

Ius Commune Conference 2017

Workshop: Legal Persons in Europe

Thursday, 23 November (14.00 – 18.00)

Building: Aristo Utrecht

Room: 301

Participants

Introduction In September 2017 the European Model Company Act (EMCA) was published for the first time in its entirety. The EMCA is a self-standing general company statute, which is independent of national laws as well as European company law. The aim of the EMCA is to provide a new tool for the future development of European and national company law and to stimulate further European integration in this area of the law.

The EMCA can be used by national legislators as a source of inspiration either with regard to certain specific topics or in its entirety. The drafters of the EMCA have attempted find a middle way between detailed provisions in order to protect creditors and minority shareholders on the one hand and providing entrepreneurs with a sufficient amount of flexibility on the other.

The models act raises a number of interesting issues which will be subject for discussion during this workshop. From a substantive perspective we will discuss issues such as creditor protection under the EMCA, the division of powers between the board and the shareholders, the regulation of company groups and issues concerning bankruptcy and liquidation. However, the EMCA is not only interesting from a substantive company law perspective, it also touches upon the issue of how to best regulate company law for the future. In this respect one can think of issues such as a principle vs a rule based approach, the question how the EMCA fits within the regulatory tool box in the area of European company law and in what way can a model company act contribute to the future development of European and national company law? How can legislators, but also courts, best deal with these general principles?

During the workshop each topic will be introduced by a speaker who will set out her or his opinion regarding the topic under discussion. After the 15 minutes of introduction, the audience will be engaged in a round table discussion. This provides all participants the possibility to participate in the discussion regarding the various topics addressed during the workshop. This will guarantee an interactive afternoon during which various insights and perspectives can be shared.

The European Model Company Act can be found via the following link: [European Model Company Act \(EMCA\)](#)

Chair: Bastiaan Kemp and Mieke Olaerts (Maastricht University)

14.00 – 14.15 **Mieke Olaerts**
Welcome

14.15 – 14.30 **Joti Roest** (Universiteit van Amsterdam)
Introduction of the EMCA

- 14.30 – 14.45 **Jan Smits** (Maastricht University)
The EMCA as a regulatory tool: what lessons can be learned from contract and general private law?
- 14.45 – 15.15 **Discussion**
- 15.15 – 15.30 **David Cabrelli** (University of Edinburgh)
Division of powers within the EMCA
- 15.30 – 15.45 **Discussion**
- 15.45 – 16.15 **Coffee break**
- 16.15 – 16.30 **Maarten Verbrugh** (Erasmus University Rotterdam)
Restructurings within the EMCA
- 16.30 – 16.45 **Discussion**
- 16.45 – 17.00 **Damla Bos** (Maastricht University)
Company groups and the recognition of the group interest within the EMCA
- 17.00 – 17.15 **Discussion**
- 17.15 – 17.30 **Jaap Barneveld** (De Brauw Blackstone Westbroek & University of Amsterdam)
Capital and creditor protection within the EMCA
- 17.30 – 18.00 **General discussion and closing**