



**Behavioural Approaches to Contract and Tort:  
Relevance for Policymaking**

**Annual Report 2008**

Research programme  
“Behavioural Approaches to Contract and Tort:  
Relevance for Policymaking”  
(2008-2011)

Erasmus School of Law  
Erasmus University Rotterdam, the Netherlands

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## 1 General information

Programme title:

Behavioural Approaches to Contract and Tort: Relevance for Policymaking

See: [www.behaviouralapproaches.eu](http://www.behaviouralapproaches.eu)

Programme Directors:

Prof. dr. W.H. van Boom

Prof.dr. M.G. Faure

Period:

January 1, 2008 – December 31, 2011

In cooperation with:

European Doctorate in Law and Economics

## 2 Programme description

### 2.1 Introduction

This research programme aims at incorporating insights from behavioural sciences into legal thought. The presumptions underlying the regulation of contracts and liability for torts will be identified. These presumptions will be contrasted with assumptions used in behavioural sciences (such as the rationality assumption in economics). Behavioural approaches allow for an explanation and a better understanding of the real-life effects of existing rules of contract law, tort law, and the law of organizations. Not only the legal science but also the social sciences may benefit from this interdisciplinary endeavour. The identification of assumptions and contrasting them with (presumptions underlying) actual legal rules may enable social science researchers to refine existing theoretical models and adapt them to better explain real world phenomena.

The objective of this research programme (2008-2011) is to analyze specific areas of law affecting contracts and torts, making use of insights of behavioural sciences. The private law concepts of 'tort' and 'contract' are understood in a broad sense. Hence, 'contract' refers to interaction between parties in the exchange of resources and 'tort' refers to activity causing harm to society. Behavioural sciences include economic analysis of law (Law and Economics), socio-legal studies, and psychology.

The starting point for the analysis is that in regulating the contracting process and by imposing liability in tort, the design of private law is based on a number of

presumptions concerning the behaviour of individuals and organizations. There is a natural connection between courts and legislators basing their decisions on presumptions and various social sciences describing phenomena based on assumptions regarding human behaviour, whether or not legal rules are present. At the outset, it must be noticed that within this research programme the concepts of 'presumptions' and 'assumptions' are given a different meaning. Social sciences generally make use of assumptions when building models of human behaviour, in order to predict how parties will behave in contract and tort settings. For example, the Law and Economics literature examines the incentives provided by tort law under certain assumptions regarding the behaviour of injurers, victims and courts. Legal policy makers (i.e. courts and legislators) are more interested in identifying presumptions that can be used for specific policy choices they make. For example, the legislator may impose an information remedy thinking that consumers will make better choices after having received information on the benefits and dangers of particular transactions. The assumptions on behaviour made by social sciences can be in line with private law policy presumptions or not. In some cases, the rational choice theory used in, for example, Law and Economics may be reconcilable with the world view of policy makers. In other cases, the presumptions of the policy makers may deviate from assumptions formulated in social science theories. The research programme aims at identifying and assessing both the assumptions used in behavioural approaches to law and the presumptions that underlie policy making.

## 2.2 Research questions

The insights from behavioural sciences raise a number of interesting issues for the analysis of law in action and policy-making relating to contracts and torts. They can be summarized in the two broad research questions below.

- What is the contribution of behavioural approaches to the analysis of legal rules disciplining contract and tort?

Economics, sociology, and psychology try to explain the behaviour of individuals and institutions in a given set of circumstances, which may also be relevant to law. Social sciences formulate assumptions on how individuals and their aggregations behave. Economics, for instance, assumes that people behave rationally; cognitive psychology assumes that people's behaviour may have systematic biases. On this basis, theories are built on how people react to certain situations. When law is factored in the analysis, these theories generate explanations and predictions on how legal rules and their enforcement patterns affect individual and institutional behaviour in those situations. This research programme investigates the explanatory power of behavioural theories for contract and tort settings. For instance, economic analysis of law predicts how tort liability affects individuals' incentives to take care. In Law and Economics and socio-legal studies this is referred to as a positive analysis of law. These predictions are testable and falsifiable both theoretically (based on consistency with the underlying assumptions) and empirically (based on consistency with the outcomes that are actually observed). Regarding empiricism, the emphasis in this programme is on the reappraisal of existing empirical studies undertaken in social sciences rather than on an independent collection and investigation of new data.

Some social sciences do not only aim at explaining how the world works; they also try to suggest how it should work. When applied to the analysis of law, this normative approach also raises the question which legal rules are best suited to regulate any given social problem. This research programme assesses the quality of legal rules pertaining to tortious and contractual activities based on their rationale according to other social sciences. Besides considering legal rules just for their effects on behaviour, social sciences also rank these effects – and the rules that produce them – based on desirability for the interest of society. For instance, economic analysis of law claims that providing the victim with legal incentives to take care is socially desirable in a number of circumstances. This is commonly referred to as a normative analysis of law, and it can be based on different criteria of assessment (economic efficiency, corrective/distributive justice...). The final judgment on the merits of legal rules for the society depends on these criteria, which might well be conflicting with each other. This research programme also highlights these conflicts in assessing the quality of law based on the input of other social sciences.

- How do legal rules incorporate insights from behavioural sciences?

Legal rules and their enforcement do not appear out of thin air. They are influenced by the legal policymakers' (legislature, the judiciary, regulatory agency) vision of situations that have been regulated, which in turn determines why they have been regulated. This vision is the policy presumption underlying any specific set of rules. The presumption concerns both individual/institutional behaviour in the considered circumstances and the way law should improve this behaviour. This research programme investigates the presumptions underlying the legal discipline of contract and tort settings, and compares them to behavioural theories and practices. Insights from other social sciences may cast doubts on these presumptions, when they predict that individual and institutional behaviour will be different from the policymaker's presumptions, and even more so, when the factual components of these presumptions are not borne out by the empirical evidence. On the side of positive analysis, this approach checks the consistency of the policy presumptions underlying the regulation of tortious and contracting behaviour with the theoretical frameworks developed in other social sciences and the empirical evidence. For instance, can patients really be expected to make rational choices concerning their medical treatment when provided with all relevant information? Is their observed behaviour consistent with the policy presumption that information disclosure improves the quality of contractual choice?

The next question within this approach to behavioural analysis concerns the efficacy of legal rules and of their enforcement. Embedded in the legal policymaker's presumptions is a vision both of people's behaviour and how law could and should influence it. This research programme aims to determine whether legal rules and their enforcement are effectively capable of reaching the goal for which they were designed. For instance, is the mandatory information provision efficacious in leading patients to choose what is best for them? Alternatively, are other regulatory strategies (e.g. public law, self-regulation) more efficacious in achieving the choice for the 'best' treatment for the patients? This is a judgment of internal consistency of law with its intended goals. As such, it does not aim to question the goals set by policymakers. It only ranks legal solutions based on their relative efficacy in achieving them.

## 2.3 Three specific research domains

As regards the object of research, the programme focuses on three particular domains:

- a. Individual behaviour in exchanging resources and engaging in harmful activities
- b. Enforcement
- c. Behaviour of aggregations of individuals (group behaviour)

Within these three domains, the projects within the programme focus on specific research questions. Thus, at the closing of the programme period examples and case studies relating to all three pillars will be available, which will also allow conclusions to be drawn at a more general, abstract level.

- a. Individual behaviour in exchanging resources and engaging in harmful activities

In theory, rational individuals who have all necessary information are capable of making good choices when concluding contracts (purchasing, borrowing, investing) or performing activities that may result in harm to society (production, consumption, work, leisure). Economists hold that efficient outcomes (maximization of the welfare of society) may be reached if rational individuals possess all relevant information and base the decisions they make on this information. By contrast, if individuals are not rational or do not possess all necessary information welfare losses may occur. Neo-classical Law and Economics discusses the ability of legal rules to cure information asymmetries. Behavioural Law and Economics focuses on the welfare losses that are caused by irrational (or less than rational) behaviour and provides suggestions for legal rules that can prevent this irrational behaviour. In this perspective, the general research questions that need to be answered in specific areas of individual behaviour are the following:

- Which legal rules may correct information asymmetries in exchanging resources?
- Which legal rules may be needed to overcome welfare losses caused by irrational behaviour
- How may optimal legal rules be produced: who should produce these rules—i.e., private vs. public law; at what level should the rules be enacted – centralized vs. decentralized production of rules?

Besides the theoretical approach, the first step in the programme also has an empirical focus. It consists of two components: (a) surveying and summarizing the relevant empirical studies undertaken by social science research and (b) exploring the content of private law rules to test the behavioural presumptions on which they may be based.

As far as contract and tort law are more specifically concerned, a number of rules and doctrines aimed at informed choice-making will be analyzed in order to answer the following research questions:

- What presumptions on human behaviour underpin rules of contract law aimed at informed choice -making?
- Is there empirical evidence supporting these presumptions?
- Which legal rules enhancing informed choice-making contribute to efficiency?
- How does compulsory sharing of information rectify information asymmetry?
- What kind of information obligations are needed to correct irrational behaviour of individuals?
- How can we judge what information is 'relevant': there may be either too little or too much information. In this respect, the question arises in what ways the insights from cognitive psychology can be used to learn what information (or regulatory) strategies can be deemed successful to make private legal solutions work.

## b. Enforcement

Here, the key research question is whether – and if so, to what extent – one should rely on private parties and/or on public bodies for enforcement, given the behavioural assumptions on private individuals and public representatives of society in the specific circumstances considered for investigation. With reference to individual or organizational behaviour that form the subject-matter of investigation, the following should be evaluated: public vs. private enforcement, the optimal combinations of the two, and alternative techniques (e.g., gate-keeping, self-regulation). Moreover, the more fundamental issue of what private law remedies are actually available and imaginable may need to be answered as well.

Standards for evaluation in view of the goals of enforcement can be manifold and they depend on the level of analysis. Generally speaking, the following standards present themselves:

- efficacy with respect to the identified policy goal;
- economic efficiency;
- non-economic policy goals or other theoretical paradigms.

More specific research questions in this perspective are:

- Is individual/corporate behaviour best regulated by the incidental private initiative of a tort or contract claim, by frequent supervision by regulatory agencies, or by some 'third way' alternative (e.g., self-regulation)?
- Nowadays, organizations are subject to more regulation than ever before. In some jurisdictions, duties of disclosure, duties to obtain information, to warn against inherent dangers, or to abstain from misleading statements, are no longer the prerogative of private enforcement by individuals but rather the domain of enforcement agencies. As a consequence, there is an ongoing transition from private law to public law (and vice versa) in the field of financial services, competition law, consumer contracts, food safety and product safety agencies and occupational health & safety agencies. What are the consequences of this transition for the domain of private law?

- What triggers private parties to enforce private law rules and what triggers public officials to enforce (public) law? By comparing the motivations of private individuals to enforce the law (compensation? revenge? self -vindication?) and comparing these with the motivations of public officials, we may be able to show the implications for optimal balance between private and public enforcement.
- Indeed, the previous raises more general questions as to the (optimal mix of) enforcement instruments and merits the question why one particular instrument (e.g. criminal law) may be more (cost) effective in a particular context than another. Also the relationship and cooperation between the various enforcement instruments and actors deserves specific attention.

### c. Behaviour of aggregations of individuals (group behaviour)

In this section, the study of contract and tort is extended from individuals to the conduct of organizations. We understand organizations to be a broad concept, encapsulating commercial business enterprises (varying from large multinationals to small and medium-sized enterprises), corporations, legal persons, and aggregations of individuals ranging from non-profit organizations, consumer/investor associations, self-regulatory organizations, to government agencies et cetera.

Naturally, we do not exclusively focus on how organizations think and decide in the shadow of the law, but also on whether private law rules have any bearing on organizational behaviour. Specific aspects of both internal organization (disciplined, e.g., by corporate law) and external interaction with other members of society (e.g. in the field of consumer/investor protection, but also environmental law) will be included in the study of the impact of law on private and public organizations.

In short, organizations are created by contract, conclude contracts in their turn, and engage in tortious activities. As a consequence, the general research questions for this part depend on the level of analysis and thus these questions are:

- Do organizations respond differently from individuals to rules in contract and tort?
- Under what conditions should policymakers stimulate setting up organizational structures?
- In which direction, in which form, and to what extent, should private law intervene to correct the behaviour of organizations?

In many areas of law these questions are of current interest. As far as internal organization is concerned, possible topics are:

- corporate contract and its discipline by company law;
- vicarious liability and regulation of internal monitoring;
- organization and accountability of self-regulatory organizations vs. regulatory authorities.

Regarding the interaction of organizations with society, subjects of investigation in this perspective may include:

- mass torts;



- consumer credit;
- commercial (B2B) contracts and their implications for intellectual property and antitrust;
- consumer protection in B2C contracts;
- corporate fraud, with a special view to the placement/trading of securities;
- corporate social responsibility vs. environmental/safety regulation.

In this perspective, the programme focuses on how corporate behaviour is affected by contract and tort law. The connection between empirical evidence of behavioural influences of contract and tort law and the law itself is explored. Several questions can be raised in this respect, such as:

- Is there firm evidence that corporate tortfeasors change their behaviour after being held liable for damages? Under what conditions is this change in behaviour most likely to occur? Should private law remedies be adjusted in order to provide more efficacious incentives for compliance?
- How do businesses respond to large scale claiming? What innovative systems of managing these risks do they design? Does self-regulation help businesses in this respect, or should the legislature provide for more uniformity or more effective remedies?

Additionally, the question also comes to mind what role contract and tort law can, and in fact does play in inducing corporations towards compliance. Again questions can be asked regarding the role of self-regulation within corporations and the role of corporate governance structures in organizational behaviour.

## 2.4 Scientific Relevance

This research programme aims at incorporating insights from behavioural sciences into legal thought. The presumptions underlying the regulation of contracts and liability for torts will be identified. These presumptions will be contrasted with assumptions used in behavioural sciences (such as the rationality assumption in economics). Behavioural approaches allow for an explanation and a better understanding of the real-life effects of existing rules of contract law, tort law, and the law of organizations. Not only the legal science but also the social sciences may benefit from this interdisciplinary endeavour. The identification of assumptions and contrasting them with (presumptions underlying) actual legal rules may enable social science researchers to refine existing theoretical models and adapt them to better explain real world phenomena.

## 3 Methodology, research input, quality control

Starting from a traditional legal background, the programme contrasts the content of private law rules (and its underlying presumptions) with hypotheses based on assumptions used in behavioural sciences. In doing so, it aims at synthesising socio-legal studies, psychology of law, and Law and Economics. Other disciplines are welcome for specific projects within the framework of this programme. Additionally, the research team is committed to using interdisciplinary research data

as much as is possible without compromising scientific validity. Experience has shown, however, that it is quite difficult to convert research output from one discipline to other research fields. Therefore, methodology and 'translation' of research output will be monitored during the execution phase of the programme.

The nucleus of the research input consists of scholars from both the Civil Law Department and the Law and Economics Department.

Cooperation is sought with, inter alia, the Department of Sociology in the Faculty of Social Sciences (Peter Mascini). As of 2009, the programme has been extended to include the socio-legal input of Prof. Nick Huls and the input of the Labour Law Department (prof. Loonstra c.s.).

For further details on the research input, we refer to § 5.

Regarding quality control, the research within the programme is subject to permanent internal and external quality assessment. On the one hand, the need is felt to stress quality assessment in order to guarantee excellence in scholarly output; on the other hand, academics obviously want to avoid spending too much time on quality assessment and too little on actual research. In order to find this optimal mix the following quality assurance mechanisms have been developed:

- Quality assurance takes place both ex ante and ex post. In order to be admitted to the research programme, researchers need to meet high selection criteria. These criteria are related to the fact that the research of the academic involved needs to contribute significantly to the execution of the goals of the programme. This is also judged on the basis of the track record of the scholar involved.
- In addition, since the aim of this research programme is to engage in an international debate with other scholars worldwide, the programme directors expect the scholars to publish the majority of their scholarly output in English. Researchers that do not meet these selection criteria will not be admitted. Ex post, the programme directors control the output of both the programme as a whole and the individual research output of individual scholars. The same criteria that played a role at the admission ex ante are obviously verified during the ex post control:
  1. quality of the publications (number of publications in refereed journals);
  2. number of publications in English;
  3. significance of the research output for the execution of the research programme.
- As far as PhD students are concerned, quality assurance is guaranteed both by the individual supervisory tracks, set out and followed by the PhD supervisors, and by the institutionally guaranteed training programmes. All PhD students either follow the European Doctorate in Law and Economics training programme, the Ius Commune PhD Programme or the Erasmus School of Law training programme.
- For the research domains, the responsibility of the programme directors is, on the one hand, to verify that within the specific research domains output of sufficient quality and quantity is generated which contributes to an execution of the general goals of the research programme. on the other hand, they will have to stimulate the generation of integrated research projects which go beyond the specific research domains mentioned and present a research result of the programme as a whole. Following the first year, the programme directors drafted

an annual report which was submitted to the Faculty Board, and was verified by the Board.

Quality assurance of individual research output is further guaranteed by:

- *A seminar series*; On a monthly basis, scholars participating in the programme present ongoing research in a research seminar where this research is critically commented and evaluated by their peers. The goal is not only to meet up and stay in contact but also to provide our scholars with a possibility of receiving feedback on their work and hence stimulating the academic quality of the research output. Both senior and junior scholars present their work in the seminar, in order to stimulate the latter to prepare their research for publication in (preferably international) journals. Moreover, we invite guests from outside the research group to present and discuss their work in order to keep in touch with the latest developments in our areas of research.<sup>1</sup>
- *Linking research with teaching*; we work from the assumption that we need to teach our own research. Therefore, we try to embed the outcome of research in teaching.
- *Developing joint projects*; see the listing in § 4.2.1.

On programme level, we intend to assign the responsibility for internal quality control in each of the three domains to a senior scholar. Their main task is to stimulate research in these specific domains in line with the general goals of the research programme as outlined above. This quality control measure will be implemented in 2009.

## 4 Research output in 2008

### 4.1 Basic facts and figures

2008 was the kick-off year for the research programme and it has been a productive year. Although the research program has only just started a total of 70 scientific publications (74 % of all publications) were produced by a mere 3.98 fte in research input (excluding PhD students). Moreover, some 51,4 % of scientific publications were published in English, many in anonymously peer reviewed journals.

the programme is subdivided into three domains (see § 2.3):

- a. Individual behaviour in exchanging resources and engaging in harmful activities (hereafter: “individual”)
- b. Enforcement
- c. Behaviour of aggregations of individuals (hereafter: “group”)

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<sup>1</sup> Recent guest speakers included prof. Werner Raub (Utrecht University Chair in Sociology) and dr. Peter Mascini (Erasmus University Rotterdam, sociology department).

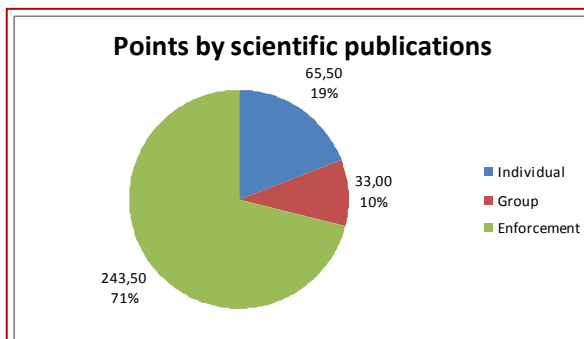
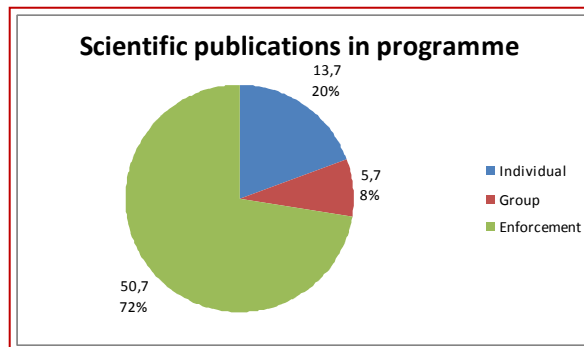
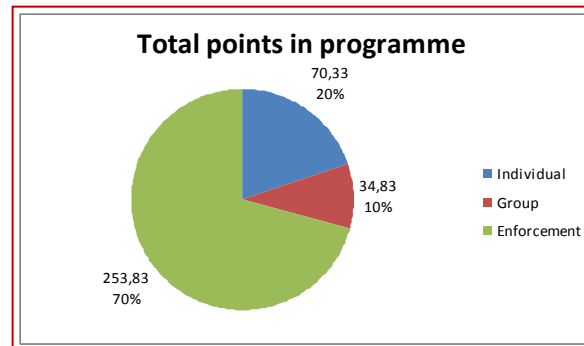
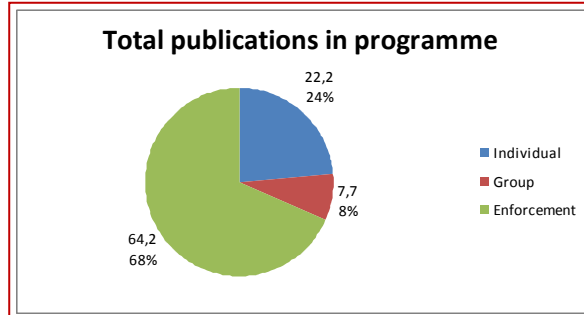
Against the backdrop of this trinity, we evaluated the quantitative distribution of the scientific output. We feel that equilibrium within the programme has yet to be found. We kept score of the total number of publications (both scientific and professional publications, i.e., practice oriented publications), the number of points accredited under the so-called “*Sanders-kwalificatie*” scoreboard, and then categorized these under any of the three domains. The results were as follows:<sup>2</sup>

<b>Total publications</b>					
	Total	Individual	Group	Enforcement	English
Publications in programme	94	22,2	7,7	64,2	36
		23,6%	8,2%	68,3%	38,3%
Points	359	70,3	34,8	253,8	176
		19,6%	9,7%	70,7%	49,0%

<b>Scientific publications</b>					
	Total	Individual	Group	Enforcement	English
Publications in programme	70	13,7	5,7	50,7	36
		19,5%	8,1%	72,4%	51,4%
Points	342	65,5	33	243,5	174
		19,2%	9,6%	71,2%	50,9%

As can be derived from the statistics, the distribution of publications among the three research domains is a cause for some concern. In 2008, there obviously was too much emphasis on the domain “enforcement” and too little on “individual” and “group”. One of the main targets for 2009-2010 is to rebalance this distribution. However note that balancing these domains does not indicate that we aim at fully equalising the research output in all fields.

<sup>2</sup> The quantity of the output differs slightly from the numerical values displayed in table 2 because we exclude editorships for the purpose of counting publications.



## 4.2 2008: Main focus and strong points

### 4.2.1 General remarks

The research programme started in 2008. Therefore, it is not yet possible to present definitive results. Furthermore, as can be concluded from the previous paragraph, the balance between the three domains of the programme has yet to be found. 2009 will be in many respects a crucial period in the programme. The 2009 Erasmus University Board Research Grant gave us the opportunity to seek for international talent to add to the programme input. We expect to announce appointments in the course of 2009.

In 2008 we set out to fulfil the following preconditions with regard to organizational targets:

1. Introduction of a seminar series
2. Initiating conferences and execution of joint research projects
3. Creation of a programme website
4. Maintaining and expanding an international network of researchers that can be called upon for joined research projects
5. Introducing an Accepted Paper series *Behavioural Approaches to Contract and Tort APS*
6. Attaining international visibility of the programme

All these preconditions were deemed vital in order to stimulate and ultimately maximize creativity, productivity and visibility of the programme. So, to what extent did we fulfil these preconditions in 2008?

1. We introduced a monthly seminar series as a platform for cooperation and discussion, and to increase mutual understanding. The goal of the seminars is not only to provide junior and senior scholars a platform for their research and have it critically tested by their peers. Also external experts with a specific expertise in the research domain of the programme have been invited for presentations. By involving these external experts, the seminars can also contribute to the visibility of the programme.<sup>3</sup> The seminars provide scholars the possibility of receiving critical feedback on their work in progress and hence to stimulate academic quality of the research output. Both senior and junior scholars present their work in the seminars in order to stimulate the latter to prepare their research for publication in international journals. Therefore, we feel that this goal was reached in 2008 and it will be pursued further in 2009.
2. In 2008 Mark Tuil and Louis Visscher started organizing the 'New Trends in Financing Civil Litigation' conference. The conference took place on April 24, 2009. The edited book is expected for Spring 2010. The book will include

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<sup>3</sup> For a list of guest speakers, see footnote 1. Presentations by scholars from the research group included presentations by Hanneke Luth, Martijn van Kogelenberg, Louis Visscher, Willem van Boom, Sanne Pape, Alessio Paccès, Peter Klik and Ann-Sophie Vandenberghe.

contributions by Andrea Renda (Centre for European Policy Studies), Andrea Pinna (Institut de Droit des Affaires Internationales), Paul Fenn (Nottingham University) and Neil Rickman (University of Surrey) and others. Moreover, new projects have been undertaken for 2009 and 2010.

3. The website was launched; see [www.behaviouralapproaches.eu](http://www.behaviouralapproaches.eu)
4. Both the programme directors and the senior scholars involved in the programme already used extensive networks of international scholars with whom they had regularly worked together and published. These networks were used and expanded in the process of setting up the activities mentioned under 2. Moreover, by appointing prof. Anthony Ogus to the Erasmus Chair of Fundamentals of Private Law we have augmented the range of the network considerably. Furthermore, contacts for further strands of research have been established with
  - The Centre for Empirical Economic Research (Prof. Bruno Frey) and the ETH Zürich (Prof. Gérard Hertig)
  - Prof. Jason Scott Johnston, University of Pennsylvania (behavioural approaches, corporate social responsibility and risk regulation)
  - Several UK law schools, including York, Lancaster, Birmingham and Manchester.
5. The accepted paper series has not yet started, but will start in 2009.
6. Although we are confident that individual researchers within the programme have international visibility in their respective fields of expertise, we are less confident that this is the case with the programme as a whole. The scheduled international activities mentioned below in § 4.3 should add to international standing of the programme.

In short, most preconditions were met or will likely be met in 2009.

#### **4.2.2 Highlights in the domain ‘individual’**

In May 2008, we presented the book "Gedrag en Privaatrecht", edited by Van Boom, Giesen and Verheij. The book collects contributions to the upcoming research field “behavioural private law” and brings together authors from various disciplines. The contributors address the relationship between private law rules and insights from social sciences and their implication for efficacious, efficient and fair private law.

In 2009 we expect Sanne Pape to publish an original paper on the impact of “May contain” labelling in foodstuffs and Catherine Garcia to commence her PhD thesis project on the interaction between consumer psychology and consumer law. Moreover, Michael Faure will hold his inaugural lecture on 12 June 2009 on the topic of “The impact of behavioural law and economics on accident law”.

#### **4.2.3 Highlights in the domain ‘enforcement’**

This domain has without a doubt been dominant in both quantity and quality. This is partly explained by the fact that there has been an upsurge in policymaking in this field. This has resulted in an increase of academic interest and our research group has participated actively in this area. To mention but a few relevant issues, the

European Commission has launched consultations in the area of enforcement of consumer rights, domestic legislators have intensified their efforts to restructure access to civil justice for individuals and groups, and the academic debate on the goals of private law remedies has intensified. Scholars from the research programme have been at the forefront of these developments and in 2008 they participated in various conferences, workshops, and bids for research contracts in this field. Illustrative of our efforts in this research area in 2008 is the following publication:

- M.G. Faure, A.I.Ogus, N. Philipsen, Enforcement Practices for Breaches of Consumer Protection Legislation, *Loyola Consumer Law Review*, 20(4), 40 pp., 361-401 (2008).<sup>4</sup> This paper provides a survey of approaches to sanctions and enforcement in OECD jurisdictions. On the basis of this survey a classification into five models of enforcement policy is provided. The systems of Australia, Belgium, the Netherlands and the United Kingdom have been investigated in more detail. A number of tentative policy conclusions have been drawn concerning particular aspects of enforcement practice, such as monitoring, post-detection discretion, administrative/civil/criminal proceedings and sanctions, and enforcement by consumers.

Two scholars who are active in the programme have worked on an EU project concerning the private enforcement of competition law. On April 3, 2008, the European Commission published for public consultation a White Paper and a Commission Staff Working Paper on Damages Actions for Breach of the EC competition rules. The White Paper suggests specific policy choices and measures that would help give all victims of infringements of EC competition law access to effective redress mechanisms so that they can be fully compensated for the harm suffered. The Commission's White paper is based on an impact assessment that was carried out by a group of researchers, comprising members of the Behavioural Approaches Program (Roger Van den Bergh, Sonja Keske) and researchers of the Centre for European Policy Studies and the University LUISS Guido Carli in Rome.

See also the related article by R.J. Van den Bergh, L.T. Visscher, The Preventive Function of Collective Actions for Damages in Consumer Law, *Erasmus Law Review* 2008, 5-30.

#### 4.2.4 Highlights in the domain 'group'

By organizing the conference "*Changing Perspectives on Corporate Law and Economics*" (6 November 2008; organized by Alessio Paces) we hosted the reception of three generations of scholars in Corporate Law and Economics. The speakers compared their views based on different geographical experiences and cultural backgrounds. The topics covered several issues in the Law and Economics of Corporate Governance, from an American as well as a European perspective: harmonization vs. regulatory competition, law's impacts on going public and M&A, enforcement and the political economy of corporate governance.

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<sup>4</sup> See also M.G. Faure, A.I. Ogus & N. Philipsen, "Curbing Consumer Financial Losses: the Economics of Regulatory Enforcement", *Law & Policy*, vol. 31, 2009, 161-191.



### 4.3 Goals for 2009 and beyond

For 2009 and beyond the following goals have been set:

- We will appoint additional staff in accordance with additional University Board funding conditions (see § 6).
- We will attract scholars from the field of Psychology, Sociology, and/or Empirical Legal Studies in order to attain a balanced research output distributed over the three domains
- The research programme will primarily focus on scientific publications in international journals, preferably with a review system, in order to show:
  - An increase of the number of international scientific publications to 80% of total scientific output in 2010
  - An increase of the number of publications in peer reviewed journals to 60% of the total scientific output in 2010
- Consequently, we will decrease the quantum of professional publications
- We will increase the number of international conferences and research seminars
- We will attract external funding of policy relevant and academically warranted research
- We will start up a visiting scholar programme to attract foreign scholars that can contribute to the research programme
- We will enhance internal quality control by assigning monitoring tasks regarding the three domains

### 4.4 Future research activities

Joint projects under way:

- New Trends in Financing Civil Litigation project (book 2010, edited by Mark Tuil and Louis Visscher, contributions by programme participants)
- “Dealing with the masses –Legal and logistical issues of representation and distribution” (book 2010 edited by Jenny Steele (York Law School, UK) and Willem H. van Boom (Erasmus School of Law, Rotterdam)).
- “Juxtaposing Autonomy and Paternalism in Private Law” project (book 2010 edited by Anthony Ogus and Willem van Boom).
- Unfair trade practices (working title); 2010 (Roger van den Bergh)

## 5 The research team and how it develops

Starting a new research programme implies making choices that need to be evaluated after a reasonable period. Therefore, the programme directors have

started evaluating the research input over 2008 and on the basis of that evaluation the individual researchers will be required to make their research agenda for 2009. Some research interests may have to be curbed, others may need to be extended or intensified. As yet, it is premature to draw definitive conclusions but it seems that 2008 was an excellent start for the programme:

- The number of scientific publications within the core domains of the programme looks promising.
- The researchers have grown accommodated to the research programme.
- The joint project, as well as the joint seminars, has proved a meaningful method of streamlining research output and converging creativity.

In 2009, professors Huls and Loonstra have joined the research programme and we look forward to the positive contribution they will make to the programme in the field of socio-legal studies and labour law. Moreover, we envisage welcoming outstanding internationally acclaimed scholars into the programme with the implementation of the 2009 Erasmus University Board Research Grant.

## 6 Reputation

An indication of the international reputation of the scholars involved in this programme can be concluded from previous associations. Some of these are listed in § 6.1. Various other indicators for academic excellence are listed in § 6.2.

### 6.1 Recent associations and visiting fellowships

#### *Michael Faure*

- January 2008: Distinguished Global Visiting Professor at the Law Center, Louisiana State University, lectures on economic analysis of environmental policy, Baton Rouge, Louisiana, USA.
- February 2008: Guest lectures at the International Institute for Industrial Environmental Economics (IIIEE) in Lund (Sweden) on economic analysis of environmental policy and law.
- April 2008: Guest lectures on Law and Economics at the Law Faculty of the Catholic University of Leuven (Belgium).
- May 2008: Lectures at the Université de Lomé (formerly called Université du Bénin) on Droit pénal de l'environnement (environmental criminal law) and on 'Intégration et interdisciplinarité' (integration and interdisciplinarity).

#### *Alessio Paccas*

- April 2008: Visiting Professor (within the EU project: Erasmus Mundus External Cooperation Window) at the Taras Shevchenko National University of Kiev, Ukraine, teaching the course 'Introduction to Economic Analysis of Law' to ad hoc groups of students of the Faculties of Economics and of International Relations.

- July 2008: Visiting Professor at the Indira Gandhi Institute of Development Research of Mumbai, India, teaching an intensive course on 'Law and Economics of Corporate Law and Corporate Governance'.
- November 13, 2008: Guest lecturer on 'Controlling the Corporate Controller's Misbehaviour' at the Centre for Corporate and Commercial Law (3CL) of the University of Cambridge (UK).

#### **Roger Van den Bergh**

- March 2007: Visiting Professor at the University of Haifa, Israel, teaching a course on 'Competition Law and Economics'.
- May 2007 – November 2008: Lecturer at Nederlandse Consumentenautoriteit, Den Haag, teaching 'Economische analyse van het consumentenrecht'.

#### **Ann-Sophie Vandenberghe**

- July 2008: Visiting Professor at National Law School, Bangalore, India, teaching a course on 'The Law and Economics of Employment Contracts'.
- September - November 2008: Lecturer at Utrecht University, The Netherlands, teaching in the Masters Programme in Law and Economics a course on 'Theory and Methods of Law and Economics'.

#### **Willem van Boom**

- Continuous Fellow European Centre for Tort and Insurance Law, Vienna.
- October 2008: Visiting research fellow. Lancaster School of Law, Lancaster UK.

## **6.2 Various other indicators for quality**

Institutional cooperation between the programme participants and external academic institutions can be considered an indicator for excellence. To name but a few, there is institutional cooperation with the European Centre of Tort and Insurance Law (ECTIL) in Vienna, a specialized research institute in the area of tort and insurance law, and within the European Doctorate in Law and Economics (EDLE) programme (Hamburg/ Bologna/Rotterdam).

The quality in research is reflected in the talent that a programme is able to attract. We have been able to attract new, young and senior talent in a difficult academic market. For example, the civil law department has taken the initiative of setting up a rotating *Erasmus Chair of Fundamentals of Private Law*. The Chair purports to attract internationally acclaimed scholars in order to add considerable weight to the research programme. With the appointment of prof. Anthony Ogus (emeritus Manchester University) in the autumn of 2008 we believe we have achieved a major step in that direction. Prof. Anthony Ogus has published on the importance of behavioural approaches for both regulation and private law in the past, and his contribution to the programme will be essential.

In addition to affiliation with excellent research groups elsewhere and our ability to attract talent, we would consider two recent events to signal the quality of the programme as well:

- Honorary doctorate Guido Calabresi.

On November 7, 2008, the Erasmus University Rotterdam conferred the title of Doctor *honoris causa* upon Guido Calabresi, Judge of the US Court of Appeals for the Second Circuit, Sterling Professor Emeritus, and former Dean of Yale Law School. With awarding this doctorate, the Erasmus School of Law wanted to honour Guido Calabresi for his extraordinary intellectual achievements in the field of Law and Economics. By accepting the doctorate, we feel that Calabresi has also signalled his respect for the strand of law and economics research originating from the Erasmus School of Law.

- 2009: Additional Erasmus University Board Research Grant

In February 2009, the Erasmus University Board granted additional research funding to the BACT research programme of some € 1.5 million for a period of three years. Currently, the Programme Directors are attracting new staff to help achieve the goals set in the funding conditions. We feel that by awarding this grant the Board has acknowledged the quality of the programme.

## 7 Leadership

During the first year, 2008, the programme was led by the programme directors Van Boom and Faure. They were assisted by managing coordinator dr. Mark Tuil. The programme directors initiated the various activities within the programme in close cooperation with the other senior researchers. In that respect, regular meetings are held with the senior scholars involved from the law and economics (Van den Bergh) and private law (Lindenbergh) department. At those management meetings, future activities are discussed and a report is made by the coordinator. The research seminars are organized by Tuil in cooperation with the programme directors.

This structure worked well for the first year. However, as was already mentioned above, the programme directors felt that in the second year (2009), it would be necessary to appoint senior scholars who would take responsibility for the three specific research lines. The advantage will be that they can also initiate initiatives with respect to these specific lines, in close cooperation with the programme directors. Until now the internal quality control was the responsibility of the programme directors and will in the future be the task of the programme directors in combination with the senior scholars responsible for the various research lines.

Leadership is also displayed in deals with external funding applications. In 2008, three NWO Open Competitie grant proposals were submitted:

- 2008: Nick Huls and Willem van Boom; *Open Competitie* grant application on 'Organisation of class actions by private actors. How do the bar, the bench, and the legislator manage class actions?'
- 2008: Roger van den Bergh and Willem van Boom *Open Competitie* grant application "Optimal Mix of enforcement instruments in consumer law"
- 2008 Roger van den Bergh and Louis Visscher : *Open Competitie grant application on 'A Law and Economic Analysis of Damages for Nonpecuniary Losses in Cases of Personal Injuries and Fatal Accidents'*

By jointly submitting proposals, we feel we help to improve the quality of the proposals and the subsequent supervision process. Unfortunately, the proposals were deemed not eligible for funding by the NWO evaluation committee. However, the project “Optimal Mix of enforcement instruments in consumer law” was rated “excellent”. In the Spring of 2009, we have again submitted other proposals.

## **8 Societal relevance**

### **8.1 Academic setting**

The research programme is focussed on generating academically relevant knowledge. Having said that, the programme aims at analyzing the law as it stands and operates in practice with a view to attaining both efficacious and efficient law on the one hand, and formulating attainable goals in policymaking on the other.

By focussing both on the assumptions made by social sciences concerning human behaviour (and their related effects) and on presumptions made by policymakers concerning the effects of certain policy choices, legal rules can be constructed in a far more effective way. The research programme aims to explain legal rules as they are, but also (in the normative analysis) to examine how legal rules in the domains of contract law and tort law could be improved to better fulfil their societal functions. The latter is one of the crucial ambitions in the three specific research domains which have been identified.

We therefore feel that the results of our programme are also of relevance to policymakers, courts and practitioners.

The previous has abundantly illustrated that the programme participants cooperate intensively with academics worldwide and that they are involved in various academic projects. Moreover, there is substantial involvement of some of the programme participants in the Dutch and European policymaking process. To name a few examples, Roger Van den Bergh was consulted by the Dutch Consumer Authority in the initial priority setting process. Willem van Boom chairs the administrative appeals board of the Dutch Consumer Authority (2008-present). Furthermore, several contract research grants have strengthened the bond between academia and the policymaking process.

We continuously seek for opportunities to preach the practical implementation of the results of our research. We give the following examples of our commitment to policy relevance.

1. Research Pilot Study “Trade practices, advertising, and self regulation in The Netherlands” (2008-2009). Research contract granted by the Dutch WODC (Scientific research and documentation Centre of the Ministry of Justice). This contract consists of a joint research project by Rotterdam School of Law (professors. Van Boom and Huls) Maastricht University (METRO, prof. Faure) on the conditions under which self regulation can be a viable alternative for legislation. The project takes trade practices and advertising as a case study. The final report is expected in 2009.

2. Research contract “Strooischade” (dispersed mass damage; 2009) Research contract granted by the Dutch Ministry of Economic Affairs. This contract consists of a joint research project by The Hague Law Office of Pels Rijcken Drooglever Fortuijn and prof. Van Boom on the factual necessity of introducing mass claim mechanisms to combat widely dispersed mass damage by means of consumer and competition law enforcement mechanism. The final report is expected in the summer of 2009.

We do not merely look for ways of ‘preaching’ but also for ways of directly feeding research into our teaching. We emphasize the partnership between teaching and research. This is obviously the case in the courses for the students of the European Doctorate in law and economics but it is also true for courses we teach domestic students (e.g., master courses such as *Perspectieven op Privaatrecht*). Furthermore, excellent master students in private law are invited to participate in book projects that have a direct bearing on the research programme. In 2009, this resulted in a book titled “Autonomie en paternalisme in het privaatrecht”.

## 9 Nurturing talent

### 9.1 General

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 positions and tenure track positions. In 2008, we attracted both upcoming and well-established talents. Scouting talent among students has been made possible by the successful European Master in Law and Economics programme. Moreover, the set-up of the master in private law (and the upcoming 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 professors Lindenbergh and Van Boom, outstanding private law master students are offered the opportunity to co-author a book with academic stature. In 2008 this resulted in “Autonomie en paternalisme in het privaatrecht”.

### 9.2 Our PhD students

PhD students in 2008:

Name	Description PhD thesis	Supervisors	Domain	Defence expected in:
Walter Dijkshoorn	The concept of damage in public and private law	Lindenbergh	Enforcement	2011
Weiqiang Hu	Interaction between tort law and regulatory law	Van Boom and Faure	Enforcement	2012
Vania Karapanou	Damages for Non-pecuniary Losses in Cases of Personal	Van den Bergh and Visscher	Enforcement	2012

	Injuries and Fatal Accidents – a law and economics analysis			
<b>Sonja Keske</b>	Group litigation mechanisms as enforcement tool of European Competition Law	Van den Bergh	Enforcement	2009
<b>Martijn van Kogelenberg</b>	The right to performance in comparative and economic perspective	Lindenbergh	Enforcement	2011
<b>Hanneke Luth</b>	Efficiency and Fairness of the Regulation of Unfair Terms in Consumer Contracts	Van den Bergh / Carbonara	Individual/ Enforcement	2009
<b>Sharon Oded</b>	Corporate Internal Enforcement Systems	Faure / Van den Bergh	Group/ enforcement	2011
<b>Sanne Pape</b>	Effective product safety warnings: the interaction between law and psychology	Van Boom	Individual	2010
<b>Katka Svatikova</b>	Economic criteria for criminalization	Faure	Enforcement	2010
<b>Johanna Visser</b>	Quantitative analysis of decisive factors in domain name arbitration	Van Boom	Enforcement	2009
<b>Franziska Weber</b>	Towards an optimal mix of public and private enforcement in consumer law	Van den Bergh / Van Boom	Enforcement	2011

#### Newly recruited PhD students in 2009:

Name	Description PhD thesis	Supervisors	Domain	Defence expected in:
<b>Catherine Garcia</b>	What European consumer law should learn from consumer psychology	Van Boom	Individual	2013
<b>Bas Hengstmengel</b>	Procedural fairness	Loonstra	Individual	2011
<b>Pascal Kruit</b>	Specialization in adjudication in labour disputes	Loonstra	Enforcement	2011

## 10 SWOT

### Strengths

- By combining law and economics and (European) private law with new insights from other social sciences, this programme is at the frontier of European legal scholarship
- It significantly contributes to the internationalization of research and research output
- It significantly contributes to the interdisciplinary study of tort and contract

### Weaknesses

- Ambitions regarding the involvement of psychology and empiricism have yet to be fully realized
- Reasonable balance between output in three domains has yet to be reached
- Number of peer reviewed journal articles has to grow in a short period of time

### Opportunities

- Signalling willingness to cooperate with strong research groups on campus and off campus may open up new research fields and cooperation
- Exploiting the headstart of this programme on other, more isolated private law research efforts in Europe may further increase success

### Threats

- The difficult academic market is an obstacle for attracting scholars in the field of behavioural private law.



## Table 1 - Staff

- Measured per July of each year
- == denotes that the researcher was not participating in the programme in that particular year

	2008	2009
<b>Full professors</b>		
Roger Van den Bergh	0.4	0.4
Willem H van Boom	0.4	0.4
Michael Faure	0,5	0,5
Nick Huls	==	0.2
Siewert Lindenberg	0.3	0.4
Cees Loonstra	==	0.16
Anthony Ogus	==	0.2
Eric Rassin	0.2	==
<b>total</b>	<b>1.7</b>	<b>2.26</b>
<b>Associate professors/assistant professors</b>		
Alessandra Arcuri	0.4	0.4
Peter Camesasca	0.08	0.08
Zef Even	==	0.08
Raimond Giard	==	0.08
Ruben Houweling	==	0.4
Peter Klik	0.4	==
Alessio Paccès	0,4	0,4
Mark Tuil	0.4	0.4
Ann-Sophie Vandenberghe		0.4
Louis Visscher	0.4	0.4
Gerdien van der Voet	==	0.08
Roel Westrik	==	0.08
<b>total</b>	<b>2.08</b>	<b>2.8</b>
<b>PhD students</b>		
Walter Dijkshoorn	0.75	0.75
Catherine Garcia	==	0.75
Bas Hengstmengel	==	0.75
Weiqiang Hu	==	0.75
Vania Karapanou	0.75	0.75
Sonja Keske	0.75	0.75
Martijn van Kogelenberg	0.6	0.6
Pascal Kruit	==	0.75
Hanneke Luth	0.75	0.75
Sharon Oded	0.75	0.75
Sanne Pape	0.75	0.75
Katka Svatikova	0.75	0.75
Johanna Visser	0.75	==
Franziska Weber	0.75	0.75
<b>total</b>	<b>7.35</b>	<b>9.6</b>
<b>Total staff</b>	<b>11.13</b>	<b>14.66</b>

**Table 2 - Research output**

	<b>2008</b>
<b>Scientific publications (total)</b>	<b>76</b>
Books	2
PhD theses	--
Articles in refereed journals	19
Articles in journals	20
Editorships (books)	6
Articles in edited books	29
<b>Professional publications (total)</b>	<b>27</b>
Books	1
Editorships (books)	--
Articles	21
Case notes	5

### Table 3 – Core publications 2008

1	Bergh, R.J. Van den, Visscher, L.T.	Preventive Function of Collective Actions for Damages in Consumer Law	Erasmus Law Review, 2008, p. 5-30	The paper discusses a number of possibilities to overcome the inherent problems of both public and private enforcement of consumer law, especially concerning collective compensation mechanisms. Ultimately, private and public enforcement will need to co-exist, since collective actions are not a perfect instrument to achieve optimal deterrence.	e
2	Y. Bacharias, S.D. Lindenbergh, P. Mascini	Preventie van arbeidsuitval in arbeidsomstandighedenbeleid en civiele aansprakelijkheid	in: W.H. van Boom, I. Giesen, A.J. Verheij (red.), Gedrag en privaatrecht, Over gedragspresumpties en gedragseffecten bij privaatrechtelijke leerstukken, Den Haag 2008, p. 283-301	This article analyzes the contrast between far reaching responsabilization of employers for occupational injury on the one hand, and actual workplace attitudes on the other. The authors argue – on the basis of their empirical findings – that tort law and workshop culture are moving in opposite directions.	i/g
3	Boom, W.H. van, Giesen, I., Verheij, A.J. (Eds.),	Gedrag en privaatrecht - over gedragspresumpties en gedragseffecten bij privaatrechtelijke leerstukken	Boom Juridische uitgevers: Den Haag, 2008 - ISBN: 978-90-5454-987-1	This edited book brings together authors from various disciplines addressing the relationship between private law rules and insights from social sciences and their implication for efficacious, efficient and fair private law. It marks the upsurge in The Netherlands of the research field “behavioural private law”.	i/g/e
4	Faure, M.G., Ogus, A.I., Philipsen, N.	Enforcement Practices for Breaches of Consumer Protection Legislation.	<i>Loyola Consumer Law Review</i> , 20(4), 40 pp., 361-401 (2008).	This paper provides a survey of approaches to sanctions and enforcement in OECD jurisdictions. On the basis of this survey a classification into five models of enforcement policy is provided. The systems of Australia, Belgium, The Netherlands and the United Kingdom are investigated in more detail. Some careful policy conclusions are drawn concerning particular aspects of enforcement practice, such as monitoring, post-detection discretion, administrative/civil/criminal proceedings and sanctions, and enforcement by consumers.	e

**Table 4 – PhD theses**

	2008	2009 (expected)
Number of ongoing PhD research projects	14	16
Number of PhD theses defended	=	4
Number of PhD theses defended by employees	=	3
Number of PhD theses defended by others	=	1
Period spent on writing theses (mean)	NA	NA

## Table 5 – Publications

<b>1 scientific</b>		
<b>1.1 books</b>		
1.	Lindenbergh, S.D. Smartengeld, tien jaar later.	e
2.	Rassin, E.G.C. De hand in eigen boezem: Vier hindernissen voor de forensische psychologie	i
<b>1.2 PhD theses</b>		
	none	
<b>1.3 articles refereed journals (i.e., blind review)</b>		
1.	Camasasca, P.D.N. , Hugmark, K. (2008). The EC commission's 2006 fine guidelines reviewed from an economic perspective: rising over-deterrence. <i>Antitrust Bulletin</i> , 2008(53), 32 pp., 26-58	e
2.	Faure, M.G. , Ogus, A.I. , Philipsen, N. (2008). Enforcement Practices for Breaches of Consumer Protection Legislation. <i>Loyola Consumer Law Review</i> , 20(4), 40 pp., 361-401	e
3.	Faure, M.G. , Fiore, K. (2008). The civil liability of European nuclear operators: which coverage for the new 2004 Protocols? Evidence from France. <i>International Environmental Agreements</i> , 8(July 2008), 22 pp., 227-248	e/g
4.	Faure, M.G. (2008). The Continuing Story of Environmental Criminal Law in Europe after 23 October 2007. <i>European Energy and Environmental Law Review</i> , 17(1), 7 pp., 68-75	e/g
5.	Faure, M.G. , Fiore, K. (2008). The Coverage of the Nuclear Risk in Europe: Which Alternative?. <i>The Geneva Papers on Risk and Insurance. Theory</i> , 33(2008), 34 pp., 288-322	e/g
6.	Bowles, R. , Faure, M.G. , Garoupa, N. (2008). The Scope of Criminal Law and Criminal Sanctions: An Economic View and Policy Implications. <i>Journal of Law &amp; Society</i> , 35(3), 27 pp., 389-416	e/i
7.	Faure, M.G. , Wang, H. (2008). Financial caps for oil pollution damage: A historical mistake?. <i>Marine Policy</i> , 2008(32), 592-606	r/g
8.	M.G. Faure & T vanden Borre, Compensating Nuclear Damage: A Comparative Economic Analysis of the U.S. and International Liability Schemes, <i>WM. &amp; Mary Env'tl. L. &amp; Pol'y Rev</i> 2008, p. 219-287.	e
9.	Faure, M.G. (2008). Calabresi and behavioural tort law and economics. <i>Erasmus Law Review</i> , 1(4), 75-102.	i
10.	Bergh, R.J. Van den, Visscher, L.T. (2008). The Preventive Function of Collective Actions for Damages in Consumer Law. <i>Erasmus Law Review</i> , 2008, 5-30	g/e
11.	Kerber, W. and Van den Bergh, R., Mutual Recognition Revisited: Misunderstandings, Inconsistencies, and a Suggested Reinterpretation, <i>Kyklos</i> , 2008, 447-465.	e
12.	Van den Bergh, R., The impact of Guido Calabresi on Law and Economics Scholarship, in: Van den Bergh, R. (ed.), <i>Essays in honour of Guido Calabresi</i> , <i>Erasmus Law Review, Special Issue</i> , 2008, 1-6	e/i
13.	Rassin, E.G.C. (2008). Individual differences in the susceptibility to confirmation bias. <i>Netherlands journal of psychology</i> , 64, 7 pp., 87-93	i
14.	Rassin, E.G.C. , Muris, P. , Franken, I.H.A. , Straten, M. van (2008). The feature-positive effect and hypochondriacal concerns. <i>Behaviour Research and Therapy</i> , 2008(47), 7 pp., 263-269	i
15.	Rassin, E.G.C. , Muris, P. , Booster, E.M.L. , Kolsloot, I. (2008). Indecisiveness and informational tunnel vision. <i>Personality and Individual Differences</i> , 45, 7 pp., 96-102	i
16.	Muris, P. , Heiden, S. van der, Rassin, E.G.C. (2008). Disgust sensitivity and psychopathological symptoms in non-clinical children. <i>Journal of Behavior Therapy and Experimental Psychiatry</i> , 39, 14 pp., 133-146	i
17.	A. Arcuri, "Emissions Trading and the Polluter-Pays Principle" 4(2) <i>Review of Law and Economics</i> , 2008, art. 2 (co-authored with Edwin Woerdman and Stefano Clò)	e
18.	A. Arcuri, Eclecticism in Law and Economics" 1(3) <i>Erasmus Law Review</i> , 2008, pp. 59-81.	e
19.	Paccas, A.M. (2008). 'The Good, the Bad, and the Ugly': Private Benefits of Control and Their	g

	Regulatory Implications, Corporate Ownership and Control, Vol. 6, 2008, 5(4), 15 pp., 477-491	
<b>1.4 articles non-refereed (i.e., scientific journals without blind review)</b>		
1.	Boom, W.H. van (2008). Inpassing en handhaving van de Wet oneerlijke handelspraktijken. Tijdschrift voor consumentenrecht & handelspraktijken, 2008(1), 4-24	e
2.	Boom, W.H. van (2008). Principles of European Tort Law: art. 5:101-102 - Strict Liability. Aansprakelijkheid Verzekering en Schade (AV&S), 2008(1, nr. 2), 3-14	g
3.	Hoitink, J.E. , Boom, W.H. van, Lindenbergh, S.D. , Mevis, P.A.M. , Rogier, L.J.J. (2008). Schadecompensatie strafvorderlijk optreden. <i>Nederlands Juristenblad (NJB)</i> , 2008(745), 870-877	i/e
4.	W.H. van Boom, 'Iets over handhaving in het privaatrecht', WPNR nr. 6772, p. 765-769	e
5.	W.H. van Boom, G.N. van Kooten en P.L.M. Schneider, Compensatie van verkeersletsel van werknemers: wat is een behoorlijke verzekering?, Arbeidsrechtelijke Annotaties 2008/2, p. 43-60	g/e
6.	Van den Bergh, R., Verso una migliore regolazione europea delle professione legali, <i>Mercato Concorrenza Regole</i> , 2008, 41-74.	e
7.	Van den Bergh, R., De maatschappelijke wenselijkheid van gedragscodes vanuit rechtseconomisch perspectief, WPNR 2008, 792-798.	e
8.	Meyer, J.W.M.K. , Lindenbergh, S.D. (2008). Asbestschade buiten de werkomgeving. <i>Nederlands Juristenblad (NJB)</i> , 2008, 436-443	e/i
9.	Lindenbergh, S.D. (2008). PETL: Remedies, Damages. Aansprakelijkheid Verzekering en Schade (AV&S), 2008(31), 7 pp., 221-228	e
10.	Lindenbergh, S.D. (2008). Smartengeld voor naasten: de rechter heeft zijn werk gedaan en de rechter moet de klus afmaken. Aansprakelijkheid Verzekering en Schade (AV&S), 2008(36), 9 pp., 255-263	e
11.	Lindenbergh, S.D. (2008). Vaststelling van letselschade; veel aandacht voor een fictieve toekomst, weinig voor daadwerkelijke financiële zekerheid. Maandblad voor vermogensrecht, 2008, 6 pp., 118-124	i/e
12.	Camesasca, P.D.N. , Hugmark, K. , Daems, I. (2008). The 2008 Settlement Notice: will the Commission make it work? Global Competition Policy, 2008(2), 14 pp., Competition Policy International (CPI) Inc.	e
13.	Camesasca, P.D.N. , Jung, Y.J. (2008). Extradition and Mutual Legal Assistance Treaties: Cartel Enforcement's Global Reach. <i>Antitrust Law Journal</i> , 75(2), 46 pp., 701-746	e
14.	Paccès, A.M. (2008). Fondamenti economici della responsabilità (prima parte) [The Economic Foundations of Legal Liability (Part I)]. <i>Danno e Responsabilità</i> , 2008(1), 101-109	e/i
15.	Paccès, A.M. (2008). Fondamenti economici della responsabilità (seconda parte) [The Economic Foundations of Legal Liability (Part II)]. <i>Danno e Responsabilità</i> , 2008(2), 225-237	e/i
16.	Visscher, L.T. (2008). De omvang van het smartengeld vanuit rechts- en gezondheidseconomisch perspectief. Aansprakelijkheid Verzekering en Schade (AV&S), 8 pp., 247-254	e/i
17.	Visscher, L.T. (2008). Schadevergoeding voor slachtoffers in het strafproces vanuit rechtseconomisch oogpunt. Aansprakelijkheid Verzekering en Schade (AV&S), 194-201	e/i
18.	S.B. Pape, Een Nederlandse alcoholwaarschuwing: nodig of overbodig?, Tijdschrift voor Consumentenrecht en Handelspraktijken 2008/2, p. 64-75	i
19.	Faure, M. G. (2008). Towards a maximum harmonization of consumer contract law? <i>Maastricht Journal of European and Comparative Law</i> , 15(4), 433-445.	e
20.	Faure, M. G. & Philipsen, N. J. (2008). Honoraria van belangenbehartigers in letselschadezaken: een dossieranalyse (2001-2006). <i>AV&amp;S</i> , 6, 316-329	g
<b>1.5 editorship</b>		
1.	Gedrag en privaatrecht. Over gedragspresumpties en gedragseffecten bij privaatrechtelijke leerstukken Boom, W.H. van, Giesen, I. , Verheij, A.J. (Eds.), 19-48, Boom Juridische uitgevers: Den Haag, ISBN: 978-90-5454-987-1	
2.	<i>Schadevaststelling en de rol van de deskundige</i> , Hesen, G.G. , Lindenbergh, S.D. , Maanen, G.E. Van (Eds.) Kluwer: Deventer	
3.	<i>China and International Environmental Liability. Legal Remedies for Transboundary Pollution (New Horizons in Environmental Law)</i> - M. Faure & Y. Song (Eds.) Cheltenham: Edward Elgar.	

4.	Essays in the Law and Economics of Regulation. In Honour of Anthony Ogus; Faure, M. , Stephan, F. (Eds.) Intersentia: Antwerpen	
5.	Autonomie en paternalisme in het privaatrecht, , W.H. van Boom, W. Dijkshoorn en M.L. Tuil, Den Haag: Boom Juridische uitgevers 2008	
6.	M.G. Faure & M. Peeters (Eds.), Climate change and European emissions trading. Lessons for theory and practice, Edward Elgar 2008	
<b>1.6 articles in edited books</b>		
1.	Boom, W.H. van, Giesen, I. , Verheij, A.J. (2008). Gedrag en privaatrecht: inleiding en verantwoording. Gedrag en privaatrecht. Over gedragspresumpties en gedragseffecten bij privaatrechtelijke leerstukken, Boom, W.H. van, Giesen, I. , Verheij, A.J. (Eds.), 19-48, Boom Juridische uitgevers: Den Haag, ISBN: 978-90-5454-987-1	i/e/ g
2.	Faure, M.G. , Boom, W.H. van (2008). Hoe houdbaar zijn gedragsveronderstellingen in verzekeringsrecht en -economie?. <i>Gedrag en privaatrecht. Over gedragspresumpties en gedragseffecten bij privaatrechtelijke leerstukken</i> , Boom, W.H. van, Giesen, I. , Verheij, A.J. (Eds.), 305-339, Boom Juridische uitgevers: Den Haag, ISBN: 978-90-5454-987-1	i/e/ g
3.	Verheij, A.J. , Giesen, I. , Boom, W.H. van (2008). Afsluitende observaties. Gedrag en privaatrecht. Over gedragspresumpties en gedragseffecten bij privaatrechtelijke leerstukken, Boom, W.H. van, Giesen, I. , Verheij, A.J. (Eds.), 601-612, Boom Juridische uitgevers: Den Haag, ISBN: 978-90-5454-987-1	i/e/ g
4.	Boom, W.H. van (2008). European Tort Law - An Integrated or Compartmentalized Approach?. Antoni Vaquer, European Private Law Beyond the Common Frame of Reference - Essays in Honour of Reinhard Zimmerman, 17 pp., 133-149	e
5.	Boom, W.H. van (2008). Insurance Law en Economics: an empirical perspective. Essays in the Law and Economics of Regulation - in Honour of Anthony Ogus, Faure, M.G. , Stephen, F. (Eds.), 24 pp., 253-276, Intersentia: Antwerpen/Oxford/Portland	i/g
6.	Boom, W.H. van, Pinna, A.P. (2008). Le droit de la responsabilité civile de demain en Europe. Question choisies: La responsabilité civile européenne de demain - Projets de révision nationaux et principes européens (Colloque international à l'Université de Genève), Winiger, Bénédicte (Eds.), 17 pp., 261-277, Schulthess: Genève	e/i
7.	Ogus, A. (2008) "Regulatory Arrangements in Developing Countries", in Eger, T., Bigus, J. Ott, C. and von Wangenheim G.(eds), Internationalization of the Law and its Economic Analysis, Gabler . 14 pp, 721-734	e
8.	Ogus, A. (2008) The Economic Basis of Damages for Breach of Contract: Inducement and Expectation in R. Cunnington, R. and Saidov, D. (eds.), Contract Damages: Domestic and International Perspectives, Hart 13 pp p.125-138	e
9.	Ogus, A. (2008) Economics and the Design of Regulatory Law" in Copp , S.F. (ed), The Legal Foundations of Free Markets , Institute of Economic Affairs 22 pp. p. 104-126	e
10.	Faure, M.G. (2008). De moeizame weg naar een Europees milieustrafrecht. Vereniging voor Milieurecht, Ontwikkelingen in het Europese milieustrafrecht, 22 pp., 89-111, Boom Juridische Uitgevers: Den Haag	e
11.	Faure, M.G. , Visscher, L.T. (2008). De rol van de deskundige bij schadevaststelling vanuit rechtseconomisch perspectief. <i>Schadevaststelling en de rol van de deskundige</i> , Heslen, G.G. , Lindenbergh, S.D. , Maanen, G.E. Van (Eds.), 29 pp., 215-243, Kluwer: Deventer	e
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13.	Faure, M.G. , Philipsen, N.J. , Fernhout, F.H. (2008). Het schaderegelingsproces vanuit rechtseconomisch perspectief. De kosten van het geschil(19), 28 pp., 65-92, Sdu: Den Haag	e/i
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15.	Faure, M.G. & Betlem, G. (2008). Applying national liability law to transboundary pollution: some lessons from Europe and the United States. In M. Faure & Y. Song (Eds.), <i>China and International Environmental Liability. Legal Remedies for Trans-boundary Pollution</i> (New Horizons in Environmental Law) (pp. 129-191). Cheltenham: Edward Elgar.	e

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19.	Van den Bergh, R., Towards Beneficial Competition in the Legal Professions: Lessons from England/Wales and the Netherlands, in: Eger, T., Bigus, J., Ott, C. and Von Wangenheim, G. (eds), <i>Internationalization of the Law and its Economic Analysis</i> , Wiesbaden, Gabler, 2008, 387-396.	e
20.	Van den Bergh, R., Il principio di sussidiarietà preso sul serio: criteri economici per l'esercizio di competenze regolamentari nell' Unione europea, in: Baroncelli, S. (ed.), <i>Il ruolo del Governo nella formazione e applicazione del diritto dell' Unione Europea. Le particolarità di un sistema costituzionale multilivello</i> , Torino, G. Giappichelli Editore, 2008, 21-39	e
21.	Van den Bergh, R., Enforcement of Consumer Law by Consumer Associations, in: Faure, M. and Stephen, F. (eds.), <i>Essays in the Law and Economics of Regulation. In Honour of Anthony Ogus</i> , Antwerpen, Intersentia, 2008, 279-305.	e/g
22.	Bacharias, Y. , Lindenbergh, S.D. , Mascini, P. (2008). Preventie van arbeidsuitval in arbeidsomstandighedenbeleid en civiele aansprakelijkheid. <i>Gedrag en privaatrecht, Over gedragpresumpties en gedragseffecten bij privaatrechtelijke leerstukken</i> , Boom, W.H. van, Giesen, I. , Verheij, A.J. (Eds.), 283-301, Boom Juridische Uitgevers: Den Haag, ISBN: 978-90-5454-987-1	g/i
23.	Lindenbergh, S.D. (2008). Vaststelling van schade en de rol van de deskundige daarbij. In: "Schadevaststelling en de rol van de deskundige"(Hesen, G.C. , Lindenbergh, S.D. , Maanen, G.E. van (Eds.), 14 pp., 1-14: Deventer: Kluwer)	e
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25.	Rassin, E.G.C. (2008). De juiste keuze. Gedrag en privaatrecht: Over gedragpresumptie en gedragseffecten bij privaatrechtelijke leerstukken, Boom, W.H. van, Giesen, I. , Verheij, A.J. (Eds.), 65-81, Boom juridische uitgevers: Den Haag, ISBN: 9789054549871	i
26.	A. Arcuri, "European Emissions Trading and the Polluter-Pays Principle: Assessing Grandfathering and Over-allocation" in Michael Faure and M. Peeters, <i>Climate Change and European Emissions Trading: Lessons for Theory and Practice</i> , Edward Elgar, 2008 (co-authored with Edwin Woerdman and Stefano Clò)	e
27.	W.H. van Boom, W. Dijkshoorn en M.L. Tuil, 'Autonomie en paternalisme: afsluitende observaties, in: W.H. van Boom, M.L. Tuil en W. Dijkshoorn (red.), <i>Autonomie en paternalisme in het privaatrecht</i> , Den Haag: Boom Juridische uitgevers 2008, p. 251-259.	i
28.	Bergh, R.J. Van den, Visscher, L.T. Optimal Enforcement of Safety Law. <i>Mitigating Risk in the Context of Safety and Security. How relevant is a rational approach?</i> , Mulder, R.V. de (Eds.), 34 pp., 29-62, Erasmus University: Rotterdam	e
29.	S.B. Pape, Productwaarschuwingen: psychologische lessen voor de jurist, in: W.H. van Boom, I. Giesen, A.J. Verheij (red.), <i>Gedrag en Privaatrecht - Over gedragpresumpties en gedragseffecten bij privaatrechtelijke leerstukken</i> , Den Haag: BJU 2008, p. 245-282	i
<b>2 Professional publications</b>		
<b>2.1 books</b>		
1.	Lindenbergh, S.D. (2008). Schadevergoeding: algemeen, deel 1. (34), 93 pp., Kluwer: Deventer, ISBN: 978-90-13-03824-8	
<b>2.2 editorship</b>		
	none	
<b>2.3 articles</b>		
1.	Boom, W.H. van (2008). Beleggingspolissen en consumentengedrag: van free lunch naar iustum pretium?. Tijdschrift voor consumentenrecht & handelspraktijken, 2008(2), 61-63	
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3.	Boom, W.H. van (2008). [Review of: Tzankova, I.N., Toegang tot het recht bij massaschade, dissertatie Universiteit van Tilburg 2007, handelseditie verschenen in de serie Recht en Praktijk, Kluwer, nr. 150, Pub: Kluwer, Deventer (2007)] In: Weekblad voor Privaatrecht, Notariaat en Registratie (WPNR), 2008, 2008/6740, 97-106
4.	Camasca, P.D.N. (2008). With the Facts at Hand, the New MTS Guidelines Should Be Welcomed Rather Than Feared. <i>Lloyd's List</i> , 13(13 September 2008) Cayseele, P. Van,
5.	Faure, M.G. (2008). Een taak voor Europa inzake nucleaire aansprakelijkheid?. <i>Aansprakelijkheid Verzekering en Schade (AV&amp;S)</i> , 2(2008), 1 pp., 55
6.	Faure, M.G. , Stephen, F. (2008). Editorial Introduction. <i>Essays in the Law and Economics of Regulation. In Honour of Anthony Ogus.</i> , Faure, M.G. , Stephen, F. (Eds.), 17 pp., 1-17, Intersentia: Antwerpen
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8.	Lindenbergh, S.D. (2008). Moord en doodslag in het aansprakelijkheidsrecht. <i>Ars Aequi</i> , 57(9), 2 pp., 598-599
9.	Giesen, I. , Lindenbergh, S.D. (2008). PETL: Epiloog. <i>Aansprakelijkheid Verzekering en Schade (AV&amp;S)</i> , 2008(32), 2 pp., 228-229
10.	Lindenbergh, S.D. (2008). <i>Bewerking losbladige Schadevergoeding, Inleiding</i> , art. 95, 96, 100, 106, 110. <i>Schadevergoeding</i> , Bolt, A.T. (Eds.), Kluwer: Deventer
11.	Lindenbergh, S.D. (2008). <i>Bewerking losbladige Zakelijke rechten, Burenrecht. Losbladige Zakelijke Rechten</i> , Kleijn, W.M. , Velten, A.A. van (Eds.), Kluwer: Deventer
12.	S.D. Lindenbergh, <i>Bewerking losbladige Schadevergoeding, Inleiding</i> , art. 95, 96, 97, 100, 106, 110
13.	Klik, P. (2008). Geen recht op gebruiksvergoeding voor de verkoper bij vervanging. Enkele kanttekeningen bij het <i>Quelle</i> -arrest. <i>Tijdschrift voor consumentenrecht &amp; handelspraktijken</i> , 6(4), 4 pp., 229-232
14.	Rassin, E.G.C. (2008). De hand in eigen boezem: Vier hindernissen voor de forensische psychologie. <i>De Psycholoog</i> , 43, 8 pp., 462-469
15.	Rassin, E.G.C. (2008). Siczek vs. de Vereniging tegen de Kwakzalverij: Een illustratie van het belang van de empirische wetenschap in de rechtsgeleerdheid. <i>Expertise en Recht</i> , 1, 6 pp., 3-8
16.	Rassin, E.G.C. (2008). De waarheid [Review of: Derksen, T., <i>Het OM in de fout: 94 structurele missers</i> , Pub: , ( )] In: <i>De Psycholoog</i> , 2008, 486-488
17.	W.H. van Boom, W. Dijkshoorn en M.L. Tuil, 'Autonomie en paternalisme: een inleiding', in: W.H. van Boom, M.L. Tuil en W. Dijkshoorn (red.), <i>Autonomie en paternalisme in het privaatrecht</i> , Den Haag: Boom Juridische uitgevers 2008, p. 1-4.
18.	Kerkmeester, H.O. , Visscher, L.T. (2008). <i>Katernbijdrage 'Rechtseconomie'</i> (Katern 107). <i>Ars Aequi Katern</i> , 2008(juni), 6062-6063
19.	Kerkmeester, H.O. , Visscher, L.T. (2008). <i>Katernbijdrage 'Rechtseconomie'</i> (Katern 109). <i>Ars Aequi Katern</i> , 2008(december)
20.	Ogus A. (2008) "command and control regulation" and "licensing as consumer protection" in Cane P. and Conaghan J. (eds.), <i>The New Oxford Companion to Law</i> (Oxford University Press 3 pp. p. 160-161, 733-734.
21.	Bergh, R. J. Van den (2008). <i>Consumentenbescherming</i> . In W.C.T. Weterings (Ed.), <i>De economische analyse van het recht (Schoordijk Inst. - Company Law)</i> (pp. 119-140). Meppel: Boom
<b>2.4 Case notes</b>	
1.	W.H. van Boom, Note on: HR 18-01-2008, Een juridisch advies over Paulianeus handelen (LJN: BB5067, nr. C06/111HR, (Advocaat S/Brouwer)), <i>Ars Aequi</i> 2008-, p.726-734
2.	W.H. van Boom, HR 26 januari 2007, LJN: AZ0614, nr. C05/272HR (Ontvanger van de Belastingdienst Oost-Brabant/Coöperatieve groente- en fruitveiling vereniging 'Kerseboom' B.A.), <i>Ars Aequi</i> 2008/1, p. 44-49
3.	Zalm, I. van der, Lindenbergh, S.D. (2008). Abstractie bij overlijdensschade. <i>Maandblad voor vermogensrecht</i> , 2008, 5 pp., 235-239
4.	S.D. Lindenbergh, Note on: HR 01-02-2008, 178, Schending van een verzekeringsplicht als grond voor aansprakelijkheid (Kooiker/Taxicentrale Nijverdal), <i>Ars Aequi</i> 2008, p.735-742
5.	S.D. Lindenbergh, Note on: Hoge Raad 09-11-2007, Olie op het vuur, RvdW 2007, 960



## Annex - Publications per individual participant 2008

[editorships are excluded]

### Prof. dr. W.H. van Boom (0,4fte senior researcher)

#### Scientific publications

1. Boom, W.H. van (2008). Inpassing en handhaving van de Wet oneerlijke handelspraktijken. *Tijdschrift voor consumentenrecht & handelspraktijken*, 2008(1), 4-24
2. Boom, W.H. van (2008). Principles of European Tort Law: art. 5:101-102 - Strict Liability. *Aansprakelijkheid Verzekering en Schade (AV&S)*, 2008(1, nr. 2), 3-14
3. Hoitink, J.E. , Boom, W.H. van, Lindenbergh, S.D. , Mevis, P.A.M. , Rogier, L.J.J. (2008). Schadecompensatie strafvorderlijk optreden. *Nederlands Juristenblad (NJB)*, 2008(745), 870-877
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5. Faure, M.G. , Boom, W.H. van (2008). Hoe houdbaar zijn gedragsveronderstellingen in verzekeringsrecht en -economie?. *Gedrag en privaatrecht. Over gedragspresumpties en gedragseffecten bij privaatrechtelijke leerstukken*, Boom, W.H. van, Giesen, I. , Verheij, A.J. (Eds.), 305-339, Boom Juridische uitgevers: Den Haag, ISBN: 978-90-5454-987-1
6. Verheij, A.J. , Giesen, I. , Boom, W.H. van (2008). Afsluitende observaties. *Gedrag en privaatrecht. Over gedragspresumpties en gedragseffecten bij privaatrechtelijke leerstukken*, Boom, W.H. van, Giesen, I. , Verheij, A.J. (Eds.), 601-612, Boom Juridische uitgevers: Den Haag, ISBN: 978-90-5454-987-1
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10. W.H. van Boom, 'lets over handhaving in het privaatrecht', *WPNR* nr. 6772, p. 765-769
11. W.H. van Boom, G.N. van Kooten en P.L.M. Schneider, *Compensatie van verkeersletsel van werknemers: wat is een behoorlijke verzekering?*, *Arbeidsrechtelijke Annotaties 2008/2*, p. 43-60
12. W.H. van Boom, W. Dijkshoorn en M.L. Tuil, 'Autonomie en paternalisme: afsluitende observaties, in: W.H. van Boom, M.L. Tuil en W. Dijkshoorn (red.), *Autonomie en paternalisme in het privaatrecht*, Den Haag: Boom Juridische uitgevers 2008, p. 251-259.

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- Boom, W.H. van (2008). Beleggingspolissen en consumentengedrag: van free lunch naar iustum pretium?. *Tijdschrift voor consumentenrecht & handelspraktijken*, 2008(2), 61-63
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### **Prof. A.I. Ogus (0,2fte senior researcher)**

#### **Scientific publications**

13. Faure, M.G. , Ogus, A.I. , Philipsen, N. (2008). Enforcement Practices for Breaches of Consumer Protection Legislation. *Loyola Consumer Law Review*, 20(4), 40 pp., 361-401
14. Ogus, A. (2008) Regulatory Arrangements in Developing Countries” in Eger, T., Bigus, J. Ott, C. and von Wangenheim G.(eds), *Internationalization of the Law and its Economic Analysis* ,Gabler . 14 pp, 721-734
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- Ogus A. (2008) “command and control regulation” and “licensing as consumer protection” in Cane P. and Conaghan J. (eds.), *The New Oxford Companion to Law* (Oxford University Press 3 pp. p. 160-161, 733-734.

### **Prof. dr. Michael Faure LL.M (0,5fte senior researcher)**

#### **Scientific publications**

- Faure, M.G. , Ogus, A.I. , Philipsen, N. (2008). Enforcement Practices for Breaches of Consumer Protection Legislation. *Loyola Consumer Law Review*, 20(4), 40 pp., 361-401
17. Faure, M.G. , Fiore, K. (2008). The civil liability of European nuclear operators: which coverage for the new 2004 Protocols? Evidence from France.. *International Environmental Agreements*, 8(July 2008), 22 pp., 227-248
  18. Faure, M.G. (2008). The Continuing Story of Environmental Criminal Law in Europe after 23 October 2007. *European Energy and Environmental Law Review*, 17(1), 7 pp., 68-75
  19. Faure, M.G. , Fiore, K. (2008). The Coverage of the Nuclear Risk in Europe: Which Alternative?. *The Geneva Papers on Risk and Insurance. Theory*, 33(2008), 34 pp., 288-322
  20. Bowles, R. , Faure, M.G. , Garoupa, N. (2008). The Scope of Criminal Law and Criminal Sanctions: An Economic View and Policy Implications. *Journal of Law & Society*, 35(3), 27 pp., 389-416
  21. Faure, M.G. , Wang, H. (2008). Financial caps for oil pollution damage: A historical mistake?. *Marine Policy*, 2008(32), 592-606
  22. Faure, M.G. (2008). De moeizame weg naar een Europees milieustrafrecht. *Vereniging voor Milieurecht, Ontwikkelingen in het Europese milieustrafrecht*, 22 pp., 89-111, Boom Juridische Uitgevers: Den Haag
  23. Faure, M.G. (2008). Environmental rules versus standards for developing countries; learning from Schäfer. *Internationalization of the Law and its Economic Analysis*, Eger, Th. , Bigus, J. ,

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