

Institute for Corporate Law, Governance and Innovation Policies



ICGI
ANNUAL
REPORT
2014



Contents

Preface	3
About ICGI	4
People	
• Management	5
• Advisory board	6
• Professorial fellows	6
• Research fellows	7
• PhD fellows	8
• Student fellows	9
Partnerships	
• ICGI associate programme	9
• Associated firms	10
• PREMIUM Partnership	11
• Special: PREMIUM report 'The engaged shareholder'	12
Research	
• PhD Research	14
• Special: Interview Maurice & Raymond Canisius	16
• PhD programme for professionals	18
Education	
• ICGI PREMIUM Masterclass 2014–2015	19
• Special: Interview Bastiaan Kemp & Kirsy Corten	20
• ICGI Young Corporate Lawyers Series	22
Finance	23
Output 2014	
• Publications	24
• Presentations and seminars	26

Preface

In the last year before celebrating our first lustrum, we have reached the moment within the life cycle of the Institute for Corporate Law, Governance and Innovation Policies (ICGI) at which we start to reap the fruits of our scientific endeavours. The activities and especially the joint ventures with our partners have proven to be stable and productive.

In 2014, three of our PhD fellows, all currently working in practice, have defended their dissertations at the Maastricht Faculty of Law. After Rogier Wolf published his dissertation in 2013, Frits Udo defended his thesis on commercial foundations (*Bestuursaansprakelijkheid bij de ondernemende stichting*) on Wednesday 19 November 2014.

On Wednesday 10 December 2014, Maastricht University hosted a unique PhD ceremony: a double PhD defence of identical twins and ICGI PhD-fellows. Maurice and Raymond Canisius have successfully and jointly defended one PhD dissertation on the personal liability of directors for impermissible dividend payments, a topic about which many related uncertainties exist in practice. Their dissertation 'Distributions to shareholders in the new LLC law' will be included in the prestigious Van der Heijden series.

The ICGI has - once again - participated very actively, in the inter-faculty honours programme PREMIUM in which various groups of students worked, mentored by various ICGI members, on a variety of projects¹. For example, a project for MVO Nederland was executed about certification programmes for sustainable value chains. The question to be answered was of success and failure of certification programmes for sustainable value chains is key to the effectuation of the CSR programme of MVO Nederland. A group of highly motivated students from a broad variety of disciplines conducted this research, providing them with a deep insight in the complexity of sustainability, international development and CSR challenges, from a multi-level and multi stakeholder perspective. Another example of a successful project was the research that was done for Eumedion under the Premium flag. A group of students wrote an interesting report for Eumedion, the Dutch representative of Institutional Investors on the state of the art regarding stewardship codes and the application of these codes in practice. The report is publically available².

“The activities and especially the joint ventures with our partners have proven to be stable and productive.”

In the years to come the ICGI will continue its research activities centralised around corporate life. This focus offers a platform for multidisciplinary research projects that are of great interest to corporate and financial practitioners as well.

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

January 2015,

Kid Schwarz
Academic Director ICGI
Professor of Corporate Law, Faculty of Law



“In the years to come the ICGI will continue its research activities centralised around corporate life. This focus offers a platform for multidisciplinary research projects that are of great interest to corporate and financial practitioners as well.”

¹ www.maastrichtuniversity.nl/premium

² www.eumedion.nl/nl/public/kennisbank/publicaties/2014-benchmark-research-eumedion-best-practices-engaged-shareownership.pdf

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 researches, 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 organisational innovations. Based on its research, consultancy and education, ICGI has become a renowned platform for the further development of corporate law and governance, and in the coming years to further build its position in those areas.

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 governed by the Academic Director Kid Schwarz and has an advisory body: the Advisory Board.

The Academic Director is supported by ICGI's professorial fellows and Christine van Basten-Boddin (Manager Operations). Together they are responsible for the overall management and strategic development of ICGI. 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 in 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 Directors. ICGI falls directly under 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' of our institute. Some of us are connected to ICGI for their high levels of expertise, whereas others may kickstart a promising professional career by making part of our team. We as an institute are proud of our people and this is who they are:

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.



Christine van Basten-Boddin LL.M.

Managing Director

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.

Professor Kid Schwarz

Academic Director

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.



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 board ING Group

Willem Lageweg

Director MVO Nederland

Vincent Lokin

Chief transition catalyst at Arboribus Silva BV

Leen Paape

Dean Nyenrode School of Accountancy and Controlling

Hein Schreuder

Chairman supervisory board at Ecorys Holding



Professorial fellows



Prof. Jan Eijsbouts

Jan Eijsbouts (1945) is Extraordinary Professor Corporate Social Responsibility (CSR) at since 2010. He is the course coordinator of the core course CSR in the master programme Globalisation and Law and involved in research on CSR and Innovation Policies.



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. 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.



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 2009 he is the associate director of the Maastricht Graduate School of Law. As visiting professor he lectures on Company and Business Law at the University of Aruba.

Dr. Mieke Olaerts

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

Dr. Stephan Rammeloo

Stephan Rammeloo (1960) is Associate Professor in (European) Company Law, Private International Law and Comparative Law at Maastricht University since 1992. He is involved in cross-border research on European Company Law, as well as in international lecture programmes. He took part in various lecturing/staff exchange programmes in e.g. Warsaw (Poland), Chisinau (Moldova), Belgrade (Serbia), and as visiting professor he participates in the China European Union School of Law Beijing.

Dr. Rogier Wolf

Rogier Wolf (1973) is Assistant Professor in Corporate Law at Maastricht University. He has successfully completed his PhD research at the ICGI. He defended his PhD-thesis 'The provider of capital without voting rights of the Dutch private company with limited liability' in 2013. Rogier is a lawyer at the law firm Steins Bisschop & Schepel Advocaten. He specializes in the practice areas of Corporate Law, Commercial Contracts, Mergers & Acquisitions, Litigation, Shareholder conflicts and Participation. Rogier publishes regularly on these topics.



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 a critical examination of the role of self-interest in Corporate Law, Governance and Social Responsibility. 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.



Maurice Canisius

Maurice had been a PhD fellow at the ICGI for two and a half years. His research focuses on on the 'Act on Simplification and Flexibilisation of rules governing Dutch BV's'. Maurice graduated cum laude from Maastricht University, with a specialisation in private- and corporate law. Until the end of 2014 he worked as a paralegal at Thuis & Partners Advocaten (an ICGI associate partner) within the corporate law and insolvency division. In December 2014 Maurice obtained his doctoral degree at ICGI.



Raymond Canisius

Raymond has been a PhD fellow for two and a half years as well. Maurice and Raymond conducted their research together so his research focuses on the same subject as Maurice's research. Furthermore Maurice also graduated cum laude from Maastricht University, with a specialisation in private- and corporate law and worked as a paralegal at Thuis & Partners Advocaten. Together with his brother he obtained his doctoral degree in December 2014.

On Wednesday 10 December 2014 Maurice and Raymond Canisius have successfully and jointly defended one PhD dissertation on the personal liability of directors for impermissible dividend payments, a topic about which many related uncertainties exist in practice. Their dissertation 'Distributions to shareholders in the new LLC law' will be included in the prestigious Van der Heijden series.

Damla Cavusoglu LL.M

Damla Cavusoglu is a PhD-fellow at the ICGI. Her research is focused on Corporate Social Responsibility (CSR) and company groups within Europe, particularly on the duty of care of the parent company in case of CSR 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. Together with Samantha Renssen he is writing a doctoral thesis on the turbo liquidation and the lingering death of a Dutch private limited company (BV). Benno Friedberg (1963) is partner of the law firm Friedberg & Partners (Amsterdam). As a lawyer he is specialized in real estate and aviation law.



Bastiaan Kemp LL.M

Bastiaan Kemp is a PhD-fellow at the Institute for Corporate Law, Governance and Innovation Policies. His research is focused on the position of shareholders and the general meeting within the company, particularly on their responsibility towards other stakeholders. 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. Currently he's a corporate lawyer at DVDW, an ICGI Associate partner.



Yozua Makes LL.M

Yozua Makes is senior and managing partner at Makes & Partners Law Firm. Yozua is currently enrolled in, and is the first participant of, the dual doctorate research program by the University of Maastricht and the University of Indonesia. Yozua has been nominated as South East Asia Managing Partner of the Year, and his law firm, Makes & Partners, has been nominated as Indonesian Deal Firm of the Year and has won the 2014 law firm of the year award.





Maria Paz Godoy LL.M

Maria Paz Godoy's research is focused on Corporate Governance and Corporate Social Responsibility. Maria Paz was born in Santiago, Chile. 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 practices in areas of corporate law, commercial law, mergers & acquisitions, foreign investment, capital markets, and contract. 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 LL.M

Samantha Renssen is a PhD-fellow at the Institute for Corporate Law, Governance and Innovation Policies. Together with Benno Friedberg she is writing a doctoral thesis on the turbo liquidation and the lingering death of a Dutch private limited company (BV). 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 fellow at the institute. Currently she works as a lecturer in corporate and insolvency law and she coordinates the ICGI PREMIUM Masterclass.



Dr. Frits Udo

Until November 2014, Frits Udo was a PhD-fellow at the Institute for Corporate Law, Governance and Innovation Policies. Frits Udo defended his thesis on commercial foundations (Bestuursaansprakelijkheid bij de ondernemende stichting) on 19 November 2014. His research deals with the development over the past 25 years in the area of external and internal liability of directors within foundations. Frits Udo is a liquidator and lawyer at Adelmeijer Hoyng Advocaten. As a lawyer, he is specialised in insolvency law.

Student fellows

Zoë Adams

Zoë is an ICGI student fellow since October 2014. She started the Master Dutch law in September 2014 with a focus on Corporate & Commercial law and on Private law. Zoë mainly assists ICGI Research fellow Mieke Olaerts with her research activities.



Anne Bekkering

Anne has been connected to the ICGI for the academic year 2013-2014 as a student fellow. She specialized in Corporate & Commercial law and has graduated in 2014. She also participated in the ICGI PREMIUM Masterclass 2013-2014. Apart from involvement in ICGI she has been a student-tutor at Maastricht University for one and a half years.



Kirsy Corten

Since February 2014, Kirsy is associated with the ICGI as a student fellow. She started the Master Dutch law with a focus on Corporate & Commercial law and on Labour law in February 2014. Kirsy's main task within ICGI is assisting PhD-fellow mr. Bastiaan Kemp with his research. Alongside her Master's and ICGI student fellowship, Kirsy also participates in the ICGI PREMIUM Masterclass 2014-2015.



Iris Hanssen

Iris joined the ICGI as a student fellow in January 2014. She started the Master Dutch law in September 2014, with a focus on Corporate & Commercial law. Iris assisted ICGI PhD-fellow mr. Frits Udo with his research.



Philippe Hezer

Philippe has been a student fellow at ICGI from February 2013 until July 2014. Besides assisting other ICGI-fellows with their research activities, Philippe has been responsible for ICGI's Marketing & Communication. He is also the founder of the legal-blog 'Ius Mosae'. Philippe participated in the ICGI PREMIUM Masterclass 2013-2014. He did a thesis-internship with ICGI partner Thuis & Partners Advocaten. As of December 2014 Philippe is an associate with Dutch law firm Houthoff Buruma.



Frank Hülsmans

As of September 2014 Frank is a student fellow at the ICGI. He started the Master Dutch law with a focus on Corporate & Commercial law and on Private law in February 2013. Frank took over Philippe's responsibility for Marketing & Communication for the year 2014-2015. He assists Managing Director Christine van Basten-Bodden and ICGI PhD-fellow Samantha Renssen with her research activities. Furthermore, Frank participates in the ICGI PREMIUM Masterclass 2014-2015.



Partnerships



Charlotte Mol

Charlotte has been a student fellow for 7 months, from December 2013 until June 2014. She did the European Law School Bachelor at Maastricht University where she was also a student-tutor for almost a year. Now Charlotte is studying at the Utrecht Law faculty where she does the Legal Research Master.



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 assists 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.

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.



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, Vlaminckx Advocaten

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

Vlaminckx 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. Vlaminckx 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. Vlaminckx Advocaten continuously invests in its lawyers by promoting education and enhancing their skills. Through the associate programme Vlaminckx has the opportunity to regularly discuss trends and developments in the corporate law field at the highest academic level.





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.

Questions?

Please check the "Client" section on the PREMIUM website: www.maastrichtuniversity.nl or contact Mrs. Ellen Bastiaens, Programme manager PREMIUM, by E-mail: bu-premium@maastrichtuniversity.nl or phone (+31 43 388 4975).

Special: PREMIUM Report

‘The engaged shareholder’



A multidisciplinary team of UM Students, under the supervision of ICGI Research fellow mr. dr. Mieke Olaerts, has conducted research for Eumedion within the context of PREMIUM. Eumedion is an organisation that looks after 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 engaged shareholder: The definition of an engaged shareholder from the perspectives of national legislators, the EU, Dutch listed companies and Eumedion participants’, has been published in July 2014 and has been conducted by Arijana Celik, Kilian Heller, Helen Yu, Yordana Keremidchieva and Richard Wiertz.

For the purpose of this annual report we would like to share with you the problem and task that the team was confronted with³.

Research task

The Benchmark study of the Eumedion best practices on engaged share-ownership is a student research project undertaken under the umbrella of Maastricht University’s PREMIUM Programme. The research assignment is constructed by Eumedion and revolves around four parts.

In part one various corporate governance codes for institutional investors are analysed and compared with the Eumedion best practices for engaged share-ownership. The objective is to find out if the Eumedion best practices are still state of the art.

In part two compliance by Eumedion members with the Eumedion best practices is observed. The goal of part two is to find out which best practices are the most important to Eumedion Members.

Part three is about proposed Directive 2014/213/EU. This Directive amends Directive 2007/36/EC on shareholder rights. The aim of part three is to discern if the Eumedion best practices are in accordance with the provisions of proposed Directive 2014/213/EU.

Part four is about art. IV.3.13 of the Dutch Corporate Governance Code concerning bilateral contacts with shareholders. The objective of part four is to observe how Dutch listed companies comply with art. IV.3.13 of the Dutch Corporate Governance Code in practice and to find out if other corporate governance codes contain provisions that are similar to art. IV.3.13.

In this part corporate governance codes of six influential European markets are examined to find out if the codes have a provision that is similar to art. IV.3.13 of the Dutch Code. Furthermore, compliance of Dutch listed companies with art. IV.3.13 of the Dutch Corporate Governance Code is also examined.

³ The full report is publically available on the Eumedion website:

www.eumedion.nl/nl/public/kennisbank/publicaties/2014-benchmark-research-eumedion-best-practices-engaged-shareownership.pdf

Part 1

Comparison of the different Stewardship Codes

Corporate governance codes directed at institutional investors show a great degree of convergence. The content of the main principles is more or less the same. Divergences can be found in the details. Some codes are more detailed than others.

The following suggestions can be made in order to bring the Eumedion Code more in line with the other codes:

1. The Eumedion Code could have a more elaborate explanation on how monitoring could take place. Unlike some other codes, the Eumedion Code also does not provide for disclosure requirements with regard to monitoring.
2. The Eumedion Code could use stronger wording to incentivize better disclosure by Eumedion members and to promote transparency.
3. The Eumedion Code could be more elaborate on the subject of shareholder cooperation.
4. Compliance with the Eumedion Code could be stimulated by having an independent monitoring mechanism and body in place to monitor Eumedion members' compliance with the best practices of the Eumedion Code.

Part 2

Analysis of Member Compliance

The research shows that compliance with the Eumedion Code best practices is possible in practice and that members usually comply with the Eumedion best practices. From the perspective of the Eumedion participants, ESG considerations, exercising shareholder rights, voting, including policies and informed voting, as well as monitoring are important for being an engaged shareholder. More than 85% of the members comply with best practice 9 relating to ESG. This makes best practice 9 on ESG the best practice that investors comply with the most.

Investors are less likely to comply with the principles on conflicts of interest, conflicts with the board, stock lending and voting disclosure. This shows that Eumedion members tend to consider more general matters as important, while paying less attention to specific issues such as stock lending. Moreover, the Eumedion members regard being an active shareholder as significant. This is expressed in detailed reports over past and present engagements with companies through dialogues or voting behavior. The underlying considerations in most of the cases are ESG principles.

The following suggestions can be made with regard to the Eumedion Code:

1. Since compliance with the principle on ESG is so high, this best practice can be made stricter.
2. Better compliance can be achieved by obliging Eumedion members to have a specific document on compliance with the Eumedion best practices.

Part 3

The EU Definition of an Engaged Shareholder

The European definition of an engaged shareholder can be derived from the European Commission's initiative to amend the current Shareholder Rights Directive (2007/36/EC). This amendment proposal addresses the issue of stewardship duties of institutional investors. Upon a close investigation of the Commission's proposal it can be concluded that the proposal for Directive 2014/213/EU is detailed and will provide harmonization of stewardship responsibilities which will lower the costs of complying with different codes. The Proposal will also ensure that there are stewardship standards throughout the European Union. The Proposal will be implemented nationally in hard law, which might encourage investors to comply with their stewardship obligations. The Proposal does not provide for specific information on how compliance with the proposed obligations will be monitored.

The Eumedion best practices already include the majority of requirements and policies introduced by the Commission in its Proposal.

Part 4

Article IV.3.13 of the Dutch Corporate Governance Code on bilateral contacts, comparison with foreign codes and compliance by Dutch listed companies

The Swedish, English, French, Spanish, German and Belgian Corporate Governance Codes were examined in order to find provisions that are similar to art. IV.3.13 Dutch Corporate Governance Code. Only the Belgian Code contains a provision that is similar to art. IV.3.13. In the English Code dialogue between investors and investee companies is encouraged.

PhD Research

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.

Maurice Canisius & Raymond Canisius

Distributions to shareholders within the new legislation on the Dutch private limited company

(mr. dr. Maurice Canisius and mr. dr. Raymond Canisius conducted their research together and successfully defended their PhD-research in December of 2014.)

Since the 'Act on Simplification and Flexibilisation of rules governing Dutch BV's' has entered into force, creditor protection is no longer based on a system with a threshold capital requirement for the Dutch BV. The new system revolves around the new article 2:216 DCC. Following this article, the management board now has a right of veto in respect of distributions to shareholders. The board can only exercise this right if it is aware, or should reasonably be aware that the company will not be able to continue the payment of its due en payable debts. In this research a clear insight on the explanation and use of article 2:216 DCC will be provided.

Damla Cavusoglu

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

Damla's research focusses on a parents company's liability for conduct of it's (fully owned) subsidiary, especially its liability for infringements of its subsidiary on Corporate Social Responsibility rules.

National 'group' laws, and more specific laws, such as competition law, environmental law, human rights law and labour law are used to define the parent company's liability. Furthermore, Damla's research has a legal comparative scope through the comparison of EU, German and UK law. Additionally, the research will contain an examination of the enforcement of a group policy through instruction rights, control contracts and risk management. Finally a future prospect will be presented for the parent company's liability from a 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.

Bastiaan Kemp

The position and responsibility of shareholders and the general meeting of shareholders

Shareholders hold an important position within the company, but it can also be a troublesome one. They are influential within the company because they can (among others) appoint and dismiss board members, change the articles of association and decide upon the allocation of profits. Despite this position, they are, in

principal, free to focus on their own interests when practicing their shareholder rights, as long as they act reasonable and fair towards other institutional stakeholders.

Under certain circumstances this position of share-holders can conflict with the interests of other bodies within the company, such as the board of directors and the supervisory board. These bodies have, by law, the obligation to focus their efforts on the corporate purpose. Dutch literature and case law from the Supreme Court suggest that the corporate purpose should contain (in one way or the other) the interests of all stakeholders of the company. This creates friction with the shareholders, since they (i) are in principle allowed pursue their own interests and (ii) have influence on the board of directors and supervisory board.

Frits Udo

Liability of directors within the Dutch commercial foundation

(mr. dr. Frits Udo successfully defended his PhD research on the 19th of November 2014.)

Frits has researched the development of the internal, as well as the external liability (art. 2:138 DCC) of the director of a commercial foundation within the last 25 years. Core question in his research is if there is a need for legislation that equates the liability of directors of foundations, also in non-liquidation situations, with the liability of directors of a Dutch NV or BV, considering that the position of the foundation is not so different these days from the other legal entities.

Furthermore his research deals with the liability of the board of supervisors, in particular with the question if the board of supervisors can be exposed to internal liability as follows from art.2:9 DCC. The research also discusses the duty of bookkeeping (art. 2:10 DCC) and the qualification of a person as co-policymaker/ co-supervisor (art. 2:138 sub 7 DCC). Lastly, Frits' research covers the proposed legislation of 'Wet bestuur en toezicht rechtspersonen'.



Special: interview

Maurice & Raymond Canisius

Could you introduce yourselves to the readers?

Maurice: My name is Maurice Canisius. I work as a paralegal for Thuis & Partners Advocaten for two years now and I am writing a PhD together with Raymond. I finished the Master 'Nederlands Recht - vrij profiel' at Maastricht University where I focussed mainly on corporate law and private law.

Raymond: My name is Raymond Canisius and as most of you will know, I am Maurice's twin brother. Therefore my background is fairly similar to Maurice's. I have been working as a paralegal at Thuis & Partners Advocaten and have finished the Master 'Nederlands Recht - vrij profiel' as well.

Why did you choose for Dutch Law after graduating high school?

Maurice: At high school we were not too concerned about our future, so we did not really know what to do after graduating. What we did know was that our communication skills were our strongest asset. We were not into exact sciences, so a language study would have been an obvious path to choose.

Raymond: Alfa-subjects were our thing, so eventually we ended up studying law at Maastricht.

What extracurricular activities did you do next to your studies?

Maurice: With much pleasure I have been a member of fraternity 'Silenus'. Furthermore, I have done commission work and have taken place in the education commission of de faculty board.

Raymond: I have been a board member at 'Jurist in Bedrijf'. Also, I have taken part in moot court competitions and have done internships with Clifford Chance and Houthoff Buruma.

Maurice: Additionally, we sold high class Italian gentlemen's fashion.

When did the idea of pursuing a PhD-title come into existence?

Raymond: When we were bachelor-students, Prof. de Groot approached us and told us he would find it lovely when identical twins would obtain a doctoral degree. He



was unaware of any precedents but told us that this was definitely a possibility. Afterwards we became quite enthusiastic about the idea. We graduated swiftly and instead of starting a working career straight away we wanted to choose between doing an additional Master's study or doing a PhD.

Maurice: A promotion can be immensely valuable for the rest of your life.

Raymond: We were highly interested in the new Dutch Limited Liability Company legislation. The board was suddenly confronted with this extra liability, we wanted to create a certain serenity concerning this subject and wanted to prove that there was no reason to panic.

How did you experience these last two years? How was the relationship between obtaining your doctoral degree and working at a law firm?

Raymond: We have been working very hard for the past few years. Promoting was the biggest challenge so far, not only intellectually, but emotionally too. We have been working on it more than seventy weekends. It's been two busy years were the combination of practice and science has worked out quite well. There's a definite gap between practice and science, but by combining the two, we were able to test theoretical concepts. Sometimes we worked on academic problems for Thuis & Partners where we could discuss the scientific concepts with people who work in legal practice, this proved to be very interesting!

Maurice: The commercial side was very enjoyable too, networking, meeting with clients and so on. After which went back to writing our PhD again. At the times when writing did not go as smoothly as we hoped, it was nice to find some distraction in our work at the office. The last two years have been so multifaceted, which as been a great experience. This was possible because we worked very hard. We decided not to take any brakes but rather just get on with it. The intensive collaboration with the university definitely facilitated a quick rounding off. We planned everything very carefully beforehand, therefore the university could react quickly on our concepts. Jos Hamers and Kid Schwarz were always available for us. In our view, this is one of the strengths of ICGI, the accessibility of its professors.

Raymond: Thanks to this accessibility we were able to have great discussions. Of course their expertise is far greater than ours, but on a personal level we were able to cooperate in a very pleasant way

Maurice: During the pursuit of our PhD-title we have ‘hit rock-bottom’, but in the end it has given us so many great moments. We have shown development on a personal level, and have shown great motivation and dedication. We also developed our academic thinking. We had to think more analytic and schematic, combining a helicopter-view with cherry-picking. We learnt to think more abstract.

Raymond: We have learnt to be think very abstract and look at the bigger picture. When you start writing again, the details come into play again. We had to think analytical and more technical.

How did writing a PhD together work out?

Maurice: Our individual defences are on different chapters. Basically its two tracks on the same road. We discussed everything together. This means a occasional quarrel of course, but that only improves the outcome. Combining our two visions resulted in an advantage in quality.

Is writing in your blood? How did you like writing your bachelor essay/master thesis?

Raymond: We never had any difficulties dedicate ourselves to something. The pursuit of a PhD-title is like a coat that does not fit everyone. We have written a academic essay with great value for legal practice.

Could you tell us more about your research? Why did you choose this topic?

Raymond: Our dissertation is about article 2:216 of the Dutch civil code. The build up of our essay is an hourglass-

model. Since the new legislation creditor protection is no longer based on a minimum capital requirement but rather on a new liability for the board of directors. The board of directors should do a financial test before giving consent to distributing to the company’s shareholders. When a distribution has taken place, while this was not possible according to the test, the board of directors becomes liable.

When we look at the decision making process within a company, it follows that the board of directors cannot be liable for a decision made by the shareholders to distribute. This responsibility lies with the shareholders. Only in a situation where the director is also a major shareholder, this test should be applied. In other cases, article 2:216 of the Dutch civil code should be applied with great caution.



Maurice and Raymond receiving their doctoral degree at Minderboerdersberg Maastricht



The brothers received this bronze statuette as a gift after their promotion

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.

Contact

Maastricht University, Faculty of Law
Institute for Corporate Law, Governance and Innovation Policies
Att. Ms. C.E. van Basten-Boddin LL.M
Postal address: P.O. Box 616, NL-6200 MD Maastricht
Visiting address: Bouillonstraat 1-3, Maastricht

Manager ICGI: Christine van Basten-Boddin LL.M
Room: B 2.107
Telephone: +31 43 388 3040 Fax: +31 43 388 4907
E-mail: icgi@maastrichtuniversity.nl
www.maastrichtuniversity.nl/icgi

Education

ICGI Premium Masterclass 2014-2015

After two successful editions, the third ICGI PREMIUM Masterclass kicked off again in October 2014. 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 which is meant to be published in the Young Corporate Lawyers series at the end of the academic year. The article will be based on a specific part of the student's master thesis. Two supervisors will be appointed for each student, one academic supervisor from our faculty and one supervisor from our partnering law firms. In this way we try to ensure that everyone's article will reach a high academic level but will also be relevant for legal practice. And who can better judge an article on these grounds than the academics and legal practitioners themselves?

Besides writing a scientific article, the students will participate in workshops which are hosted by PREMIUM and are meant mainly for personal development. Moreover, our three partnering law firms 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.

Participants of the ICGI PREMIUM Masterclass 2014-2015: Jacobine van Beijeren, Patrick Chung, Kirsy Corten, Frank Hülsmans, Mathijs Jansen, Stefan Nieuwendijk, Jeffrey van Nuland, Anouk Smits, Eline Vancraybex, Niels di Voorrecht, Juriaan de Vries



Special: interview

Bastiaan Kemp & Kirsy Corten



Bastiaan Kemp is a PhD fellow at ICGI and works as a lawyer at DVDW Advocaten in The Hague. Kirsy Corten is a student fellow at the ICGI and assists Bastiaan with his PhD research.

Bastiaan, could you introduce yourself briefly to the reader?

My name is Bastiaan Kemp. I work as a lawyer (advocaat-stagiair) at DVDW Advocaten in The Hague. Additionally I am doing my PhD at the Faculty of Law in Maastricht under the supervision of professor Schwarz. Furthermore I have been a student in Maastricht as well.

What extracurricular activities did you do next to your studies?

Concerning extracurricular activities, I have been a fairly active student. I have been president of the pleading society (Pleitgenootschap Gaius), where I have been an active member since the second year of my studies. I also volunteered at the 'Wetswinkel Landgraaf'. Furthermore I was a student-assistant for professor Schwarz and have participated in PREMIUM as well as the ICGI Masterclass. Last but not least, I tutored bachelor students for the course 'Introduction to corporate and insolvency law' (Inleiding ondernemings- en faillissementsrecht).

How did you end up at DVDW Advocaten?

DVDW Advocaten is one of the partnering law firms of ICGI. Since I was a student assistant of professor Schwarz, who is also the Academic Director of ICGI, he knew about my ambition to pursue a PhD. He also knew that ideally, I liked to combine this ambition with the gaining of experience in legal practice. Professor Schwarz and Theo Hanssen (partner at DVDW Advocaten) then asked me if I would like to do exactly that, combining a job as a starting lawyer at DVDW with the writing of my PhD thesis. Of course this seemed a nice challenge to me!

How is this combination of practice and scientific research working out for you?

It is really great, I like it very much! Although sometimes it can be hard and frustrating that I do not have time to work on my research because of work for the law firm, the combination does really pay off. I am approaching the legal issues in practice in a different way now, on a higher and academic level really. However, it works the other way around as well. I can bring my experience from practice into my research. I am also very pleased with the fact that whenever I struggle with a problem in practice, I can contact a professor.

Can you further elaborate on the subject of your research? Why did you choose for this particular topic?

My research focuses on the position of the shareholder within a company, and his responsibilities towards other stakeholders. My master thesis was on the same subject. Additionally, I sometimes write articles related to the subject, but also on different subjects in the field of corporate law. The choice for my research topic was fairly easy. At a certain moment in time, professor Schwarz and myself sat together, discussing potential topics. Sooner than expected however, we reached consensus. Moreover, the position of the shareholder within the company is a very present-day topic that a lot of people are showing interest in. Just think about the legal proceedings regarding ABN AMRO Bank and the minority shareholders at KLM.

“My research focuses on the position of the shareholder within a company, and his responsibilities towards other stakeholders.”

⁴ This interview contains translated extracts from the interview with Bastiaan Kemp that has been published in 'iBulletin' in June 2014.



Kirsy, could you also briefly introduce yourself to the reader?

My name is Kirsy Corten, I am a student fellow at ICGI. The Master's programmes that I am following focus on corporate and labour law. I am the ambassador of Maastricht University for the 'Universiteitsstrijd' and I also participate in the ICGI PREMIUM Masterclass 2014-2015.

What are your tasks and responsibilities as a student-assistant within ICGI?

Since February 2014, I am assisting Bastiaan Kemp with his PhD research. My tasks and responsibilities are quite diverse. Sometimes I search scientific articles or books for his research, but my work can also be much more substantive. For example, I often examine specific case law or literature. I also try to critically review his progress and when I can, I try to comment on it.

Furthermore I have some general tasks within the ICGI such as, attending team-meetings, promoting projects and other operational activities.

Apart from assisting Bastiaan with his research, you are also conducting an independent research at DVDW Advocaten, can you tell more about this research?

Since fall 2014, I am conducting independent research commissioned by DVDW. This research consists of two main parts. The first part is about directors in general, specifically their responsibility and (potential) liability. The second part however, focuses on the Chief Restructuring Officer (CRO) and is reviewed from a comparative point of view (comparison with the United States and the United Kingdom). The CRO is a director who can be appointed when a company needs restructuring because of financial difficulties.

I spend about 16 hours per week on this research, during which I search and summarize relevant case law and literature.

What is your general view of DVDW Advocaten? Are you pleased with the cooperation?

First of all, I already knew Bastiaan because of my student fellowship, so that makes our cooperation pretty streamlined. The supervision is great though; I can always ask a question or reach out for feedback. On the other hand, I have enough freedom to really conduct independent research. I do however send in my progress on a weekly basis to be monitored by DVDW.

Last but not least, you participate in the ICGI PREMIUM Masterclass 2014-2015. What does this experience mean to you?

Following my assistance with Bastiaan's research, I became inspired to write something independently. The ICGI PREMIUM Masterclass is the perfect means to achieve that goal. Every participant writes an article on a corporate law topic and on an academic level with the ultimate goal being publication in a scientific journal.

Furthermore participation is a great chance to extend your knowledge, but also a great chance to meet some very interesting law firms in a unique way.

Taking part in the masterclass means being part of a motivated and excellent group of corporate law students. During the masterclass you get the chance to develop specific competences and acquire skills that you have not developed or acquired during your regular studies.

“Following my assistance with Bastiaan's research, I became inspired to write something independently.”

ICGI Young Corporate Lawyers series



Eleven of the students who have participated in the ICGI PREMIUM Masterclass 2013-2014 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.

2014 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. Young Corporate Lawyers 2014 is still available for purchase at 'Uitgeverij Paris': www.uitgeverijparis.nl



A.T.M. Adams

De taak van de curator; van reactief boedelbeheerder naar proactief toezichthouder?

B. Brouwer

De aandeelhouder in veranderende tijden: de beschermingsmaatregel vanuit beleidsmatig perspectief

M. Caris

Erkenning in Nederland van buiten de Europese Unie uitgesproken faillissementen en de gevolgen

S.A.P. Franssen

Corporate Group Insolvencies: Company, One Insolvency, One Proceeding ... or Consolidation

T. Giesbertz

Effectief toezicht binnen de one-tier board; een utopie?

P.L. Hezer

Internal control in het kader van New Governance

I.H.C. Jans

Wet Continuïteit Ondernemingen II: Het dwangakkoord buiten faillissement

A.O. Salkazanova

De perikelen rondom het stemgedrag van institutionele beleggers: naar een driehoeksdialoog in Europa

E.M.L. Sparnaaij

De stille bewindvoerder, van een lege dop naar een half ei

J.T.G. Stevens

De (on)wenselijkheid van een blokkeringsregeling bij stemrechtloze aandelen

L.M. van Wylick

De executie van een pandrecht op aandelen in de flex-BV

Finance

Financial summary 2014

In 2014 financing is needed for ICGI to cover expenses for personnel (1,2 fte), plus financial means for dissemination of projects, representation budget, operational costs and to further programme development. Three types of funding are distinguished in 2014.

1. K€2,3: Direct funding originated from the allocated budget for institutes by the Faculty of Law.
2. K€58,1: Direct 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€68,2: 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.

In conformity to our profit projection 2014-2019 (non-disclosed), ICGI proved to be self-supporting since 2013 and has even increased the initial surplus in 2014 with 37% in comparison to 2013.

Financial prognosis 2015

The funding situation in 2015 is uncertain and although the Faculty of Law as a whole is financially performing quite stable (prognosis 2015-2019), she will not be able to support the ICGI financially in the near future. In our 5-year prognosis (2015-2020) we were relatively clear that we might make a small loss in the financial year 2015 mainly due to the fact that the funding for PREMIUM is coming to an end and several of our PhD trajectories (contract based) have been concluded in 2014 as well where no full substitution has taken place yet.

However, we are happy that our final result is in 2014 even better than expected and with potential new contracts in a relatively advanced phase, we aim to stabilize financial prospects for 2015-2016. ICGI's staff, however, is not complacent, as longer-term funding prospects may not be as good as usual and strong efforts are made to ensure our funding position to remain sound. New collaborations will be sought out and those in place need to be strengthened with a special focus on interfaculty and interdisciplinary research projects as common denominators to attract new funds.

ICGI	
Amounts x € 1,000	2013
Funding	
Direct Funding	2,3
Contracts	68,2
PREMIUM	58,1
Funding total	128,6
Cost	
Staff	89,2
Internal settlements	0,0
Housing & supplies	0,0
Travel, representation & other	10,7
Cost total	99,8
Initial surplus/loss	28,8



Output 2014

Publications

Christine van Basten-Boddin

- C.E. van Basten-Boddin, S.C. de Hoo, S. Renssen & C.A. Schwarz (Eds.) 'Towards Sustainability: Major challenges for corporate law, corporate governance and regulation', Den Haag: Eleven International Publishing 2014

Jan Eijsbouts

- Seminar proceedings, Negotiated Settlement Agreements for Corruption Offences: A European Perspective, Expert Opinion, The Corporate Viewpoint by Jan Eijsbouts, (Ed. Dr A. Makinwa, The Hague, 2014 Eleven International Publishing, p. 191-196)
- A.J.A.J. Eijsbouts, 'Corporate Responsibility, beyond Voluntarism: Regulatory Options to Reinforce the License to Operate', in: C.E. van Basten-Boddin, S.C. de Hoo, S. Renssen & C.A. Schwarz (Eds.) 'Towards Sustainability: Major challenges for corporate law, corporate governance and regulation', Den Haag: Eleven International Publishing 2014

Damla Cavusoglu

- D. Cavusoglu, L. Meurkens, 'Conference Report: 'The Citizen in European Private Law: Norm-Setting, Enforcement and Choice', Conference Held in Maastricht, The Netherlands, 18 October 2013', *European Review of Private Law*, 2014, Issue 3, pp. 469-479

Jos Hamers

- Hamers, J.J.A. (2014). Modernisering van het Arubaans ondernemingsrecht: "Laat vele bloemen bloeien!" In E. Witjens, V. van Bogaert & C. Bollen (Eds.), *E hof di Ley* (pp. 281-294). Den Haag: Boom Juridische uitgevers
- Hamers, J.J.A. (2014). Een overdracht in strijd met een blokkeringsregeling en de positie van de derde-verkrijger: geen bescherming via artikel 3:88 BW. *Tijdschrift voor vennootschapsrecht, rechtspersonenrecht en ondernemingsbestuur*, 1 (Februari 2014), 2-4
- Hamers, J.J.A. & Schwarz, C.A. (2014). *Vereniging en stichting (Boom Basics)*. Den Haag: Boom Juridische uitgevers
- Hamers, J.J.A. (2014). Voorwoord. In J.J.A. Hamers, C.A. Schwarz, R.A. Wolf & S. Renssen (Eds.), *Young Corporate Lawyers 2014 (ICGI-serie, 2)* (pp. 11-12). Zutphen: Uitgeverij Paris
- Hamers, J.J.A., Renssen, S., Schwarz, C.A. & Wolf, R.A. (Eds.). (2014). *Young Corporate Lawyers 2014 (ICGI-serie, 2)*. Zutphen: Uitgeverij Paris

Sybre de Hoo

- S.C. de Hoo, 'Cracking the Impermeable Ceiling of Corporate Sustainability Performance Levels' in: C.E. van

Basten-Boddin, S.C. de Hoo, S. Renssen & C.A. Schwarz (Eds.) 'Towards Sustainability: Major challenges for corporate law, corporate governance and regulation', Den Haag: Eleven International Publishing 2014

Bastiaan Kemp

- B. Kemp, S. Renssen, 'De bevoegdheid van de dwingende 'moeder'-curator tot eigen faillissements-aanvraag van de onwelwillende dochter', *TvOB* 2014/6, p. 198-207
- B. Kemp & P.M. van der Zanden, 'Het anticiperen op toekomstige winsten door uitkering of toewijzing en de verantwoording daarvan in de jaarrekening bij de besloten vennootschap', *Tijdschrift voor Jaarrekeningenrecht*, 2014/4, p. 82-89

Mieke Olaerts

- M. Olaerts, 'Concernrecht anno 2014', *Tijdschrift voor Ondernemingsbestuur* 2014, nr. 1

Stephan Rammeloo

- (Guest editorial), *Dovenschmidt Quarterly - International Review on Transitions in Corporate Life, Law and Governance* 2014, p. 43
- EU Law reform: Cross-border civil and commercial procedural law and cross-border insolvency law, *Dovenschmidt Quarterly - International Review on Transitions in Corporate Life, Law and Governance* 2014, p. 44-57
- CJEU C-186/12 (Impacto Azul). *Company Law: Parental Liability and Article 49 TFEU - A Plea for a 'Soft Law' Oriented EU Law Approach on Company Groups*, *ECL* 2014, p. 20-29
- Multinationaal concern - Aansprakelijkheid van moedervennootschap voor schulden van dochtervennootschap: nationaal IPR ('scope rule') getoetst aan Europees recht (artikel 49 VWEU), Hof van Justitie EU 20 juni 2013, zaak C-186/12 (Impacto Azul), *NiPR* 2014, p. 20-26
- *ECL (Law Review notice)* 2014, p. 45-46; 190-191; 262-263

Samantha Renssen

- B. Kemp & S. Renssen, 'De bevoegdheid van de dwingende 'moeder'-curator tot eigen faillissements-aanvraag van de onwelwillende dochter', *TvOB* 2014-6
- S. Renssen, 'De juridische houdbaarheid van Uber', *Maastricht Law News & Views* <http://law.maastrichtuniversity.nl/newsandviews/> 2014.
- S. Renssen, 'Bescherming tegen vijandige overnames: de door Heineken toegepaste holdingstructuur of de door KPN opgerichte Stichting Preferente Aandelen?', *Maastricht Law News & Views* <http://law.maastrichtuniversity.nl/newsandviews/> 2014
- S. Renssen, 'Een BV in zwaar weer: turboliquidatie of

- faillissementsaanvraag?', *Ondernemingsrecht* 2014-14
- S. Renssen, 'Het sprookje van Wall Street: de beursgang van Alibaba', *Maastricht Law News & Views* <http://law.maastrichtuniversity.nl/newsandviews/> 2014
 - J.J.A. Hamers, S. Renssen, C.A. Schwarz & R.A. Wolf (red.), *Young Corporate Lawyers 2014* (ICGI-reeks), Zutphen: Uitgeverij Paris 2014
 - S. Renssen, 'Het voorgestelde centraal aandeelhoudersregister: ongetwijfeld gewenst, maar is het ook praktisch?', *Ius Novum* www.iusnovum.nl 2014
 - S. Renssen & C.M.H. Vlaanderen, 'De beperkte toegankelijkheid van het centraal aandeelhoudersregister en het cliëntenonderzoek op grond van de Wwft', *WPNR* 2014/7028
 - S. Renssen, 'De positionering van het (beperkt toegankelijk) centraal aandeelhoudersregister', *WPNR* 2014/7002
 - C.E. van Basten-Bodden, S.C. de Hoo, S. Renssen & C. A. Schwarz (red.), *Toward Sustainability. Major Challenges for Corporate Law, Corporate Governance and Regulation*, Den Haag: Eleven International Publishing 2014. 4

Kid Schwarz

- C.A. Schwarz. De vereenvoudigd vastgestelde jaarrekening. De gemiste kans van (het voorstel van) de Verzamelwet Veiligheid en Justitie 2013, *TvOB* 2014 nr.1, p. 23-27 (samen met R.A. Wolf)
- C.A. Schwarz. Het nieuwe BV-recht, gezien vanuit erfrechtelijk perspectief, in 'Een decennium Nieuw Erfrecht, Serie Ars Notariatus Dl. 156, Kluwer Deventer 2014, p.17-33
- C.A. Schwarz, Besluitvorming door aandeelhouders en de rol van bestuur en commissarissen, in Liber Van Maanen 'Kritiek op recht', red. René de Groot e.a., Kluwer Deventer 2014, p.387-400
- C.A. Schwarz, Ingrijpende bewerking artt.2: 259a-259d BW, *Losbl. Rechtspersonen*, Kluwer Deventer, 2014
- C.A. Schwarz, Ingrijpende bewerking artt.2: 217-238 (De algemene vergadering bij de BV), *Losbl. Rechtspersonen*, Kluwer Deventer, 2014
- C.A. Schwarz, Redactie bundel *Young Corporate Lawyers*, ICGI-reeks, Uitgeverij Paris, Zutphen 2015. (samen met Hamers, Renssen en Wolf)
- C.A. Schwarz, *Bewerking artt.2: 12, 13 en 24d, SDU Commentaar Ondernemingsrecht*, SDU Den Haag 2015
- C.A. Schwarz, Vergaderrecht van het management en besluitvorming buiten vergadering, *Tijdschrift voor Ondernemingsbestuur*, *TvOB* 2014 nr.5, p. 173-178
- C.A. Schwarz. De aansprakelijkheid van de niet-uitvoerend bestuurder in een one-tier board; een commissaris gelijk?. *Mergers and Acquisitions (M&A)*, 2014-1, p.53
- C.A. Schwarz, Tegenstrijdig belang en dividend-uitkering DGA, *Accountant.nl*, 20 september 2014
- C.A. Schwarz, Eenpersoons-BV en de vereenvoudigde vaststelling van de jaarrekening., *Mergers and Acquisitions (M&A)*, Blog 2014 december

Bas Steins Bisschop

- B.T.M. Steins Bisschop, 'Integrity and transparency as fundamental notions of good governance. But are they enforceable?', *Tijdschrift voor Ondernemingsbestuur* 2014/5
- B.T.M. Steins Bisschop, 'Lessen uit geprivatiseerde KPN voor te privatiseren ABN', *NJB* 2014/33, p. 1724
- B.T.M. Steins Bisschop, 'Boekbespreking; Mr. G.N.H. Kemperink, 'Vennootschappelijk toezicht op de doelvennootschap bij openbare biedingen', deel 92 in de Uitgave vanwege het Instituut voor Ondernemingsrecht, Deventer: Kluwer 2013, ISBN978-90-13-11814-8, 419p', *Tijdschrift ondernemingsrecht* 2014/55 p. 266-270

Rogier Wolf

- R.A. Wolf, annotatie bij Hoge Raad 10 oktober 2014, ECLI:NL:HR:2014:2932, Administratieplicht ex art. 2:10 BW. Bestuurdersaansprakelijkheid, maatstaf Brens q.q./ Sarper, *Jurisprudentie in Nederland (JIN)* 2014, Geannoteerd, nr. 214
- R.A. Wolf, annotatie bij Hof Amsterdam 21 januari 2014, ECLI:NL:GHAMS:2014:91 en Rechtbank Alkmaar 31 oktober 2012, ECLI:NL:RBALK:2012:4511, Houder van een winstcertificaat is een betrokkene in de zin van art. 2:8 BW, *Jurisprudentie in Nederland (JIN)* 2014, Geannoteerd, nr. 216 en 217
- R.A. Wolf, Groene Serie Rechtspersonen, commentaar bij art. 2:196, 196a, 196b, 196c, 199 en 202 BW (Boek 2 BW, Titel 5, afdeling 2, aandelen in de BV), Deventer: Kluwer 2014
- J.J.A. Hamers, S. Renssen, C.A. Schwarz & R.A. Wolf (red.), *Young Corporate Lawyers 2014*, ICGI-reeks, Zutphen: Uitgeverij Paris 2014 (164 pp.)
- R.A. Wolf, noot onder tweede fase-beschikking inzake Greenchoice, Hof Amsterdam (OK) 9 juli 2014, ECLI:NL:GHAMS:2014:2705, *Jurisprudentie in Nederland (JIN)*, 2014, Geannoteerd (afl. 7), nr. 155 (zie ook nr. 154)
- R.A. Wolf, 'Stockdividend, bonusaandelen en het goedkeurende bestuursbesluit van art. 2:216 lid 2 BW. Een noodzakelijke combinatie?', *TvOB* 2014-4, p. 125-127
- R.A. Wolf, 'Reactie op "Bewilligde certificaten en overgangsrecht Wet Flex-BV" van mr. dr. G.J.C. Rensen in WPNR (2014) 7011', *WPNR* 2014/7026, p. 661-664
- R.A. Wolf, annotatie bij Hof Den Haag 11 februari 2014, ECLI:NL:GHDHA:2014:345, Vernietiging faillissement, bestuurdersaansprakelijkheid, *Jurisprudentie in Nederland (JIN)* 2014, Geannoteerd, nr. 85
- C.A. Schwarz & R.A. Wolf, Naschrift bij 'De vereenvoudigde vastgestelde jaarrekening. De gemiste kans van (het voorstel van) de Verzamelwet Veiligheid

- en Justitie 2013', TvOB 2014-2, p. 72
- R.A. Wolf, 'Het stemrechtloze aandeel in de NV? Een pleidooi en verkenning', TvOB 2014-2, p. 42 -50
- R.A. Wolf, annotatie bij Hof Arnhem-Leeuwarden 4 februari 2014, ECLI:NL:GHARL:2014:750, Aansprakelijkheid vereffenaars, voldoende ernstig persoonlijk verwijt, Jurisprudentie in Nederland (JIN) 2014, Geannoteerd, nr. 62
- R.A. Wolf, 'Het creëren en de uitgifte van stemrechtloze aandelen als soort aandelen', WPNR 2014/7011, p. 253-258
- R.A. Wolf, annotatie bij Hof Amsterdam (OK) 9 januari 2014, ECLI:NL:GHAMS:2014:6, Emarcy/Air France KLM, Enquêteprocedure, twijfel aan juist beleid, zorgvuldigheid jegens minderheidsaandeelhouders, dividendbeleid, redelijkheid en billijkheid, Jurisprudentie in Nederland (JIN) 2014, Geannoteerd, nr. 39
- C.A. Schwarz & R.A. Wolf, 'De vereenvoudigde vastgestelde jaarrekening. De gemiste kans van (het voorstel van) de Verzamelwet Veiligheid en Justitie 2013', TvOB 2014-1, p. 25-28
- R.A. Wolf, Reactie op: H. Koster, 'Aandelen van een bepaalde aanduiding nader beschouwd', JBN 2014/11
- R.A. Wolf, annotatie bij Hof 's-Hertogenbosch 19 november 2013, ECLI:NL:GHSHE:2013:5470, Bestuurdersaansprakelijkheid en onrechtmatige daad, vordering ex-vennoot van opgeheven vof op ex-bestuurder van ontbonden BV, Jurisprudentie in Nederland (JIN) 2014, Geannoteerd nr. 11
- R.A. Wolf, 'De certificaathouder zonder vergaderrecht, de kring van betrokkenen en vernietiging van besluiten', Ondernemingsrecht 2014-1, p. 3-10

Frits Udo

- F.W. Udo, 'Bestuursaansprakelijkheid bij de ondernemende stichting', Maastricht: Universitaire Pers Maastricht 2014

Presentations and seminars

Jan Eijsbouts

- Globalisation, Business regulation, Corporate Governance and Responsibility. Compliance and Strategy, Maastricht University - Southampton University MBA Program Lecture, Maastricht, 22 January 2014
- Coordinating and lecturing at Core Course CSR of International Master Program Globalisation and Law Faculty of Law, Maastricht University, 5 February-31 March 2014
- Guest lecture 'CSR and smart regulation' given at the course 'Sustainability Law and Economic Regulation' of the ICIS Master Sustainability Science and Policy,

- Maastricht University, Maastricht, 19 February 2014
- Business and Human Rights, Mind the Gap, Comments Jan Eijsbouts to Chris Averyy Farewell Seminar for Menno Kamminga as Professor of Public International Law at Maastricht University, Maastricht, 11 April 2014
- Mind the (global governance) gap; from Bhopal to Rana Plaza Multinationals and regulation in a globalisation context Roundtable on the Enforcement of Fundamental Labor Rights, The Hague Institute of Global Justice-Leiden University, The Hague, 19 May 2014
- OLAF Expert Seminar on Negotiated Settlement Agreements for Corruption Offences: A European Perspective. The Hague University of Applied Sciences, The Hague, 22 - 23 May 2014
- Premium Masterclass Maastricht University, 'A Great Transformation; transformational strategies by major M&A transactions'. AkzoNobel Amsterdam, 28 May 2014
- ZIFO-conference, lecture "Zorgplichten en verantwoord ondernemen in concernverband" Amsterdam University, 12 June 2014
- IBA CSR Conference. Introductory speech and general counsel panel, London, 19 September, 2014
- Workshop "Private Law Enforcement of Corporate CSR Codes" "Corporate Governance and Responsibility: Paradigms Lost", Maastricht University, 17 October 2014
- Guest lecture 'CSR and smart regulation' given at the course 'Sustainability Law and Economic Regulation' of the ICIS Master Sustainability Science and Policy, Maastricht University, Maastricht, 13 November 2014

Jos Hamers

- Guest lecturer Corporate Law, University of Aruba, January-February 2014
- Copromotor: Udo, F.W., Bestuursaansprakelijkheid bij de ondernemende stichting, Maastricht University, 19 November 2014
- Copromotor: Canisius, M.B.F. & Canisius, R.E.H., Uitkeringen aan aandeelhouders in het nieuwe BV-recht: besluitvorming, vertegenwoordiging en vereenzelving, Maastricht University, 10 December 2014

Mieke Olaerts

- Ius Commune Conference: Co-chair Legal Persons in Europe, Edinburgh, 27 and 28 November 2014
- Ius Commune Conference: Co-chair Workshop Corporate Social Responsibility, Edinburgh, 27 and 28 November 2014
- Co-chair at the conference Enforcing Corporate Social Responsibility: Transforming Voluntary Corporate Codes into Private Law Obligations, Maastricht, 17 October 2014
- 5th CECL Conference, Banks in Europe: Regaining Trust and Securing Continuity, Uppsala, 3-4 April 2014

Stephan Rammeloo

- Rapporteur Netherlands Association Internationale de Droit Comparé
- Onderwijs 'corporate and commercial law', Symbiosis Law School Pune, India
- Leescommissie K. Chaudary, Pakistani marriages and the private international laws of Germany and England
- PAO Controllers/accountants SBE, Inleiding Nederlands vennootschapsrecht
- PAO actualiteiten IPR, Teekens/Karstens Leiden
- Rapporteur/review notice European Company Law (Kluwer Law and Taxation)

Kid Schwarz

- Prof. Schwarz gives numerous (guest) lectures, in-house training, webinars every month. A complete overview is not available
- Promotor: Udo, F.W., Bestuursaansprakelijkheid bij de ondernemende stichting, Maastricht University, 19 November 2014
- Promotor: Canisius, M.B.F. & Canisius, R.E.H., Uitkeringen aan aandeelhouders in het nieuwe BV-recht: besluitvorming, vertegenwoordiging en vereenzelving, Maastricht University, 10 December 2014

Bas Steins Bisschop

- Guest lecture Corporate Governance in Executive Master of Finance & Control, School of Business and Economics, Maastricht University, 14 February 2014
- Guest Lecture Corporate Governance in master course Law and Economics, Faculty of Law, Maastricht University, 7 November 2014
- Lectures in master course Comparative Corporate Governance, Faculty of Law, Maastricht University, 28 April and 12 May 2014

Rogier Wolf

- 18 december 2014: Actualiteiten Ondernemingsrecht: soorten aandelen, Juridisch PAO Leiden, Universiteit Leiden
- november – december 2014: keuzevak Fusies & Overnames, master Ondernemingsrecht, Universiteit Leiden
- 20 november 2014: Rembrandt Fusies & Overnames Academy, De Flex-BV voor de fusie- en overnamepraktijk
- 9 september: Leiden Revisited, Vennootschappelijk belang en instructiebevoegdheid: een (on)gelukkige combinatie?, Universiteit Leiden
- 18 juni: De BV-dag, het stemrechtloze aandeel, Academie voor de Rechtspraak
- 1 mei: Het stemrechtloze aandeel, webinar Academie voor de Rechtspraak
- 8 april: Het stemrechtloze aandeel, webinar OnlineLawCollege
- 27 maart: Kapitaalparticipatie zonder stemrecht in de BV, Stichting ter bevordering van de notariële wetenschap





Copyright 2015 Maastricht University, ICGI, Faculty of Law, P.O. Box 616, 6200 MD Maastricht, The Netherlands. Text: Christine van Basten-Boddin, Faculty of Law / Photography: Christine van Basten-Boddin, Sasha Rutland / Text interviews (p. 22 and 23): Kirsy Corten en Iris Hanssen, Vertaler: Frank Hulsmans / Text interviews (p. 26 and 27): Kirsy Corten (b.v. het tijdschrift Jibulethn van Stichting Jurist in Bedrijf), Selectie en vertaling: Frank Hulsmans / Layout and production: Vormgevingsburo Emilio Perez, Geleen.

www.maastrichtuniversity.nl/icgi

Based in Europe, focused on the world. Maastricht University is a stimulating environment. Where research and teaching are complementary. Where innovation is our focus. Where talent can flourish. A truly student oriented research university.

Contact Information

Maastricht University
Faculty of Law, ICGI
Bouillonstraat 1-3, 6211 LH Maastricht
P.O. Box 616, 6200 MD Maastricht
The Netherlands
Tel: +31 43 388 30 40
Fax: +31 43 388 48 68

