Civil Code does not take account of the purpose of the legislator. Recommendation 4, which was deleted on 1 January 2009, should therefore be reintroduced and renewed, based on the principle that the sub-district court will refuse a request to dissolve an employment contract in cases where a prohibition of termination applies. Lastly, the research shows that in respect of a request to dissolve an employment contract during the notice period, in its current form Recommendation 3.4 conflicts with Supreme Court case law concerning the decision in the Van Hooff Elektra case. In order to remove the conflict, the explanatory notes on Recommendation 3.4 should be amended to reflect that the request involving the dissolution of the employment contract during the notice period in principle is refused unless circumstances apply that do not justify observing the notice period.

Sharon Oded - Inducing Corporate Proactive Compliance: Liability Controls and Corporate Monitors

On March 30, 2012, Oded received his PhD with the distinction Cum Laude. A Cum Laude award is a rare event. It is awarded on the basis of the thesis. The research must be excellent, contributing new insights to its scientific discipline. The defence must also be very good.

Oded's research focuses on corporate internal enforcement systems. The research is aimed at exploring a welfare-enhancing integration of internal enforcement programmes in business corporations into the general enforcement policy.

Policymakers around the globe have acknowledged that in various contexts corporations are able to control their employees more efficiently than public authorities. Accordingly, contemporary enforcement policies in various regulatory areas, including environmental, health and safety, and anti-bribery, seek to induce corporations to become "proactive partners," rather than "enemies," in the battle against law-breaking. Yet, a comparative analysis of contemporary regulatory enforcement policies reveals that policies adopted on both sides of the Atlantic follow different approaches in encouraging corporations to proactively ensure compliance by their employees. One end of the spectrum consists of *deterrence-oriented* policies, according to which corporations are closely monitored and harshly penalized for their employees' misconduct, regardless of their efforts to ensure compliance. The other end of the spectrum consists of *cooperation-oriented* policies, which apply soft monitoring and impose no liability on corporations that implement compliance management systems. The middle of the spectrum is populated by various policies following *mixed* approaches, according to which regulatory monitoring is applied selectively, and liability is mitigated for corporations that implement compliance management systems. This multiplicity of regulatory enforcement policies raises the question: *How should a regulatory enforcement policy be designed to efficiently induce Corporate proactive compliance?* This question, which has practical, academic, and political relevance, lies at the heart of this book.

The study follows a law and economics approach in identifying a workable, innovative framework of enforcement policies that efficiently induces corporate proactive compliance with regulatory requirements. It analyses the two major schools of thought regarding law enforcement, *deterrence* and *cooperative* approaches, and shows that neither of those comprises an optimal regulatory enforcement paradigm, from a social-welfare point of view. The analysis further suggests that various existing regimes that offer improved frameworks by combining different elements of the deterrence and the cooperative approaches are fraught with major pitfalls pertaining to information asymmetry and arbitrariness risks. Armed with the conclusions of the analysis thus far, the study takes on the challenge of developing a comprehensive enforcement framework that sustains the strengths of the existing regimes while coping with their pitfalls. The proposed framework is composed of two innovative policy components. First, a *Third-Party-Based Targeted Monitoring (TPTM) System*, which hinges upon a voluntary regulatory programme that uniquely incentivizes self-policing corporations to appoint stand-alone, professional corporate monitors. Thereby, the TPTM system induces self-policing corporations to distinct themselves from non-self-policing ones. Consequently, it enables enforcement authorities to credibly tailor monitoring efforts to different types of regulatees. Second, a *Compound Corporate Liability Regime*, under which corporations that self-report their employees' misconduct incur a reduced sanction that mirrors the reduced social costs caused by the self-reported misconduct. Hence, the compound regime allows enforcement authorities to credibly tailor the sanctions imposed on differently motivated regulatees. These

policy components, jointly and severally, enhances corporations' motivation to proactively ensure compliance among their employees, while overcoming information asymmetry and arbitrariness pitfalls. Thereby, the proposed framework provides a generic, workable enforcement structure that may be implemented in a wide range of regulatory areas to efficiently induce corporate proactive compliance.

Olga Skripova - Civil Liability as an Enforcement Tool of Underwriter's Gate-keeping Duty

This book is dedicated to the Law and Economics analysis of civil liability of securities underwriters for the damage caused by material misstatements of corporate information by securities issuers. It seeks to answer a series of important questions. Who are the underwriters and what is their main role in the securities offering? Why there is a need for legal intervention in the underwriting market? What is so special about civil liability as an enforcement tool? How is civil liability used in a real world and does it really reach its goals? Finally, is there a need for a change and, if so, by what means?

Answering these questions is important because nowadays securities underwriters are main and indispensable participants in the process of raising capital *via* public financial markets. They provide important services to the issuer and investors both during the offering process and after the distribution. The analysis of the economic theory shows that the main explanation for such a wide use of underwriters is that they are good in correcting the informational asymmetry between the issuer and outside investors. Economic theory also postulates that underwriters can act as efficient gatekeepers in capital markets – they can monitor the correctness and completeness of issuer's public statements and thus prevent misstatements of the material information. It is socially beneficial that the gatekeeping by the underwriter is accurate and reliable as long as costs of gatekeeping and its enforcement are lower than benefits. This book acknowledges that there are market incentives, such as reputation, which encourage underwriters to perform their gatekeeping function well. However, alone these market enforcement mechanisms are insufficient to ensure compliance. Therefore, some form of legal intervention is needed. It is analysed which form of legal intervention fits the underwriting setting best. It is concluded that *ex post* legal intervention is superior to *ex ante* legal intervention. Further, all mechanisms of *ex post* legal intervention – public enforcement by the market supervisor, enforcement by the stock exchange and private enforcement *via* civil litigation, can be effective in providing the underwriter with incentives to monitor. In this setting, civil liability is just one of the types of legal intervention which has its advantages and disadvantages. The legal analysis of the USA, the EU, the Netherlands and the UK performed in this book shows that there is no uniformity in the use of civil liability as a tool to provide monitoring incentives to underwriters. Civil liability is used quite widely in the USA and in the Netherlands while in the UK underwriters face almost no liability threat. It is also shown that both in the USA and the Netherlands in practice the liability threat is limited because the amount of settlements in these cases is normally rather low and never exceeds the underwriting fee. It is suggested that in these countries the expected liability threat is likely to be insufficient to encourage meaningful compliance by the underwriter and there might be a systematic under-enforcement of underwriter gatekeeping function. The last Part of this book is dedicated to the search of a remedy for the problem of low settlement size in underwriter civil liability cases. As a possible solution it is proposed to switch from the current negligence liability to strict liability. This should be coupled with the positioning of the burden of proof of loss causation on the plaintiff and capping of damages by the amount of the underwriting fee. These measures should, respectively: decrease the uncertainty surrounding the outcome of the case and thus

cause higher settlements in cases that are being brought, discourage filing of frivolous suits and contain the costs that strict liability imposes on deals.

Alexander Vasa - The Effectiveness of the Clean Development Mechanism - A Law and Economics Analysis

Climate change has been acknowledged as a threat to humanity. Most scholars agree that to avert dangerous climate change and to transform economies into low-carbon societies, deep global emission reductions are required by the year 2050. Under the framework of the Kyoto Protocol, the Clean Development Mechanism (CDM) is the only market-based instrument that encourages industrialised countries to pursue emission reductions in developing countries. The CDM aims to pay the incremental finance necessary to operationalize emission reduction projects which are otherwise not financially viable. According to the objectives of the Kyoto Protocol, the CDM should finance projects that are additional to those which would have happened anyway, contribute to sustainable development in the countries hosting the projects, and be cost-effective. To enable the identification of such projects, an institutional framework has been established by the Kyoto Protocol which lays out responsibilities for public and private actors. This thesis examines whether the CDM has achieved these objectives in practice and can thus be considered an effective tool to reduce emissions.



To complete this investigation, the book applies a rational choice approach and analyses the CDM from two perspectives. The first perspective is the supply-dimension which answers the question of how, in practice, the CDM system identified additional, cost-effective, sustainable projects and, generated emission reductions. The main contribution of this book is the second perspective, the compliance-dimension, which answers the question of whether industrialised countries effectively used the CDM for compliance with their Kyoto targets. The application of the CDM in the European Union Emissions Trading Scheme (EU ETS) is used as a case-study. Where the analysis identifies inefficiencies within the supply or the compliance dimension, potential improvements of the legal framework are proposed and discussed.

The book finds that the CDM has not achieved its goals of additionality, sustainable development nor cost-effectiveness. In some cases the CDM incentivises governments such as the Chinese government, to forgo the implementation of national low-carbon policies in specific sectors so as to maintain financial support provided through the CDM. These adverse interactions reduce the global effort to reduce emissions. To overcome the pitfalls of the current CDM approach, a fund-approach, is discussed which would collect penalty fees from industrialised countries, which emitted more than their emission limits and channel these fees to developing countries for emission reducing activities. The fund-approach results in developing countries being free to determine their long-term abatement strategy and thus potentially strengthening national domestic climate and energy policy. While this could remedy some of the difficulties of the CDM such as the absence of sustainable development, it potentially creates trade-offs with project cost-effectiveness in the short-term.

The CDM has also not been implemented efficiently at the compliance-stage within the EU ETS. The right to use CDM has been allocated to participants of the EU ETS free of charge and has led to large wind-fall rent gains to these emitters. The book outlines different options to correct for

this inefficiency and collect these rents to leverage for further mitigation in Europe or developing countries. In light of these findings, the book concludes by discussing emerging alternative approaches and future research required to support the restructuring of our economies to become low-carbon societies in the coming decades.

Alexander has been working on climate and energy topics since 2007 and has authored and co-authored several papers on these topics and presented at several international academic conferences. Alexander lectured on emissions trading for the St. Gallen Programme on Renewable Energy Management as well as for the IKEM Summer Academy. He has reviewed submissions for Climate Policy, Energy Policy, and Resource and Energy Economics as well as several working papers and book chapters on climate policy. Now he is a fellow at the Climate Policy Initiative – Research on Energy and Climate Policy Effectiveness in Berlin.

Franziska Weber - Towards an Optimal Mix of Public and Private Enforcement in Consumer Law – A Comparative Law and Economics Analysis of European Consumer Law Enforcement (Package Travel vs. Misleading Advertising)

Traditionally European Member States have relied strongly on public or private law enforcement of consumer protection laws. Enforcement landscapes seem to be becoming more mixed and the structures show signs of convergence, not least due to European legislation. More legislative proposals regarding the enforcement landscape in consumer law are pending at European level. This stresses the need for reflection on how to create efficient enforcement designs and avoid ineffective European legislation, arguably a complex and challenging exercise. This book undertakes a comparative law and economic analysis to provide some answers to these questions. Both lawyers and economists are introduced separately to the topic in the first part of the book in order to create a level playing field before the analysis starts. Even though there is more to law than economic efficiency, it is essential to incorporate economic insights about enforcement of consumer protection law in the broader policy discussion.

It is state of the start within law and economics (from the perspective of optimal deterrence) to claim that a mix of enforcement systems is preferable rather than basing enforcement on only one mechanism and also that this mix will differ for various consumer law sectors. The mixes have not yet been defined. Various economic factors have been established according to which the efficiency of different enforcement tools can be assessed. In this book these factors are refined and systematized in a three stage efficiency framework that allows analysis of economic

strengths and weaknesses of different enforcement mechanisms (civil court, ADR, public agency, criminal law, group litigation and self-regulation) both generally and as applied to specific hypothetical consumer law scenarios. The case scenarios chosen to capture various contingencies of consumer law problems are a bona and a mala fide trader case scenario within package travel (substantial individual harm) and misleading advertising (trifling and widespread harm). For these scenarios the analysis makes suggestions for efficient designs. These revolve around the ability of various enforcement tools to generate the information necessary to initiate and carry out lawsuits. This is particularly problematic when considering mala fide traders who try to hide in reality or online. Other factors are



the potential dilution of the enforcer's incentives and the administrative costs of the tools.

These findings, established in a model world based on European legal realities, are taken as a benchmark to assess real life situations in selected countries with different enforcement traditions (the Netherlands, Sweden and England). Path dependency positively explains how legal settings in countries have come into being and is an important factor when assessing reform potentials. There is no one-size fits all optimal mix for the whole European Union. After comparing the existing mixes with the 'optimal mixes' in the two named sectors welfare enhancing changes to the three countries are presented. Lastly by way of a personal comment that is partly underpinned by the analysis and partly by anecdotal evidence, the apparent preference at EU level for public law enforcement is evaluated.

For the past four years Franziska was a PhD student in the EDLE programme. During this time she had the opportunity to go on research visits to Stockholm, Bologna and Barcelona, participate in a range of international conferences and publish (authored and co-authored) on consumer law, European law-making and design suggestions for effective laws in developing countries. Franziska studied the Bachelor of European and Comparative Law at the Universities of Oldenburg and Bremen, including study visits at the Universities of Sheffield. After her Bachelor graduation she gained work experience as an advisor for the IHK Nord - Representation of Northern German Chambers of Commerce and Industry, Brussels. She completed her LL.M. 'Master European Law School' at the University of Maastricht cum laude. Since 2011 she is admitted to the bar in Madrid as a Spanish lawyer. After her successful defence she was appointed as a post doc for the BACT research group. She will continue to carry out research with a view to consumer law and procedural law. Aside a new research project will concern the choice of opt-in and opt-out in various legal fields, such as consumer law, family law etc.

PhD thesis defence Martijn van Kogelenberg - Motive Matters! An Exploration of the Notion of Deliberate Breach of Contract and its Consequences for the Application of Remedies

The thesis argues that motive in committing breach of contract should matter in the application of remedies in contract. Deliberate breach of contract requires a different and sterner answer from the law of contract than any other breach of contract, because equally remedying all breaches of contract threatens parties' trust in the law of contract. This statement should be reflected in the law of remedies in contract. The box of remedies available to the victim of deliberate breach of contract should be designed accordingly. In general, this thesis argues, that the victim of contractual breach should have a stronger right to enforced performance of the contract and that he should have easier access to damages and to a larger amount of damages as a result of deliberate breach of contract.



Awards, Distinctions, and Other Evidence of Reputation

Prof. Heine awarded Jean Monnet Chair

In June 2012, Prof. Klaus Heine was awarded a Jean Monnet Chair of Economic Analysis of European Law. In the academic community, the Jean Monnet label is recognized as a sign of excellence. It was established by the European Commission as an initiative to promote teaching, research and reflection in the field of European integration studies in higher education institutions. The Jean Monnet Chair will strengthen teaching and research on European integration at Erasmus University and make European integration studies more accessible for students and civil society groups.



WODC Project grant on crime victims' experiences with recovery of losses

Sanne van Dongen (criminology) and Siewert Lindenbergh (private law) successfully won a research contract with the Wetenschappelijk Onderzoeks- en Documentatie Centrum (WODC, Scientific Research institute of the Dutch Justice Department). The research contract involves an empirical study of the crime victims' experiences in their ways to recover losses. The research will include in-depth interviews with crime victims. The project will run from December 2012 until June 2013.

European framework of Private International Law

Xandra Kramer, in collaboration with the T.M.C. Asser Institute, was awarded a grant by the European Parliament for a study on a European framework of Private International Law. The study, to be carried out by several Dutch and international experts under her scientific directorship, will identify current gaps in the regulatory framework and deliberate on future perspectives for a European Code of Private International Law.

Award for Kateryna Grabovets

Kateryna Grabovets was awarded the prestigious 2012 Award for Outstanding Reviewer, issued by the Academy of Management (Health Care Management Division), Boston, Massachusetts.

VBR Publication prize 2011 awarded to Prof. Raimond Giard

On April 13, 2012, Raimond Giard was awarded the Annual Publication Prize by the Dutch Association for Civil Law (Vereniging voor Burgerlijk Recht). His publication, 'Dit had niet hoeven gebeuren. De causale verklaring van ongewenste gebeurtenissen en de betekenis van de contrafeitelijke denkfout voor het CQSN-verband' (*NTBR* 2011-9, pp. 471–478), was lauded by the jury for its thought-provoking contribution to the interdisciplinary study of tort law. According to the jury report, Giard's contribution poses pertinent questions and should make lawyers feel uneasy about their implicit concepts of causation.

Lectures and Presentations

	Speaker	Title	Event
Jan	Willem van Boom	Hypotheek als consumentenrechtelijk thema ('Mortgages and consumer law')	Symposium 'Vastgoedfinanciering in woelige tijden' at Nyenrode Business University
	Willem van Boom	Waarom het toch steeds weer fout gaat bij financiële producten en wat daar aan te doen valt (Why Financial Products Providers Mess Up Time and Again and What Can be Done About It)	Vereniging voor Verzekeringswetenschappen in Rotterdam
	Willem van Boom	Behavioural Approaches and the Relevance of Civilology	Maastricht, Foundations of Ius Commune 2012
Feb	Alessio Paccès	Corporate Control and Incentives in a Dynamic Perspective?	OECD and CMB of Turkey, Istanbul
	Louis Visscher	Time is Money? A Law and Economics Approach to Loss of Time as Non-pecuniary Loss	Law & Economics Workshop in Gent
	Alessio Paccès	Liquidity, Uncertainty and Financial Crisis'	Center for Economic Studies, Katholieke Universiteit Leuven
March	Klaus Heine	Fairness in Copyright Law - An Economic Perspective	Annual Conference of the Internationale Gesellschaft fuer Urheberrecht at the Ludwig-Maximilians Universitaet Munich
	Willem van Boom	Behavioural Economics and Consumer Policy	Conference Consumer Law – The First Fifty Years at Utrecht University
Apr	Klaus Heine	Copyright Law and Fairness - Insights from Law and Economics	Research Seminar of the Department of Economics of the University of Salzburg
	Willem van Boom	Concurrentie om groepsacties – recente ontwikkelingen rondom Europese 'class actions' ('Competition in European Class Actions')	Staff seminar Law Faculty University of Leuven
	Franziska Weber	Towards an Optimal Mix of Public and Private Enforcement in Consumer Law	VBR seminar Bastion van het Burgerlijk Recht, Supreme Court, the Hague
May	Martijn Scheltema	Discussant on Legal Aspects	Erasmus University Conference Integrated Reporting: Measuring = Knowing

	Xandra Kramer and Alina Ontanu	The Future of International Small Claims Litigation: The Dutch Perspective	Yeditepe University, Istanbul, Turkey
May	Willem van Boom	Les méthodes des sciences sociales appliquées au droit privé ('Social Science Methods Applied to Private Law')	L'équipe René Demogue du Centre de Recherches de Droits et Perspectives du Droit de l'Université Lille
	Willem van Boom	Prevention Through Enforcement in Private Law	Conference 'The Ideas of Prevention in European Law' Centre of Comparative Law, Charles University, Prague, Czech Republic
	Christopher Hodges	Collective Redress and Consumer ADR in Europe	Conference at the Bavarian State's Schloss, Brussels (May 15), organised by the European Justice Forum
	Christopher Hodges	Consumer ADR in UK	Strategy meeting of Which?, the UK Consumers' Association, London
	Christopher Hodges	Consumer ADR: An Appealing New Relationship	Annual EU Civil Procedure Conference, Dubrovnic, Croatia
	Vincent Buskens	Trust and Cooperation in Embedded Social and Economic Transactions: A Theory-Driven Experimental Approach	Experimental Social Science Workshop at the New York University, Abu Dhabi
Jun	Christopher Hodges	EU Consumer ADR	Global ODR Forum Conference, Prague (organiser EU.ODR Group)
	Christopher Hodges	Resolving a Class Issue Without a Class Procedure: A Convergence of Public and Private Action in the UK	Law & Society Association Annual Conference in Hawaii
	Alessio Paccès	Liquidity, Uncertainty, and Financial Crisis	Fordham-Journal Banking & Finance Conference on Liquidity Risk Management, Fordham Law School, New York City
	Alessio Paccès	Financial Crisis: Some Law and Economics?	Distinguished Lecture Series, University of Vienna Law School
	Louis Visscher	Ex Ante Determined Pain and Suffering Damages for Non-Fatal Injuries: The Case for Quality Adjusted Life Years	Annual Conference of the Law and Society Association

	Vincent Buskens	Trust and Testosterone: Theory and Empirical Evidence	5th Maastricht Behavioral and Experimental Symposium: Theory and Experiments
Sept	Klaus Heine	'Delegation und demokratische Kontrolle: Können Behörden politisch unabhängig sein?	Jahrestagung 2012 des Ausschusses für Wirtschaftssysteme und Institutionenökonomik, Friedrich-Schiller-Universität, Jena
	Christopher Hodges	Consumer ADR	UK Legal Services Research Board Conference, Oxford
	Christopher Hodges	Fast, Effective and Low-Cost Redress: How do Private Enforcement, Public Enforcement and ADR compare	Conference of the Research Project on EU Competition Case Studies, LSE, London
	Alessio Paces	The Law and Economics of Control Powers	19th Congress of the Romanian Accountancy Profession (CECCAR) on behalf of the European Corporate Governance Institute (ECGI), Sinaia
	Sharon Oded	Corporate Monitors: Facilitating an Efficient Targeted Monitoring Policy	Faculty of Law, University of Toronto
	Philip Hanke	The Firm Location Race – Regulating Incentive Packages Given to Firms by Local and Regional Governments	Faculty of Law, University of Toronto
	M. Mungan and J. Klick	Forfeiture of Illegal Gains and Implied Risk Preferences	Faculty of Law, University of Toronto
Oct	Vincent Buskens	Trust and Testosterone: Theory and Empirical Evidence	Annual Lecture of the European Academy of Sociology in Paris
	Louis Visscher	Time is Money? A Law and Economics Approach to Loss of Time as Non-pecuniary Loss	Annual Meeting of the Midwest Law and Economics Association, Washington University in St. Louis
	Philip Hanke	The Firm Location Race – Regulating Incentive Packages Given to Firms by Local and Regional Governments'	Annual Meeting of the Midwest Law and Economics Association, Washington University in St. Louis
	Franziska Weber	Abusing Gaps in the Legal System – Efficiency Considerations of Differentiated Law Enforcement Approaches in Misleading Advertising	Annual Conference of the German Association of Law and Economics in Magdeburg

Nov	Willem van Boom	Reading Ease and Client Interest	NIBE-SVV Conference Financial Services and Client Interest; The Hague
	Willem van Boom	Regulatory Functions of Private Law	Lecture Series Private Law and the Legislature at the Academy for Legislative lawyers (the Hague)
Dec	Vincent Buskens	Implementing Sanctions in the Public Good Game Experiment: The Effect of Individual and Collective Decision Rules	Conference 'Design and Dynamics of Institutions for Collective Action' in Utrecht

29th Annual Meeting of the European Association of Law and Economics in Stockholm

A large delegation of the Rotterdam Institute of Law and Economics (RILE) participated in this year's annual meeting in Stockholm from Sept. 20 – 22. The delegation consisted of Roger van den Bergh, Michael Faure, Klaus Heine, Alessio Paces, Louis Visscher, Pieter Desmet, Franziska Weber, Vijit Chadar, Claire Leger, Philip Hanke, and Marianne Breijer. The following papers were presented:

- M. Faure and K. Heine, Insurance of Financial Crisis: The Way Forward
- M. Faure and F. Weber, Security Mechanisms in Insolvencies - Mechanisms in the Package Travel Sector
- M. Faure, M. Goodwin, and F. Weber, The *Lex Certa* Principle in Criminal Law: An Analytical Framework
- L. Enriques, R.J. Gilson, and A.M. Paces, The Case for a Neutral Takeover Law in the European Union
- L. Visscher, Time is Money? A Law and Economics Approach to Loss of Time as Non-Pecuniary Loss

Russian Corporate Governance Roundtable

On Oct. 25-26, Alessio Paces participated in the Russian Corporate Governance Roundtable in Moscow, organised by the OECD and the Moscow Exchange. In his presentation, The Law and Economics of Takeovers, Prof. Paces illustrated the characteristics that takeover law should have to promote investor protection and entrepreneurship in Russia.



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 2012, we accommodated the following visitors:

- Jing Zhang (University of Beijing, China) (September 2012–December 2013).
- Ass. Prof. Nadezhda Butakova (Civil and Labour Law Department, North-West Academy of Public Administration, Saint Petersburg, Russia) (June 2012)
- Xiaoqi Zhao ([Erasmus China Law Center](#) - China University of Political Science and Law) (November 2011–May 2012)
- Ass. Prof. Dr. Magdalena Flatscher-Thöni ([The Health and Life Sciences University](#)) (October 2011–February 2012)
- Dr. Andri Wibisana (Faculty of Law, University of Indonesia) (October 2011–January 2012)
- From October 2012–December 2012, Gaia Massari stayed at the RILE. She is a PhD student of corporate and tributary law with Prof. Concetta Brescia-Morra at LUISS Guido Carli in Rome. During her stay in Rotterdam, she continued her studies on Post-MiFID Investors Protection: A European Overview.
- From Oct. 8–19, 2012, Thushyanthan Baskaran stayed at the RILE as a visiting researcher. He is an assistant professor at the Department of Economics of the University of Göttingen, Germany. He holds a M.Sc. in Economics of the Free University of Berlin, a Doctorate in Economics from the University of Heidelberg and was a postdoctoral researcher at the University of Gothenburg. His research interests are public economics, public finance, development economics, and political economics.
- [Dr. Qi \(George\) Zhou](#) visited ESL from September–December 2012 (ESL Distinguished International Visitor). George Zhou is a lecturer in commercial law at the School of Law of the University of Sheffield (England). He studied law at the Chinese University of Political Science and Law, the University of Bournemouth, and the University of Manchester. His research interests include law and economics of commercial contract law.



Current Researchers

Full Professors

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

Associate Professors

Dr. A. Arcuri
Dr. L.T. Visscher
Dr. R. Westrik
Dr. A.S. Vandenberghe

Assistant Professors

Dr. P.D.N. Camesasca
Dr. M.L. Tuil

Postdocs

Dr. P.T.M. Desmet
Dr. M. Kogelenberg
Dr. S. Oded
Dr. F. Weber

Jr researcher

Mr. M.R. van Dam (Autumn 2012- Spring 2013)

PhD students

Alexandre Biard

Topic/Title

Optimization of Mass Litigation in Europe and the Role of the Judge

Vijit Singh Chahar

Addressing Agency Problems in Constitutional Law Using Insights from Corporate Governance

Elena Demidova
(Erasmus Mundus)

Takeover Regulation in Developing Economies: The Case of Russia

Elena Fagotto

Risk and Food: Rethinking Food Regulatory Regimes in Europe

Penio Penev Gospodinov
(Erasmus Mundus)

The Application of EU Competition Law to Alternative Dispute Resolution Proceedings

Kateryna Grabovets

Organisational Design and Liability Rules

Philip Hanke

Law and Economics of State Aid

Monique Hazelhorst

Cross-Border Enforcement and Fundamental Principles of Civil Procedure

Weiqiang Hu

Regulatory Compliance (Permit) Defense

Vania Karapanou

A Law and Economics Analysis of Damages for Nonpecuniary Losses in Cases of Personal Injuries and Fatal Accidents

Claire Leger

Securities Regulation – Comparative European Policies

Sergio Mittlaender Leme de Souza

Why Do People Follow the Law, Especially Private Law?

Hossein Nabilou

Hedge Funds Investment Strategies and Financial Instability: The Case for Regulation of Hedge Funds

Alina Ontanu

Uniform European Procedures, a way to Efficient Cross-border Litigation and Enforcement? A Comparative Research

Ekaterina Pannebakker

Are Intentions Binding? Developing a Harmonised Legal Approach to Letter of Intent in International Contracting

Shivans Rajput

Maximum Retail Price – Analyzing its Anti-Competitive Effects

Elena Reznichenko

Empirical Analysis of Optimal Enforcement: Monetary vs. Non-Monetary Punishment

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>
Hong Wei	<i>The Impact of China-related WTO Cases on Chinese Trade Law and Practice</i>

External PhD students

Lisa Bench Nieuwveld
 Shilpi Bhattacharya (EDLE) (Erasmus Mundus)
 Miriam Buiten (EDLE)
 Alessandro Busca (EDLE)
 Ignacio N. Cofone (EDLE) (Erasmus Mundus)
 Kleopatra Maliqi (EDLE) (Erasmus Mundus)

China Law Centre

Yuan Bo	<i>Legal Issues of Carbon Tax: From an International and Comparative Perspective</i>
Xun (Sarah) Xiao	<i>Director's Fiduciary Duty and Economics - A Comparative Perspective</i>
Yixin Xu	<i>Investing Carbon Funds and Carbon Sinks Project in Developing Countries</i>
Xiaohong Wei	<i>Including Corporations into the Jurisdiction of the International Criminal Court</i>

Other EDLE PhD Candidates and their research topics

- Deniz Akun, *Changing Structure of Banking Industry and Regulatory Issues*
- Bashir Assi, *European Investment Funds Regulation - Focusing on Compensation Practices*
- Meltem Bayramli, *A Cross-Industry Analysis of Firm's R&D and Patenting Strategies from a Law and Economics Perspective*
- Paola Bertoli, *An Empirical Analysis of Public Procurement and the Demand for Medical Malpractice Liability Insurance in Italy*
- Marco Fabbri, *Social Norms in Law and Economics*
- Cicek Gurkan, *The Role of Banks for Corporate Governance*
- 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*
- Dusko Krsmanovic, *Are There Economic Reasons to Regulate Lobbying in the EU?*
- Alejandra Martinez Gandara, *Essays on Fiscal Constitution*
- Jingyuan Ma, *A Comparative Perspective on Merger Policies of Antitrust Law*
- Alejandra Martinez Gandara, *The Impact of Firms' Corporate Social Responsibility Measures on its Environmental Performance*
- Maximiliano Marzetti, *The Elusive Rationale of Trade Mark Dilution*
- Valerijus Ostrovskis, *Multilateral Trading Facilities and Their Impact on European Financial Markets*
- Peng Peng, *Platform Competition in Search Engine Market*
- Damian Proniewski, *Reaching Optimal Taxation of Green Taxes in Europe: A Comparative Analysis of Green Taxes in Italy, the Netherlands and Germany*
- Malgorzata Sadowska, *Negotiated Antitrust - The Use and Abuse of Competition Rules in the Energy Sector*
- Rahul Sapkal, *Essays on Labour Market Segmentations - A Law and Economics Approach*
- Huojun Sun, *Inequalities, Truth and Social Trust: Experimental Evidences on Institutional Design*
- Claudio Tagliapietra, *Legal Institutions and the Economic Governance of the Commons: A case study in Italy 1200-1800*
- Shuo Wang, *International Trade Policies*
- Federico Wesselhoeft, *Multiparty Contracts & Non Recourse Finance (Project Finance) Law and Economics*

Publications

In this section, we list the main publications in 2012 of our researchers. Minor publications, editorials, and case notes are omitted.

A. Arcuri

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- Arcuri, A., 'Risk Regulation', in: A.M. Paccès & R.J. van den Bergh (Eds.), *Regulation and Economics - Encyclopedia of Law and Economics (second edition)*, Cheltenham: Edward Elgar Publishing Ltd. 2012.

R.J. Van den Bergh

- Bergh, R.J. Van den & Paccès, A.M. (Eds.), *Regulation and Economics* (Encyclopedia of Law and Economics, Second Edition), Cheltenham: Edward Elgar Publishing 2012.
- Kerber, W. & Bergh, R.J. Van den, 'Mutual recognition in the global trade regime: lessons from the EU experience', in: I. Lianos & O. Odudu (Eds.), *Regulating trade in services in the EU and the WTO*, Cambridge: University Press 2012, p. 121-142.
- Paccès, A.M. & Bergh, R.J. Van den, 'An introduction to the law and economics of regulation', in: R.J. Van den Bergh & A.M. Paccès (Eds.), *Regulation and Economics*, Cheltenham: Edward Elgar Publishing 2012, p. 1-22.

W.H. van Boom

- Boom, W.H. van, 'Hypotheek als consumentenrechtelijk thema', in: T.M. Berkhout & A.A. van Velten (Eds.), *Vastgoedfinanciering in woelige tijden (Jubileumbundel Stichting Fundatie Bachiene)*, Amsterdam: Stichting Fundatie Bachiene 2012, p. 75-102.
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- Boom, W.H. van, Giesen, I. & Smit, M. (Eds.), *Civilologie: opstellen over empirie en privaatrecht* (Civilologie|Civilology, deel 3), Den Haag: BJU|Eleven 2012.
- Boom, W.H. van, Giesen, I. & Smit, M., 'Civilologie en de vaart der privaatrechtelijke volkeren', in: Boom, W.H. van, Giesen, I. & Smit, M. (Eds.), *Civilologie: opstellen over empirie en privaatrecht*, The Hague: Bju|Eleven 2012, p. 197-213.
- Garcia Porras, C.I. & Boom, W.H. van, 'Information disclosure in the EU Consumer Credit Directive: opportunities and limitations', in: James Devenney and Mel Kenny (Eds.), *Consumer Credit, Debt and Investment in Europe*, Cambridge University Press 2012, p. 21-55.
- Kogelenberg, M. van, Tuil, M.L. & Boom, W.H. van (Eds.), *Boobytraps, valkuilen en instinkers in het burgerlijk recht* (Jonge Meesters, 6), Den Haag: Boom Juridische Uitgevers 2012.
- Dam, M.R. van, Boom, W.H. van & Tuil, M.L., 'Tekstbegrip en klantbelang bij financiële producten', in: E.M. Dieben & F.M.A. 't Hart (Eds.), *Klantbelang Centraal* (Financieel Juridische Reeks 4), Amsterdam: NIBE-SVV 2012, p. 109-124.

- Boom, W.H. van, 'De Nederlandse privaatrechtswetenschap en de wetgever (1992-2012)', *Regelmaat* 2012/5, p. 279-290.

V. Buskens

- Barrera, D., Buskens, V.W. & Raub, W. Embedded Trust: The Analytical Approach in Vignettes, Laboratory Experiments and Surveys. In F. Lyon, G. Möllering & M.N.K. Saunders (Eds.), *Handbook of Research Methods on Trust* (pp. 199-212). Cheltenham: Edgar Elgar.
- Buskens, V.W. & Tuil, M.L. De waardering van litigieuze vorderingen en de proceskostenveroordeling - Een opzet van een experiment. In W.H. van Boom, I Giesen & M. Smit (Eds.), *Civilologie: opstellen over empirie en privaatrecht* (pp. 127-150). Den Haag: Boom Juridische uitgevers.
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M.R. van Dam

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P.T.M. Desmet

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C. Engel

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- Engel C. & Hamann H., *The Hog-Cycle of Law Professors*, issue 2012/08, Bonn, Max Planck Institute for Research on Collective Goods.
- Engel C., *Low Self-Control As a Source of Crime. A Meta-Study*, issue 2012/04, Bonn, Max Planck Institute for Research on Collective Goods.
- Engel C., *Neglect the Base Rate: It's the Law!*, issue 2012/23, Bonn, Max Planck Institute for Research on Collective Goods.
- Engel C., 'Öffentliches Wirtschaftsrecht aus der Sicht der ökonomischen Theorie', in: Ehlers D., Fehling M., Pünder H., (Eds.), *Besonders Verwaltungsrecht I*, vol. I, Heidelberg 2012, p. 40-62.
- Engel C., Goerg S. J. & Yu G., *Symmetric vs. Asymmetric Punishment Regimes for Bribery*, issue 2012/01, Bonn, Max Planck Institute for Research on Collective Goods.
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M.G. Faure

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R.W.M. Giard

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M. Hazelhorst

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K. Heine

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C.J.S. Hodges

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N. Huls

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J.M. Klick

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M. van Kogelenberg

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