



ICGI
ANNUAL
REPORT
2015



2015

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Stefan
Nieuwendijk

Preface

On Friday 20 November 2015 we celebrated our first lustrum with a conference, organized in Maastricht, on success factors and Pitfalls in corporate restructuring¹. The contributions of the various speakers to the conference were published in a special edition of "Tijdschrift voor Ondernemings Bestuur"². The Institute for Corporate Law, Governance and Innovation Policies (ICGI) has shown an interesting development over the past year with a stable production in research and in its joint ventures with the ICGI's Associate Partners.

The past year we have had the pleasure to witness two successful Phd defences both of which have resulted in book publications. On 30 September 2015, Bastiaan Kemp, working in legal practice with DVDW Advocaten in The Hague and Rotterdam, defended his dissertation on "Shareholder responsibility: The position and role of the shareholder and the shareholders meeting" (*Aandeelhoudersverantwoordelijkheid: de positie en rol van de aandeelhouder en de aandeelhoudersvergadering*). He was subsequently appointed as Associate Professor in our Faculty. On 18 November Samantha Renssen was promoted Dr. Iuris at our Faculty on her dissertation concerning the so called "Turbo-liquidation of the Closed Corporation" under Dutch Law (*De turboliquidatie van de Besloten Vennootschap*). Samantha was the sixth PhD-candidate to successfully defend her dissertation within the ambit of the Institute. Both books are published in the prestigious book series of the *Van der Heijden Instituut Nijmegen*.

As always, the ICGI has participated actively in the inter-faculty honours programme PREMIUM in which various groups of students attend masterclasses, organized in combination with our associated law firms. The organization of these masterclasses offers students a unique possibility to come in contact with and present themselves to legal practice. At the end of the masterclass, the participating students have the possibility to write an article on a business law related topic, in which endeavor they are coached by members of the ICGI-staff together with lawyers connected to the participating law firms. The best submissions are published in the book series Young Corporate Lawyers, published by the ICGI and Antoine Paris Publishers. The third issue in this series was presented at the Lustrum Conference in November.

On 1 October 2015 Mieke Olaerts was appointed Professor of Comparative Company Law at the Maastricht Law Faculty. She also accepted the position of Vice-Academic Director of the Institute. With this appointment the prosperous future of the ICGI is safeguarded and we will, together with all our partners, continue to investigate the secrets of 'Corporate Life'.

Finally, I would like to thank everyone involved within the ICGI and the Faculty as a whole, for their involvement and continuous support.

January 2016,

Kid Schwarz
Academic Director ICGI



"The organization of these masterclasses offers students a unique possibility to come in contact with and present themselves to legal practice."

¹ Congres "Kansen en bedreigingen bij herstructurering van ondernemingen in financiële problemen"

² TvOB 2015, nr. 5

About ICGI

Mission

The Institute for Corporate Law, Governance and Innovation Policies is connected to the Faculty of Law at Maastricht University. ICGI strives to be an excellent institute for scientific research as well as an outstanding breeding ground for scientists and students in their efforts to carry out their work on further developing corporate law and governance. ICGI carries out research activities, advises and arranges high-quality education. Current developments in corporate law and in corporate governance are central to its endeavours. The focus is on financial-economic developments, sustainable development and related technological and organizational innovations.

Based on its research, consultancy and education, ICGI has become a renowned platform for the further development of corporate law and governance. We plan on strengthening our position within these areas for the coming years.

Focus

The object of research is the corporation and its rules and regulations in interaction with its changing environment. In its research, ICGI focuses on corporations, corporate law and governance including corporate social responsibility. Our activities concern the form, nature, structure, mission, strategy, policy, technological and organisational innovation and the overall performance of companies.

Organisation and management

ICGI is led by the Academic Director Kid Schwarz in collaboration with Vice-Academic Director Mieke Olaerts. The institute is supported by an advisory body: the Advisory Board which provides the (vice) academic director(s) with valuable insights and feedback on proposed developments.

The Academic Director is supported by ICGI's professorial fellows and Christine van Basten-Boddin (Manager Operations). The Academic Directors' key responsibility lies with the set-up and general coordination of the research programmes and underlying PhD programmes. The manager is in charge of the institute, mainly responsible for daily operations, the ICGI Associate Programme, new educational programmes and courses and since 2012 for the new UM honours programme PREMIUM. Christine is PREMIUM coordinator of the law faculty and project mentor in several individual PREMIUM projects.

ICGI is situated at the Faculty of Law and falls under the auspices of the Ius Commune Research School. Operationally ICGI is primarily placed in service of all educational activities of Maastricht University and thereby expediently employing the expertise of all faculties, institutes and schools of the university. The substantive final responsibility for ICGI lies with the Academic Director(s). ICGI falls directly within the responsibility of the board of the Faculty of Law. The Academic Director is answerable concerning the policy of ICGI to the board. Financial, managerial and administrative responsibility towards the executive board of Maastricht University rests with the faculty board.

People

As is the case in many organizations, our people are the most important 'asset'. Some of us are connected to the ICGI for their high level of expertise, whereas others may kick-start a promising professional career by being part of our team. ICGI is proud to present:

Management

The management team is responsible for, amongst others, the day-to-day operation of the institute. This involves strategic program development, research coordination, project acquisition and implementation, and external relations. The team is also in charge of strategic partnerships with outside parties including the ICGI Associates.



Managing Director, Christine van Basten-Boddin LL.M.

Christine van Basten-Boddin is responsible for the daily operations of the institute. Her main duties comprise of supporting the academic director, guarding the financial and market position of the institute and management of the ICGI associate programme and PhD programme for professionals. Christine is also PREMIUM Project Coordinator of the Faculty of Law, and project mentor in several specific PREMIUM projects.



Academic Director, Professor Kid Schwarz

Kid Schwarz holds the chair Corporate and Commercial Law and, as Academic Director of ICGI, his key responsibilities lie with the general coordination of the research programmes and the underlying PhD-programmes. His research efforts focus on stakeholders positions from a legal comparative perspective.



Vice-Academic Director Professor Dr. Mieke Olaerts

Mieke Olaerts holds a special chair in Comparative Company Law. As Vice Academic Directors of ICGI she works closely together with Professor Schwarz, the Academic Director. Together they are responsible for the overall management and strategic development of ICGI. Mieke's research is centralized around company law from a comparative perspective. Within these fields she specifically focuses on the role and liability of directors and shareholders and the functioning of company groups and global networks.

Advisory board

The Advisory Board has a multidisciplinary composition and shall give proactive, independent and non-binding recommendations for the further development, direction and functioning of the ICGI. Since 2011 the following persons represent ICGI's advisory board:

Peter Elverding

Chairman supervisory at board ING Group

Willem Lageweg

Director at MVO Nederland

Vincent Lokin

Chief transition catalyst at Arboribus Silva

Leen Paape

Dean at Nyenrode School of Accountancy and Controlling

Hein Schreuder

Chairman supervisory board at Ecorys Holding



Professorial fellows



Prof. Jan Eijbouts

Jan Eijbouts (1945) is Honorary Professor Private Law with a special focus on corporations and human rights at the Faculty of Law since October 2015. From 2010 until 2015 he was, as Extraordinary Professor Corporate Social Responsibility (CSR), course coordinator of the core course CSR in the international master program Globalisation and Law and since 2010 he has been lecturing as principal lecturer in the course. As Professorial Fellow ICGI he is involved in research on Corporate law, governance and responsibility.



Prof. Sybren de Hoo

Sybren de Hoo (1949) was appointed Professor Corporate Sustainability and Innovation at the Vrije Universiteit (Amsterdam) in 2004 and Extraordinary Professor Corporate Social Responsibility and Innovation at the Faculty of Law of Maastricht University in 2010.



Prof. Dr. Mieke Olaerts

Mieke Olaerts (1979) was appointed special Professor of Comparative Company Law at the Private Law Department at Maastricht University in 2015 and coordinates i.e. the master courses Comparative Company Law. Over the past years she has conducted research mainly in the area of (European) company law and has research experience in het area of company law as well as liability law.



Prof. Kid Schwarz

Kid Schwarz (1954) was appointed Professor of Corporate and Commercial Law at Maastricht University in 1987 and elected Dean of the Faculty in 1994. He publishes in various fields and works as an advisor for several law-firms and (stock-quoted) companies. Kid is also a listed arbitrator with the Dutch Arbitration Institute and the International Chamber of Commerce. Next to these obligation, Kid functions as member court of arbitration for the health care sector.



Prof. Bas Steins Bisschop

Bas Steins Bisschop (1949) was appointed Professor of Corporate Law at Nyenrode Business University in 2000. In 2007 he was appointed Extraordinary Professor of Corporate Law and Corporate Governance at Maastricht University. Bas combines the law practice with research focusing on corporate law in general and on specific legal issues concerning corporate governance and CSR.

Research fellows

Dr. Jos Hamers

Jos Hamers (1966) is Senior Lecturer in Corporate Law at Maastricht University. He is involved in research on Dutch and Aruban Company Law. Since 2015 he is Vice-Dean for Education at the Law faculty of the Maastricht University. As visiting professor he lectures on Company and Business Law at the University of Aruba.

Dr. Bastiaan Kemp

Bastiaan Kemp (1989) is a Research Fellow at the Institute for Corporate Law, Governance and Innovation Policies. His research is focused on corporate litigation, the history of company law and corporate governance of companies in financial distress. Bastiaan Kemp graduated cum laude in 2013 from Maastricht University, where he focused on corporate and commercial law. During his study he was a student-assistant at the institute. In 2015 he obtained his PhD and became part-time assistant professor. Since 2013 he also works as a lawyer at DVDW Advocaten.

Dr. Stephan Rammeloo

Stephan Rammeloo (1960) is Associate Professor in (European) Company Law, Business Law (International Commercial Arbitration and Litigation), Private International Law and Comparative Law at Maastricht University/Universiteit Maastricht since 1992 and Visiting Professor at China European Union School of Law (CESL) at CUPL (China University of Politics and Law, Beijing) since 2008. Participating regularly in international research conduct, as well as in supervisory legislative committees, national reporter/*rapporteur nationale* for the Netherlands, graduate and post-graduate lecturing/staff exchange programs, his Company Law research in particular centers round cross-border company migration *cum annexis* (comparative substantive and conflict of laws developments).

Dr. Samantha Renssen

Samantha Renssen (1989) is a Research Fellow at the Institute for Corporate Law, Governance and Innovation Policies. She is also Lecturer in Corporate and Insolvency Law at Maastricht University and coordinator of the ICGI PREMIUM Masterclass. Her research is focused on the liquidation of companies, companies in financial distress and the history of company law. Samantha Renssen graduated cum laude in 2013 from Maastricht University, where she focused on corporate and labour law. During her study she was a student-assistant at the institute. In 2015 she obtained her PhD. The title of her thesis is: The turbo-liquidation of the Dutch private limited liability company



Dr. Rogier Wolf

Rogier Wolf (1973) is an assistant professor in Corporate Law at Maastricht University and Leiden University. He has successfully completed his PhD research at the ICGI. The title of his PhD-thesis is: 'The provider of capital without voting rights of the Dutch private company with limited liability' (De kapitaalverschaffer zonder stemrecht in de BV, Serie vanwege het Van der Heijden Instituut, deel 116, Deventer: Kluwer 2013). Rogier is a lawyer at the law firm Steins Bisschop & Schepel at The Hague. He specializes in the practice areas of Corporate Law, Commercial Contracts, Mergers & Acquisitions, Litigation, Shareholder conflicts and Participation. Rogier lectures regularly on these topics. He also publishes in leading legal journals. In addition to this, he is a member of the editorial board of TvOB (Tijdschrift voor vennootschapsrecht, rechtspersonenrecht en ondernemingsbestuur).

PhD fellows

Constantijn van Aartsen LL.M

Constantijn van Aartsen is a PHD fellow at the Institute for Corporate Law, Governance and Innovation Policies (ICGI). His research focuses on an examination of the role of corporations in relation to global crises. He was born in Pretoria, South Africa in 1987 and graduated cum laude in 2013 with an LL.M. Globalisation and Law - Corporate and Commercial Law. He has experience as a project manager and consultant in the field of corporate governance, risk management and internal controls."

Damla Cavusoglu LL.M

Damla Cavusoglu is a PhD-fellow at the ICGI. Her research is focused on company groups within Europe, particularly on liability of the parent company for corporate social responsibility infringements of its subsidiary. She is a corporate lawyer, admitted to the Istanbul Bar Association. Damla Cavusoglu was born in Izmir, Turkey in 1986 where she was educated at the French Lycée Saint Joseph. She studied law at Koc University in Istanbul on a full scholarship and graduated on the Dean's Honour Roll. Damla Cavusoglu obtained her LL.M. (with Merit) in International Commercial Law at King's College London. She was awarded a full scholarship (Jean Monnet Scholarship Programme) funded by the European Union.

Benno Friedberg LL.M

Benno Friedberg is a PhD-fellow at the Institute for Corporate Law, Governance and Innovation Policies. Benno Friedberg (1963) is partner of the law firm Friedberg & Mahn advocaten. As a lawyer he is specialized in real estate and aviation law.

Bastiaan Kemp LL.M

On Thursday, the 1st of October 2015, Bastiaan has successfully defended his dissertation and obtained his PhD. The title of his thesis was: *Shareholder responsibility: The position and role of the shareholder and the shareholders meeting*. His dissertation will be included in the prestigious Van der Heijden series.





Maria Paz Godoy LL.M

Maria Paz Godoy is a PHD-fellow at the Institute for Corporate Law, Governance and Innovation Policies (ICGI). Her research is focused on Corporate Governance and Corporate Social Responsibility, particularly on the decision making process of corporate strategy within corporate transactions and the allocation of power between corporate bodies. Maria Paz was born in Santiago, Chile, in 1980. She is a corporate lawyer and worked at Claro y Cia. in Santiago, Chile, as an associate lawyer representing international clients from a wide range of sectors. She practiced in areas of corporate law, commercial law, mergers & acquisitions, foreign investment, capital markets, and contracts. She is currently the Research Coordinator of the Corporate Governance Center at the Pontificia Universidad Catolica de Chile where she conducts international and local research projects concerning emerging markets and regulatory framework of corporate self-regulation. She has a Master (LL.M.) in International Law, Investments, Trade and Arbitration, from the Ruprecht-Karls University, Heidelberg and University of Chile."



Samantha Renssen

On Wednesday, the 18th of November 2015, Samantha has successfully defended her PhD dissertation on Turbo-liquidation of the Closed Corporation, a topic which dwells on the fraudulent practices that evolved this type of liquidation. Her dissertation will be included in the prestigious Van der Heijden series.

Student fellows

Zoë Adams

Zoë was an ICGI student fellow from October 2013 until August 2015. She did her Master Dutch law with a focus on Corporate & Commercial law and on Private law. Zoë mainly assisted ICGI Professorial fellow Dr. Mieke Olaerts with her research activities.



Kirsy Corten

From February 2014 until August 2015, Kirsy was associated with the ICGI as a student fellow. She did the Master Dutch law with a focus on Corporate & Commercial law and on Labour law. Kirsy's main task within ICGI was assisting Research fellow Dr. Bastiaan Kemp with his research. Alongside her Master's and ICGI student fellowship, Kirsy also participated in the ICGI PREMIUM Masterclass 2014-2015.



Ibtisame El Ajjouri

Ibtisame is an ICGI Student fellow since November 2015. She started in February 2015 with the Master Law & Labour with a focus on Labour & the Corporation. She has also followed the Master Dutch law with a focus on Private law. Ibtisame mainly assists ICGI Research fellow Samantha Renssen with her research. Ibtisame also participates in the ICGI PREMIUM Masterclass 2015-2016.



Iris Hanssen

Iris was affiliated with the ICGI as a student fellow from January 2014 until August 2015. She did the Master Dutch law in September 2014, with a focus on Corporate & Commercial law. Iris assisted former ICGI PhD-fellow Mr. Frits Udo with his research.



Jan Hoffmann

Jan joined the ICGI as part of the Student Fellowship Programme in March 2015. He graduated Bachelor of Laws from the European Law School and currently follows the LL.M. Globalisation & Law. At the ICGI, Jan provides research support in the area of Comparative Corporate Governance and Corporate Social Responsibility. Next to his involvement in the ICGI, Jan works as Project Leader at the department of Academic Affairs where he advises the Executive Board on the development and implementation of internationalisation policies. He further manages Maastricht University's Middle East Affairs.



Frank Hülsmans

Frank was a student fellow at the ICGI from February 2014 until February 2015. He did the Master Dutch law with a focus on Corporate & Commercial law and on Private law. Frank took upon him the responsibility for Marketing & Communication for the year 2014-2015. He assisted Managing Director Christine van Basten-Bodden and ICGI Research fellow Dr. Samantha Renssen with her research activities. Furthermore, Frank participated in the ICGI PREMIUM Masterclass 2014-2015.



Cornelius Litt

Cornelius is an ICGI student fellow since September 2015. He started the Master Dutch law in September 2015 with a focus on Corporate & Commercial law. Cornelius mainly assists ICGI Professorial fellow mr. dr. Mieke Olaerts with her research. Cornelius also participates in the ICGI PREMIUM Masterclass 2015-2016.



Sandy Muijkens

Sandy started her ICGI student fellowship in September 2015. At that moment she also started the Master Law & Labour with a focus on Labour & the Corporation. Sandy mainly assists ICGI Research fellow mr. Bastiaan Kemp with his research. Sandy also participates in the ICGI PREMIUM Masterclass 2015-2016.



Stefan Nieuwendijk

Stefan started his ICGI student fellowship in September 2014. At that moment he also started the Master Dutch law with a focus on Private law and the Master Law & Labour with a focus on Labour & the Corporation. Stefan assisted ICGI PhD-fellow Samantha Renssen with her research and with organising the ICGI PREMIUM Masterclass 2014-2015, in which he is also a participant. Last but not least, Stefan is the minutes secretary at ICGI team-meetings.



Jorick Schakenbos

Jorick joined the ICGI as a student fellow at the end of April 2015. He started the Master Dutch law with a focus on Corporate & Commercial law in September of that year. Jorick was the student fellow responsible for the organization of the ICGI lustrum conference that will be held on the 20th of November. Currently, Jorick mainly assists the management with its tasks. Next to this, Jorick participates in the ICGI PREMIUM Masterclass 2015-2016.



Partnerships

ICGI associate programme

A fine example of our partnering strategy is the ICGI associate programme. This programme, based on the sharing of knowledge, is especially suitable for law firms that want to combine their own expertise with up-to-date legal research and who are focused on academic research in the field of corporate law. ICGI has therefore partnered with the Faculty of Law to provide training and development for (corporate) lawyers. The Associate Programme is designed to offer companies the opportunity to improve the service level towards their clients, while at the same time enhance their professional reputation. For an annual fee ICGI benefits their Associates by a combination of the following:

Lectures

In-house lectures on current issues in the field of corporate law are provided by ICGI Fellows twice every year. Additional in-house courses, presentations or lectures are optional and offered at a reduced rate. Moreover, ICGI Associates are able to follow all post graduate courses at the Faculty of Law at a discounted rate as well.

ICGI network

ICGI offers exposure to their Associates within its network, providing access to e.g. other academic institutes, alumni, students and other Associates. In practice this constitutes to Associates teaching students at the Faculty of Law both in current and new educational programmes and bringing students into direct contact with the firm, its people and corporate practice. It provides legal professionals that work in practice the opportunity to gain exposure in the light of prominent education activities (e.g. co-developing and teaching academic post graduate education) and promoting their research at specific conferences.

Research assistance

When in need of advice on corporate law issues, participating companies have ICGI Fellows at their disposal (contract research). Additionally ICGI offers assistance in the bringing about of academic publications (whether by individual employees or company-wide), and play an advisory role in formulating the company point of view on upcoming legislation.

Reduced rates

ICGI Associates profit from additional in-house courses, presentations or lectures are for a reduced rate. Furthermore, associates receive 30% discount on all post graduate courses at the faculty of law.

PREMIUM Partnership

PREMIUM's main objective is to give talented and motivated Master's students the possibility to better prepare themselves for the labour market. By working together on a challenging assignment in a multidisciplinary group of 3-8 students, students have the opportunity to further develop certain generic competences which are highly valued by the labour market. Each student will have around 160 hours available for the assignment.

Students will undergo a selection procedure, and during the assignment they are under professional supervision and coached by trained lecturers and (external) coaches. Besides preparing for the PREMIUM programme, the students participate in various workshops and training sessions organised by UM Career Services and they follow three master classes on entrepreneurship, leadership and creative thinking.

ICGI is very supportive of the PREMIUM programme and has commissioned several PREMIUM projects in the past year.

What are we looking for?

We would like to invite companies and institutions to collaborate with us and develop new and inspiring projects for PREMIUM. What we request from an external partners is a challenging assignment, participation in the selection procedure and evaluation process, and supervision during the assignment.

What do we offer?

The profit for the partnering company or organization lies within the high return on investment. Well prepared and excellent nearly graduated students carry out research under professional supervision.



Associated firms



Theo Hanssen, DVDW Advocaten

“Our relationship with the ICGI enables us to strengthen our academic abilities and keep evolving our knowledge regarding company law. It is one of the ways by which we ensure that we can keep giving our clients legal advice of the highest quality.”

DVDW Advocaten is a mid-sized law firm with offices in The Hague and Rotterdam. The focus is on supporting the top of medium sized and big enterprises, large companies and financial institutions. DVDW Advocaten does not only work for Dutch companies, but also for (foreign) entrepreneurs exploring the possibilities to invest in the Netherlands or abroad. DVDW Advocaten offers highly qualitative legal services in advising and representing our clients. All in the field of company law with special attention to corporate governance, restructuring and insolvency, employment and incentives, international trade and transport, real estate and family law.



Dimitry Aertssen, Thuis & Partners Advocaten

“Our participation in the ICGI's Associate Programme actively contributes to our level of expertise.”

Since 1971 Thuis & Partners Advocaten has grown to be the largest law firm in the Parkstad Limburg region and has become one of the major law firms in the Province of Limburg. For over 40 years Thuis & Partners has advised a great deal of enterprises, institutions and governments. Because of their strong international focus and their active engagement in the International Practice Group, their clients are not only medium and large sized entities in The Netherlands. The team of attorneys at law is specialised in company and insolvency law, labour law, tax law, real estate and government law, tort law and family law. To keep its strong position in the region, academic knowledge is constantly being increased. All attorneys at law attend specialised individual courses like the prestigious Grotius Academy. To expand their expertise further and to keep close relationship with Maastricht University, the cooperation with ICGI is natural and offers an extra advantage on their competition.



Remie Huijs, Vlamincx Advocaten

“Our partnership with ICGI enables us to discuss trends and latest developments in corporate law at the highest academic level.”

Vlamincx Advocaten, situated in Venlo is one of the larger law firms in Limburg with 18 lawyers. They offer a range of legal services to especially corporate clients. Vlamincx Advocaten is characterized by expertise, dedication & accessibility and excellent international cooperation. The firm offers its services within four main legal fields of interest: Labour law, Insolvency & Restructuring, Corporate law and Real Estate & Government. Vlamincx Advocaten continuously invests in its lawyers by promoting education and enhancing their skills. Through the associate programme Vlamincx has the opportunity to regularly discuss trends and developments in the corporate law field at the highest academic level.



Special

PREMIUM @ LAW³



Christine van Basten-Boddin, Samantha Renssen and Mieke Olaerts are all involved in excellence at the Faculty of Law. Several years ago, Van Basten-Boddin was appointed project leader of PREMIUM at the faculty: “It was clear that a decentralised approach worked better, so ‘ambassadors’ were designated in all faculties. I strongly believe in excellence programmes, so I was happy to take on that task.”

Law students were not easy to recruit for interdisciplinary projects. They were unsure of their role in that setting, which made them hesitant. Van Basten-Boddin picked up on that signal: “I looked for a faculty excellence programme that already existed and would fit in with the PREMIUM concept. I came across the ICGI master class series, an honours programme in which selected students conduct research on real-life themes in corporate law. They receive support from associated law firms and faculty coaches. Based on

their research, they write an individual article that is published in the ICGI series. They both deepen their knowledge and broaden their competences. The interdisciplinary element is less prominent, but otherwise this faculty variant perfectly meets the PREMIUM objectives. Since 2013, PREMIUM @LAW has been extended to other international master’s programmes as well. Pro rata we have the most participants of all UM PREMIUM programmes, and other faculties are considering implementing their own versions.”

“You meet people through PREMIUM who can help you find an internship or even a job. You improve your personal and professional competences and learn to take your career into your own hands.”

Samantha Renssen coordinates the ICGI PREMIUM master class series. She recruits and selects the students, and organises the programme together with the ICGI associated law firms. She is familiar with UM’s excellence initiatives from the inside: “I participated in the MaR-BLe programme as a bachelor’s student, moved on to an interdisciplinary PREMIUM project in my master’s programme and then took part in the ICGI PREMIUM master class series. For me, a regular programme wasn’t enough. I wanted to do more. It has changed the course of my career: the master class series led to a job as a student assistant, thanks to my ICGI article I was able to start my PhD research, and ultimately all this got me a position as a faculty lecturer.” Building up a network and community are great advantages of the programme. “You meet people through PREMIUM who can help you find an internship or even a job. You improve your personal and professional competences and learn to take your career into your own hands.”

Mieke Olaerts coordinates an excellence programme in the Faculty of Law master’s curricula. She has initiated PREMIUM projects and also served as a PREMIUM project mentor. “Individual development is one of the greatest advantages of an excellence programme: discovering your own competences and knowing how to use them. As a PREMIUM project mentor I’ve personally guided teams that worked fantastically together. The members helped one another when things weren’t going well and were amazing at time management and task division. People learn a great deal from this group process. And they get the opportunity to solve a real-life problem in a safe setting, which gives them invaluable experience.” Olaerts emphasises the importance of a personal approach. “To recruit students for these programmes, you have to be in contact with them, speak about it in class, have them meet other PREMIUM students. Simply sending an email with information is not enough.” All three hope PREMIUM will continue. Van Basten-Boddin: “As a university we’ve learned from this experience. We know what works and what doesn’t. We should also be able to make the good elements of the programme, such as coaching, available to the entire student population. There’s a lot to be gained there.”

³ This interview is an extract from the interview with Christine van Basten-Boddin, Samantha Renssen and Mieke Olaerts which has been published in ‘Engaging excellent students – Reflecting on five years of SIRIUS’



PREMIUM report: The Remuneration Structure of the Largest Dutch Listed Companies within the AEX-Index

A multidisciplinary team of UM Students, under the supervision of ICGI Professorial fellow Dr. Mieke Olaerts, has conducted research for Eumedion within the context of PREMIUM. Eumedion is an organisation that observes the interests of institutional investors that are connected to Eumedion. Their work focusses mainly on corporate governance and sustainability. The report, which is titled 'The remuneration Structure of the Largest Dutch Listed Companies within the AEX-index', has been published in July 2015 and has been conducted by Roger Bächinger, Ruth Domínguez Peña, Criona Gannon and Nora Niepmann.

For the purpose of this annual report we would like to share with you the problem and task that the team was confronted with.

Research task:

Executive compensation and its different components, including base salary, variable pay and share options, have been a highly controversial issue and have attracted the attention of academics, legislator and the media. This research project analyses the remuneration structure of the 17 non-financial institutions listed on the AEX-Index, which have their registered office in the Netherlands.

In part one of the paper the relevant legal provisions regarding director's remuneration and the opinions of academia regarding the topic are outlined. In this part, the main evolution and new trends are highlighted following the global financial crisis.

The second part analyses the structure of director's remuneration. The target variable rewards as a percentage of base salary are analysed in order to determine the short-term or long-term orientation of the companies. The objective of this analysis is to observe whether there is a focus on short-term or long-term variable remuneration in the remuneration policies of the companies in question.

Part three focuses on the performance criteria used by the companies for determining the executives' remuneration. A special focus is put on the distinction between financial and non-financial performance criteria.

The fourth part is concerned with the peer groups used by the companies of the study to benchmark the overall and/or the variable remuneration of their director. The fifth part examines share ownership requirements for directors in the companies examined in this research.

Findings:

The main findings were that the long-term variable target reward was higher as a percentage of the base salary than the short-term variable target reward. This indicates the bigger emphasis put on the long-term goals in comparison with the short-term goals of the company.

The report evaluated the financial and non-financial performance criteria, which form part of the calculation of variable pay in more depth. The focus was put on non-financial performance indicators. This is due to their increased importance in recent years after the financial crisis and recent corporate governance scandals.

It was observed whether the companies disclose the specific percentage given to each performance criterion, or only an overall percentage. It was found that most of the companies attribute percentages to each performance criterion.

The most frequently used non-financial performance criteria in the short-term variable pay were individual targets and customer satisfaction. The individual targets indicator varied a great deal from company to company with regard to the extent of what it entailed. The non-financial performance criteria most used when assessing the long-term variable pay are environmental effects and sustainability.

In the short-term variable pay, 15 out of 17 companies made use of non-financial performance criteria. In the long-term variable pay, 8 out of 17 companies made use of non-financial performance criteria. Hence, there is more emphasis placed on the use of non-financial criteria in the short-term rather than the long-term.

Due to the abovementioned findings, this paper proposes best practices to be implemented in the calculation of executive directors' remuneration and gives a company-specific example of a best practice. The focus is set on the assessability of the specific performance criteria. As the financial performance criteria can be measured based on financial metrics and are therefore quite transparent in their assessment, the focus of the proposed best practices is set on non-financial performance criteria.

Within the remuneration policy, nine out of seventeen of the analysed companies obliged shareholding requirements on directors. This report proposes that shareholding requirements may induce directors to be more long-term orientated due to the amount of personal capital locked in the company.

There is a common practice within the analysed companies to benchmark aspects of the remuneration of their directors against peer groups. Despite the fact that positive aspects of benchmarking are identifiable, this paper suggests that internal factors should primarily be used in the calculation of directors' remuneration. The process of peer group compensation benchmarking should not become a system that arbitrarily increases the remuneration of the board, based on an external factor. Reasons for this are amongst others the risks connected to not carefully choosing a peer group.

The structure of executive directors' remuneration strives to induce directors to be more long-term oriented due to the higher target reward in the long-term variable pay compared to the short-term variable pay. Furthermore, it encourages them to take more non-financial measures into account as the assessment of their remuneration is increasingly based on these criteria. This report suggests that these aspects regarding transparency should be improved through more detailed disclosure.

COACHING BRIDGING THE GAP BETWEEN STUDY & CAREER
DEVELOP SKILLS LOCAL CLIENTS OFFICIAL CERTIFICATE
BOOST YOUR CV
TEAMWORK HONOURS WORKSHOPS
PREMIUM PROJECT BASED WORKING
PROFESSIONAL DEVELOPMENT
EVENTS EXCELLENCE
KICKSTART YOUR CAREER INTERDISCIPLINARY
COMMUNITY

PhD Research

Special

Samantha Renssen

Could you introduce yourselves to the readers?

My name is Samantha Renssen, twenty-six years old and I am a lecturer for Corporate and Insolvency Law at Maastricht University. Two years ago I started teaching and I started writing my PhD about the turbo liquidation of the Dutch private limited liability company at the same time. I defended my dissertation successfully on the 18th of November 2015 and I will be appointed as Assistant Professor at the Private Law Department soon. Next to teaching I coordinate the ICGI PREMIUM Masterclass series, and write and publishing articles. In my spare time I like to travel, write and read. Last but not least I have a passion for scuba and skydiving.

You have finished your PhD-research in just two years. What motivates you to have a turbo career?

This is a good question. I think the main reason for my turbo career comes from looking up to my colleagues. I especially look up to my promoters, Kid Schwarz and Jos Hamers, who have been my tutors already during my bachelor and master of laws. From the very beginning they have inspired me in academic research and the substantive issues of company law. In general I think my personality is just a bit turbo!

The topic of your PhD is the turbo liquidation of the Dutch private limited liability company. Could you tell us more about your research and why did you choose this topic?

Approximately two years ago I started writing my PhD and the subject was one which I discovered during my internship at Thuis & Partners Advocaten, one of the ICGI Associate firms. I was asked to look into the turbo liquidation and how wrongful turbo liquidation works in practice. This was important in order to answer the question if the private Dutch limited liability company in that case ceases to exist or continues to exist. As no winding-up proceedings need to be pursued, the turbo-liquidation is seen as a cheap and quick way to dissolve a private company. The question arises however whether this assumption is correct. My PhD thesis shows the opposite: the turbo-liquidation is not at all as simple as often suggested. On the contrary, a carefully considered decision on whether or not to turbo-liquidate a private company's requires thorough legal knowledge. Moreover, the turbo-liquidation as a method of dissolution appears to offer fraudsters an opportunity to limit personal risks.



What motivated you to finish your research within a period of just 2 years next to being a lecturer at the university?

The combination of doing my PhD and working as a lecturer was hard work, but also manageable at the same time. You have to be prepared to give up on some things, for example, weekends were just like a normal weekday. Furthermore I prefer to stay focused for a short period instead of remain focused for a long time. I want to see results. Therefore I prefer to reach my goals in a short period.

What is your next career step, now that you have obtained your PhD?

Shortly, I will be appointed as Assistant Professor. My ambition for the next few years is to publish more and to broaden my research. Also, I want to apply for an Innovational Research Incentives Scheme (Veni) which is a grant for researchers who have recently obtained their PhD.

Where do you see yourself in 10 years?

In 10 years, I hope to be appointed as a professor.



Constantijn van Aartsen

The role of self-interest in corporate law, corporate governance and corporate social responsibility.

Self-interested behaviour and the derivative benefits of individual competition are assumed and institutionalised in many aspects of Western civilisation. There is, however, psychological research which indicates that self-interest is a destructive form of learned behaviour which results in greater incidences of corruption, free riding, short-termism and excessive risk taking. Constantijn's research focuses on the role and impact of self-interest assumptions in the design of corporate law, corporate governance and corporate social responsibility. The proposal is that new insights from social psychological research on self-interest urge for reconsideration of the institutionalisation and incentivisation of neoclassical economic self-interest behavioural assumptions which can be seen in many aspects of Western life. The final aim of this research is to propose an alternative framework for corporate law which does not rely on self-interest models but rather on the social norms and co-operative behaviour which form the conceptual foundation for CSR.

Damla Cavusoglu

The parent company's liability for CSR-infringements of its subsidiary

Damla's research focuses on a parents company's liability for conduct of it's (fully owned) subsidiary, especially its liability for infringements of Corporate Social Responsibility rules. The research will encompass an inventory of possible legal bases for the parent company liability in Europe, such as national 'group laws', general rules of tort and company law. Moreover, more specific laws such as competition law, environmental law, human rights law and labour law are used to define parent company liability. Damla's research has a comparative company law perspective, including EU, German and English law. Finally, a presentation will be made of a future prospect from an EU law perspective.

Maria Paz Godoy

The control for corporate strategy in public listed companies: shareholder influence on strategic decision-making process

The balance of power between the board of directors and the shareholders when the corporate strategy is concerned forms part of an ongoing discussion in the area of corporate law. The aim of this research is to set out the legal, structural and strategic considerations underlying the allocation of power between these two key players and conclude whether the traditional board-management corporate model is still responsible to determine the corporate strategy of corporations or whether a new shared-management model is emerging with the shareholders meeting as the responsible organ to direct the company. Shareholders voting rights are granted for "almost" all fundamental corporate transactions. The result is that significant corporate events are left aside from shareholders involvement. The main goal of this research is to cover shareholders involvement on the decision making process of three unexplored strategic corporate events typically allocated to the board of directors. First, shareholders involvement on non-financial decisions; second, shareholders involvement on significant value acquisitions, and third; shareholders involvement within the context of convertible debt and loan agreements. Additionally, the research will also address the convenience to enhance shareholders involvement in these three main corporate events in consideration of increasing shareholder activism exerted by short-term investors.

Special

Bastiaan Kemp



Could you introduce yourself to the readers?

I am Bastiaan Kemp and I'm 26 years old. I work as a lawyer at The Hague four days a week and one day I work as an Assistant Professor at Maastricht University. I finished my PhD earlier this year, during which time I worked in the same combination of practice and university.

Why did you decide to do PhD-research?

During my study I worked as student-assistant for professor Schwarz at the ICGI. He, together with Christine van Basten-Boddin, the managing director of the ICGI, asked me whether I was interested in writing a PhD. I liked the idea very much, but I preferred to combine it with a job as a lawyer in a corporate practice. In the end we decided that I was going to combine those two worlds by working as a lawyer at DVDW Advocaten and doing my PhD at Maastricht University. I was very fortunate that DVDW provided me with this opportunity.

The interesting thing about writing a PhD is that it gives you the opportunity to find out everything about a certain subject. You get to know a lot about company law and, in my case, the position of shareholders in particular. It was also an interesting challenge for me and writing a PhD is a bit of a family tradition, so that also played a role I guess.

The topic of your PhD is the position and responsibility of shareholders and the general meeting of shareholders. Could you tell us more about your research?

My research focussed on what interests a shareholder needs to take in account when that shareholder exercises its rights, such as the right to sell and buy (additional) shares and his right to vote in general meetings. These are all instruments that influence all kinds of stakeholders related to the company.

In essence, I basically looked at how the shareholder should exercise those rights and to what extent he has the freedom to exercise his rights in the way he wants to. Additionally, I researched to what extent certain specific circumstances influence the position of the shareholder. In my research I made a distinction between the individual shareholder and the general meeting as a body of the company. I think there is a difference between those two and that was also part of my research. The third part I looked at was which possibilities different stakeholders in the company have in order to influence the way the shareholder or general meeting should act. I examined to what extent they can oblige shareholders to take their interests in account as well. In this regard one could think of summary proceedings, the statutory dispute settlement procedure or an inquiry procedure.

Why did you choose this topic?

Well, to be honest I did not choose it all alone. I discussed different topics together with professor Schwarz. He and I came up with different subjects and we both thought this subject had great potential, also because not many other people have written on similar topics in recent years.

"I always have been very fond of the combination of working on a subject as well as passing the acquired knowledge on to my students and getting them enthusiastic about it. These aspects make my working life very divers."

How was the relationship between obtaining your doctoral degree and working at a law firm?

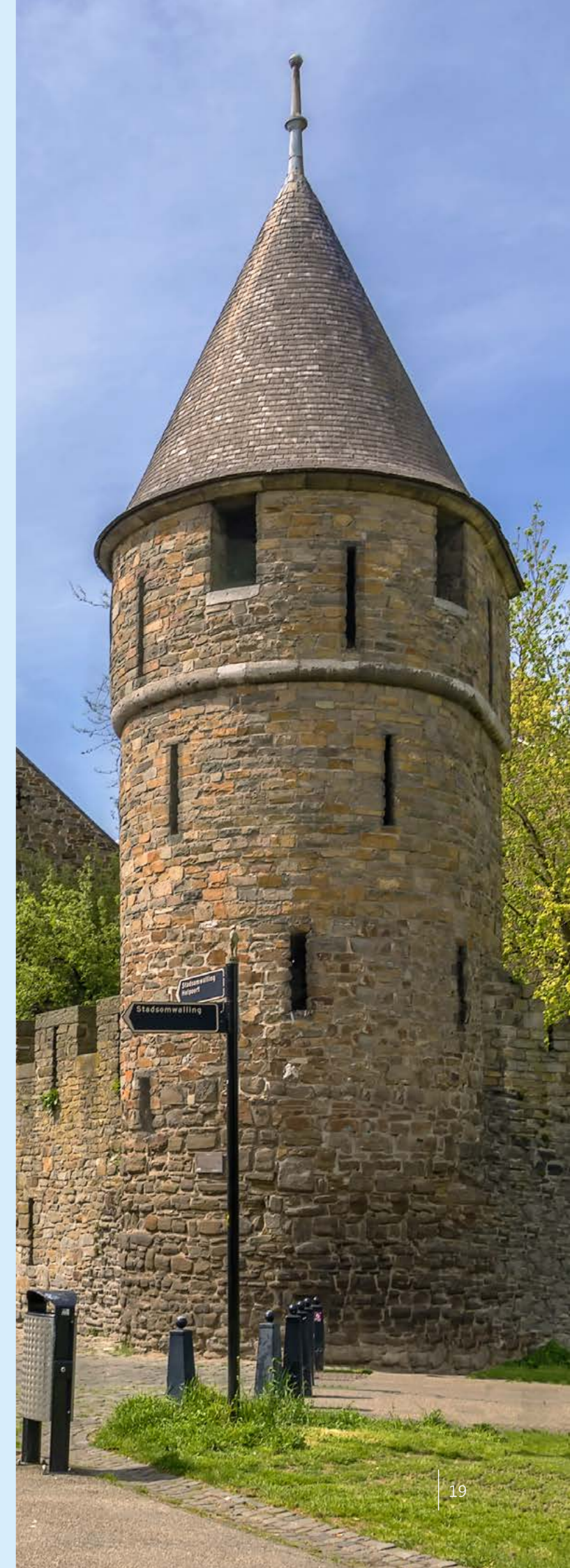
It was interesting and challenging, challenging mostly because of the time issues. The life of a lawyer is always in a rush and most of the things have to be done fast. Writing a PhD is more a long-term project where you normally don't have fast and strict deadlines. That combination challenged me at some points. It was also very interesting. It provided me with the possibility to combine both practice and academic research. This gave me more (and a different kind of) knowledge about company law which I could use in the legal practice as well. Next to that it's also a good way to distinguish yourself both in the academic world and in the law practice, because not a lot of people combine these two things, at least not in this stage of their career.

What will be the next step in your career now that you have obtained your PhD?

I will keep combining both worlds! As an Assistant Professor at Maastricht University I will keep doing new research projects and write articles one day a week and work as a lawyer in The Hague four days a week. So I will keep the combination, which is both challenging and interesting.

Where do you see yourself in 10 years?

Honestly, I don't know. I will have to see what opportunities will come along and I hope to develop myself further both in the academic community and in legal practice. If at all possible, I would like to keep the combination of practice and the university.



PhD programme for professionals

The PhD Programme for Professionals of the Institute for Corporate Law, Governance and Innovation Policies offers the scheduling flexibility to pursue a doctoral degree alongside your professional career without compromising quality. The ICGI PhD Programme for Professionals is for potential PhD researchers who wish to complete a PhD alongside working regular hours as a (legal) professional. The ICGI PhD Programme is designed to equip you with the skills necessary to research and complete a PhD on a topic within the active research areas of ICGI. We are looking for doctoral candidates with a master's degree (preferably in law) who have strong academic interests, professional and/or volunteer experience and affiliation with scientific research. The Programme is adjusted to complement the various backgrounds of participants.

Have you got what it takes?

The Programme primarily aims at academics who wish to complete their doctoral research project alongside working regular hours. Working on a dissertation and obtaining your doctoral degree provides you with new knowledge, experiences and career opportunities. However, do not underestimate the necessary efforts and means for this endeavour. Successfully completing and defending a doctoral research project will also ask a maximum effort of the doctoral candidate in balancing private life, work and research demands. Talents, motivation, perseverance and time-management have to be exploited to their limits. A well-documented and annotated PhD research plan (including the PhD structure, its table of contents and time table) will be the first document to be produced. Your ICGI supervisor has to approve this starting document. A close relation in content between the research proposal and the professional expertise of the doctoral candidate will help the latter to focus. Moreover, it will show the potential benefits of the research to the candidate's employer's strategy and policy. Our experience is that, in return, the necessary resources (time, money and knowledge) will become available. So in the very beginning of the PhD trajectory in an off-campus setting the alignment of different interests will be of the utmost importance for longer term success.

Profile ICGI PhD candidate

ICGI is looking for candidates working in either a profit or non-profit organisation and who have the ambition to develop and pursue an individual research project related to one of ICGI's research programmes. ICGI welcomes researchers from a variety of backgrounds and experiences to participate in the ICGI PhD Programme for Professionals. We are looking for potential doctoral candidates with a master's degree who have strong academic records, professional and/or volunteer experience and affiliation with academic research. We welcome people from all over the world with a wide variety of cultures and disciplines.

Participants in the ICGI PhD Programme for Professionals also work, leaving them minimal time for PhD research. Ideally, the PhD candidate's employer offers support by allocating time and by allowing the candidate to incorporate their studies into their work (by providing data, support, related assignments and the like). ICGI PhD fellows do not have an employment position at Maastricht University and are known as non-resident PhD candidates (or *buitenpromovendi* in Dutch). The PhD research is mostly done in their own spare time, or occasionally as part of another job, anywhere in the world. During the intake, candidates will be evaluated on whether they have the (potential) qualities to conduct academic research, sufficient time to conduct this, and the (basic) skills to write and publish about their findings.

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Education

ICGI PREMIUM Masterclass 2015-2016

After three successful editions, the fourth ICGI PREMIUM Masterclass kicked off again in January 2016. Just as last year, 11 students have been selected to participate in this special honours track. The programme consists of various compelling activities, but the most exciting bit might be writing a scientific article with an ICGI co-author which is meant to be published in the ICGI series at the end of the academic year. The main theme of the ICGI series is the restructuring of companies in financial distress. Moreover, our three partnering law firms, DVDW Advocaten, Vlaminckx Advocaten and Thuis&Partners Advocaten, organise a series of masterclasses which have a more legal substantive scope. Last but not least the students will, in groups, participate in a moot court. The moot court is meant to be as realistic as possible so meeting up with clients, writing legal documents and pleading before a judge will all be part of the process. Besides writing a scientific article, the students will participate in workshops which are hosted by PREMIUM and are meant mainly for personal development.

Participants of the ICGI PREMIUM Masterclass 2015-2016

Ibtisame el Ajjouri, Nina le Gran, Ruben Hollemans, Marie-Louise Kneepkens, Cornelius Litt, Sandy Muijlkens, Lisa Pelzer, Gaston Prudon, Jorick Schakenbos, Milou Segers and Lenie Verhoeven

Evaluation ICGI PREMIUM Masterclass 2014-2015

In 2015 the students participated in several interesting and challenging masterclasses organized by the three partnering law firms of the ICGI. DVDW organized a masterclass about 'Corporate Governance' and a masterclass about 'Corporate Litigation'. Thuis & Partners Advocaten organized a masterclass about 'Disputes within company's' and held a peer review in which the students gave feedback on each other articles. The students also participated in groups in a moot court which was very challenging and realistic. The mootcourt consisted out of meeting up with clients, writing legal documents and pleading before a judge at the court. Vlaminckx Advocaten has given a masterclass about 'pleading' in preparation on this mootcourt.

The ICGI PREMIUM Masterclass 2014-2015 was a great success and the result of this Masterclass is the Young Corporate Lawyers series 2015 in which seven articles of the participating students are published.



Special

Mieke Olaerts: Professor in Comparative Company Law & Vice-Academic Director ICGI



Mieke Olaerts was Associate professor and was as of 1 Oktober 2015 appointed Professor of Comparative Company Law. Next to this appointment she accepted the position as Vice-Academic Director.

Why did you choose for Academia?

Academia provides a great environment for personal development. A job in academia is very diverse and provides a lot of freedom in terms of the content and research one would like to develop. It allows you to develop your knowledge and skills further and pass it on which I very much appreciate about my job. My first steps in academia were of course the writing of my dissertation,

which was a great opportunity to develop myself further in terms of research and teaching skills. I learned that a lot is possible in academia as long as you put your mind to it and that you are given the opportunity and freedom to create interesting research projects to work on. Furthermore, I very much appreciate the possibility to dive more into a certain subject matter to see how one can personally contribute to the further development of that particular topic. I always have been very fond of the combination of working on a subject as well as passing the acquired knowledge on to my students and getting them enthusiastic about it. These aspects make my working life very divers.

“I always have been very fond of the combination of working on a subject as well as passing the acquired knowledge on to my students and getting them enthusiastic about it. These aspects make my working life very divers.”

Could you tell us more about your research?

I conduct research into (comparative) company law. Within that field, I mainly look at the role of those in power within a company. This means that my research is centralized around (among other things) the role of corporate directors, their liability as well as the position of shareholders, their rights and duties within the corporate structure. Next to that, my research focuses on the topic of corporate groups and global networks. Over the past years I have been involved in research projects for external parties such as for example the European Commission and the International Bar Association. I have also been involved in student driven research projects. In this respect I have for example been leading a team of honours students in conducting research projects for Eumedion on stewardship obligations and directors remuneration policies.

Vice-Academic Director of the ICGI and Professor Comparative Company Law all in the same year; Congratulations! What motivated you to accept the challenge of your new positions?

The reasons that made me choose academia also made me accept my new positions. As I already mentioned the combination of research and teaching, thereby giving back to society what I have researched is very important to me. With my new position as professor in Comparative Company Law, I will be able to take this field a step further in terms of research and hopefully pass my enthusiasm for the field on to the students. The fact that I am Vice-Academic director of the ICGI enables me to have an influence on these research pillars and to work together with a very motivated group of scholars. This group of scholars is very divers, ranging from freshly starting PhD-researchers up to scholars who have been in academia for more than twenty years and have broad research experience. Furthermore, the fact that the Institute collaborates with partner firms also brings in the perspective on company law in practice which is very valuable for our research. It helps us to stay in touch with the needs in practice and it provides an excellent opportunity for our students to get acquainted with the functioning of corporate law in practice. I think this is a very valuable combination and I look forward to further elaborating this collaboration in the near future. The different points of views which come with this diversity lead to fruitful research projects and ideas.

What are the things that you want to achieve in the near future with the institute?

Interesting research obviously! I think this is always our main goal of course. We would like to achieve this by expanding our group of scholars even further and increase our interdisciplinary research. We already have a nice team of very enthusiastic young and more experienced scholars. This provides an excellent environment for further growth. The combination between scholars from various fields, the input from practice through the link with our partner firms and the active involvement of students makes the Institute unique. Our ambition is that the institute becomes a well-known knowledge base for the research areas we have defined and that the institutes expands its research groups into these areas and further grows in this respect.

Having a look back in the past, is your career the way it looks today, the way you planned it for yourself?

Looking back five years, I think it is fair to say that the position that I am at right now, is what I had hoped for. Planning is always a dangerous thing as many things can happen in a person's lifetime, which are out of our hands. However, one does of course work towards a certain goal and hopes that one day that goal can be achieved. I will continue my journey in that sense. I have always appreciated the fact that I had the opportunity to work within academia in a very enthusiastic way. I always felt very much at home in this stimulating environment. This is partly due to the fact that I had the freedom to design new things and to embark upon new challenges and was always encouraged to do so. I am happy that I was given the opportunity to take this work a step further in the capacity of an extraordinary professor for Comparative Company Law.

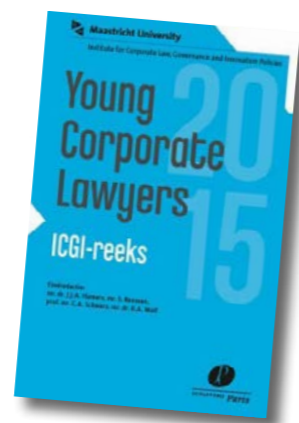
ICGI Young Corporate Lawyers series

Seven of the students who have participated in the ICGI PREMIUM Masterclass 2014-2015 wrote an article that has been deemed worthy of publication in our Young Corporate Lawyers Series (editorial board Jos Hamers, Samantha Renssen, Kid Schwarz and Rogier Wolf). These articles discuss present-day topics in an attractive manner and have been put together under the supervision of scholars and legal practitioners. They are written on an academic level with a focus on legal practice, and that is exactly what we aim for with this exquisite bundle.

2015 was a succesful year regarding the ICGI PREMIUM Masterclass. This has resulted in a valueable selection of articles that have been published in our bundle.

A didactical experiment also forms part of this edition. One of the articles was writtin by both the coordinator of the Masterclass and a participant. This combination leads to a very ????????

Young Corporate Lawyers 2015 is still available for purchase at 'Uitgeverij Paris': www.uitgeverijparis.nl



De analoge toepassing van de 15 aprilarresten indien de bestuurder op basis van een overeenkomst van opdracht werkzaamheden verricht

J.M.Y. (Jacobine) van Beijeren

De aansprakelijkheidsnorm van een bestuurder met een arbeidsovereenkomst: is het 'ernstige verwijtbaarheid' of 'opzet of bewuste roekeloosheid'?

K.J.M. (Kirsy) Corten

De termijnstelling van art. 58 Fw: een spanningsveld tussen de curator en de separatist

S.G.H. (Stefan) Nieuwendijk

Handhaving van een concurrentiebeding in faillissement

J.E. (Jeffrey) van Nuland

Gunning q.q./JPR: een kentering in de door de Hoge Raad geformuleerde Vis q.q./NMB-regel

J.E. (Jeffrey) van Nuland en mr. S. (Samantha) Renssen

Grensoverschrijdende juridische splitsing: toegevoegde waarde, basis voor toelaatbaarheid en recht van toepassing

M.R.H. (Eline) Vancraybex

De bank zorgt toch voor mij? Over de verantwoordelijkheid van de 'materieel ondeskundige professionele belegger' bij het afsluiten van complexe financiële producten

J. (Juriaan) de Vries



Special ICGI Lustrum

Drs. Heske van Eyck van Heslinga



doubt as to the governance of the company. First, the restructuring of the company, so as to restore the original situation. In this kind of procedure, the corporate chamber seeks to solve deadlocks. Second, a more inquisitorial investigation for the purpose of finding the ones possibly responsible for the alleged misgovernance. A good example of the latter type is the mea vita-case which was a very hard verdict of the corporate chamber on a health care organization.

Which advantages do you personally see in the inquiry procedure?

I personally see the advantages in the fast and pragmatic way the corporate chambers solves cases. In an inquiry procedure for example, merely exists the possibility to appeal to the cassation court of the Netherlands, the Hoge Raad. Thus, there is no appeal judge looking at the facts of the case ones more. The corporate chamber is also very flexible in scheduling court sessions. These sessions can be held within 8 working days and most of the proceedings end with a solution rather the pronouncement of misgovernance.

Which kind of situations do you see during your work as a functionary of the corporate chamber?

I encounter a multitude of situations and several reasons for the initiation of an inquiry procedure. Examples are conflicting personalities of persons involved, financial difficulties of the company or the differing point of views of directors. Other problems I get confronted with are for instance the 'super advocaat', a lawyer who, for the greater part, sees his own advantage in the difficulties of the company. He gets to work a lot and therefore rather works against any solution to the problems. The difficult circumstances the company finds itself in are for him so to speak lawyer's paradise.

What is the most important experience you made during your work as a commissioner within companies in difficulties?

The most important thing to bear in mind in my opinion is that there always is a possible solution. The circumstances differ from case to case and there never is just one solution which is why you, as a commissioner have to combine.

Dr. Van Eyck van Heslinga, would you please shortly introduce yourself and what you do?

My name is Heske van Eyck van Heslinga and I fulfill a variety of functions. First of all, I am an associate partner at "de nieuwe commissaris" in Amsterdam. My main task as a partner is the education and coaching of commissioners and the self-evaluation of supervisory boards. Furthermore, I am auditor of the Dutch association of directors in the health sector. Next to these tasks, I am commissioner in a variety of organisations and I am affiliated with the corporate chamber of the higher court of Amsterdam.

In which connection are you affiliated with the corporate chamber of the higher court of Amsterdam?

Since 2009, I am appointed on a regular basis by the corporate chamber in the context of an immediate injunction as for instance a manager of shares, managing director or commissioner of a company. This all happens within the framework of an inquiry procedure of the corporate chamber in order to preempt misgovernance.

What exactly is the inquiry procedure of the corporate chamber?

The inquiry procedure is initiated in order to investigate the state of affairs of a company. There exist two types of procedures which are conducted if there is reasonable

Special ICGI Lustrum

The Conference



The Institute for Corporate Law, Governance and Innovation Policies celebrated its very first lustrum on the 20th of November 2015. This lustrum conference was organized in cooperation with DVDW Advocaten, one of ICGI's partner law firms and supported by the Universiteitsfonds Limburg/SWOL.

The Academic Director Prof. Dr. Kid Schwarz opened the conference, which was in the following lead by Prof. Dr. Mieke Olaerts.

The first speaker, Prof. Dr. Peter van de Zanden RA, vividly presented the topic of the annual accounts of a company also from the perspective of an accountant. He discussed the impending discontinuity of the company, which can be inferred from the annual accounts.

Afterwards, Theo Hanssen, partner at DVDW Advocaten, continued the series of presentations by talking about the mitigation of the Beklamel-norm and the selective payment. He shed light on the problematic situation of board members who might become too cautious due to their fear of personal liability. The lunch break in the Grand café Soiron of the Museum at the Vrijthof followed this presentation.

Subsequent to this break, the international part of the conference was started by Prof. Dr. Melissa Vanmeenen who elaborately enlightened the audience with regards to the Belgian laws on the continuity of companies. Prof. Dr. Bob Wessels then took the participants onto a journey through the European approach towards companies who find themselves in difficult financial situations

The conference was properly completed by a presentation of Prof. Dr. Mieke Olaerts on the reorganization of corporations, but not before Drs. Heske van Eyck van Heslinga had the chance to introduce the enquiry procedure from the corporate chamber of the court of Amsterdam and her experiences as a commissioner of this chamber.

The Institute for Corporate Law, Governance and Innovation Policies would like to thank all speakers for their contribution to the conference and their contribution to the special edition of the "Tijdschrift voor vennootschapsrecht, rechtspersonenrecht en ondernemingsbestuur" (TVOB 2015/6), and last but not least: Many thanks to all participants!

Finance

Financial summary 2015

Financial summary 2015 (draft version ex. 23-12-2015)
In 2015 financing is needed for ICGI to cover expenses for personnel plus financial means for dissemination of projects, representation budget, operational costs and to further programme development. Three types of funding are distinguished in 2015.

1. k€ 12,3: Direct funding originated from the allocated budget for institutes by the Faculty of Law.
2. k€ 23,5: PREMIUM funding originated from central means of the University, primarily consisting of compensation for the coordination of the UM programme PREMIUM (for the Faculty of Law) by the ICGI's managing director.
3. k€ 39,6: Contracts. ICGI has contracts with third parties for specific (contract) research activities. This category entails revenues generated by the ICGI Associate programme, PhD programme for professionals and several small applied research projects.

Financial prognosis 2016

We are happy that our result in 2016 is expected to be better with potential new PhD contracts in a relatively advanced phase and we aim to strengthen our financial prospects for the near future even further. Strong efforts will be made to ensure our funding position to remain sound and growing. Based on our new strategic research programme (to be launched in 2016) new collaborations will be sought out with a special focus on interfaculty and interdisciplinary research projects as common denominators to attract new funds.

ICGI	2015
Amounts x € 1,000	
Funding	
Direct Funding	12,3
PREMIUM	23,5
Contracts	39,6
Funding total	75,36
Cost	
Staff	95,4
Travel, representation & other	18,8
Cost total	114,27
Initial surplus/loss	-38,92



The funding situation in 2015 has unfortunately not stabilized resulting in a financial loss of nearly k€39. Due to a substantial financial commitment by one of ICGI's partners for the years to come, ICGI's financial basis will be sound for the years to come. In our 5-year prognosis (2015-2020) we had anticipated on a loss due to the fact that the funding for PREMIUM has come to an end and several of our PhD trajectories (contract based) have been concluded in 2015 as well where no full substitution has taken place yet.

Output 2015

Publications

Constantijn van Aartsen

- C. van Aartsen, Panelist for the Studium Generale Debatecafé - Think you know TTIP? Think again.
- C. van Aartsen, Blog University Maastricht - 'Understanding the Greek morality play and the 'though love' of the European family'.
- C. van Aartsen, Blog University Maastricht - 'Why is the EU negotiating trade agreements in secret?'
- C. van Aartsen, Panelist for Amnesty International discussion - Should I buy fair-trade products? Concluding presentation for Amnesty International 'Movies that Matter' series; the movie in question was 'Marmato'.

Jan Eijsbouts

- A.J.A.J. Eijsbouts, Contribution to Libellum Amicorum for Prof Dr W. van Genugten at the occasion of his retirement as professor Public International law at Tilburg University (private publication, Faculty of Law TvU)
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Presentations and seminars

Jan Eijsbouts

- Globalisation, Business regulation, Corporate Governance and Responsibility, Compliance and Strategy, Maastricht University - Southampton University MBA Program Lecture, Maastricht, 21 January 2015
- Lecturing at Core Course CSR of International Master Program Globalisation and Law, Faculty of Law, Maastricht University, 5 February- 31 March 2015
- General Introduction CSR and law, Research Master Conference 2015 on CSR, Utrecht University, 24 April 2015

Jos Hamers

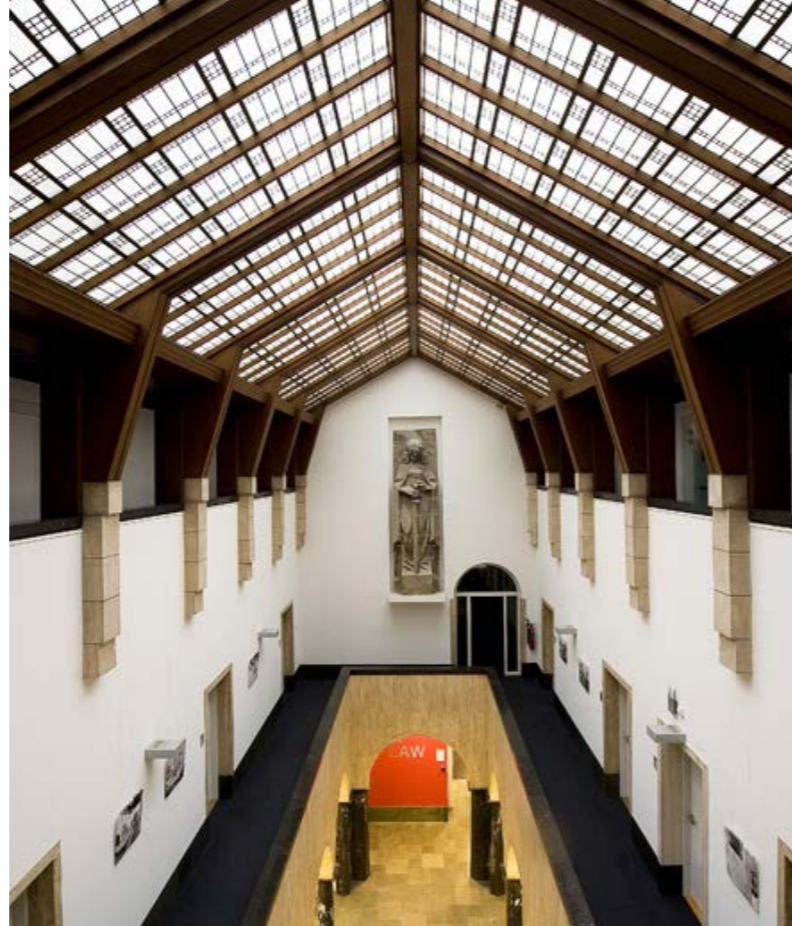
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- Masterclass ICGI, Lezing over herstructureringen, 16 januari 2015
- Masterclass ICGI, Lezing over Corporate Litigation, 20 maart 2015
- Stichting Wetenschappelijk Onderzoek Notarieel Ondernemingsrecht (WONO), lezing over de verantwoordelijkheid van aandeelhouders, 13 november 2015
- Ius Commune Conference: Lezing in workshop Legal Persons in Europe, Leuven, 26 en 27 November 2015

Mieke Olaerts

- Ius Commune Conference: Workshop The State of European Integration (Leuven, 26 en 27 november 2015) Titel presentatie: Company Law
- Voorzitter Ius Commune Conference: Workshop Legal Persons in Europe (Leuven, 26 en 27 november 2015)
- Voorzitter Lustrum Congres ICGI Kansen en bedreigingen bij herstructurering van ondernemingen in financiële moeilijkheden (Maastricht, 21 november 2015) Titel van de presentatie: Reorganisatie in concernverhoudingen.
- Symposium Tijdschrift voor Ondernemingsbestuur (Amsterdam, 13 maart 2015) Titel van de presentatie: De aandeelhouder en het belang van de vennootschap.



Stephan Rammeloo

- Conference presentation (field: EU corporate law; subject-matter: from SPE to SuP), European Judicial Training Network, EJTN Seminar "Cross-border corporate activity and the EU law: current issues, challenges, and future developments" Centro de Estudos Judiciários - Portugal Largo do Limoeiro, Lisbon, October 2015
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- Lezing Nyenrode 'Marketing, Recht, Ethiek', 20 maart 2015
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- Lezing Rabobank 'Corporate governance: de rol van institutionele beleggers in internationaal perspectief', 10 april 2015
- Lezing MTH 'Perikelen in de vennootschap: de rol van de accountant', 14 april 2015
- College Maastricht University, 'Corporate Governance', 16 april 2015
- Lezing KNF-SIGV 'Ondernemingsrecht', 18 april 2015
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- Gastcollege Maastricht University 'Law & Economics', 6 november 2015
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- Actualiteiten Ondernemingsrecht, Academie voor de Rechtspraak (cursusmateriaal en power point), 19 juni 2015
- Webinar Certificaten van aandelen, Law at Web, 8 juni 2015
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