

# Ius Commune Conference 2024

## Workshop: Liability & Insurance

---

Thursday, 28 November (14.00 - 18.00)

Room

Participants

**Theme: Insights from the new Belgian rules on extra-contractual liability**

The first of February 2024 marks a historic day. The Belgian Chamber of Representatives voted in favor of adopting a set of new rules on extra-contractual liability. 'Book 6' containing the new provisions is the next step in the larger overhaul of the old Civil Code of 1804, the Code Napoléon, and the transition towards a new edition. The expert committee tasked with preparing the new rules has relied extensively on foreign law to reflect on the future of Belgian law (as is made clear by its explanatory memorandum). It has drawn inspiration from abroad, both overtly and covertly.

This workshop aims to explore this new Belgian law, both looking backward (to the sources of inspiration for the new law) and forward (to the possible impact the new law may have in Belgium but also in other countries). In a sense, the expert committee has attempted to identify and select fruits grown successfully elsewhere to plant their seeds together in Belgian soil. What insights can be gained from the substantive choices made by the expert committee and the legislature? Can it be said that they successfully used or combined insights from other countries? What considerations regarding the broader framework, objectives, and significance of tort law does the Belgian legislative experience bring to light? How might Book 6 facilitate cross-pollination?

The workshop opens with a general presentation on the guiding principles followed by the expert committee. Next four presentations of twenty minutes dive into specific topics, followed by a discussion of ten minutes instigated by a respondent and open to all members of the workshop. Finally, the closing remarks offer a perspective on the aptitude of the new rules on extra-contractual liability for the goals set out by the expert committee.

**Chair: Rebecca Bosch** (Erasmus University Rotterdam)

- |               |   |
|---------------|---|
| 14.00 – 14.05 | <i>Welcoming by the chair</i>   |
| 14.05 – 14.25 | <i>Opening remarks: guiding principles followed by the expert committee</i>   |
| 14.30 – 15.00 | <b>Lukas van Roy</b> (KU Leuven)<br><i>Mitigation of compensation in tort law: leaving a dogmatic principle of full compensation?</i><br><b>Respondent: Paul Hoyne van Papendrecht</b> (Erasmus University Rotterdam) |
| 15.05 – 15.35 | <b>Simon Van Eekert</b> (KU Leuven)<br><i>Better safe than sorry? The preventive function of tort law in the new Belgian civil code</i><br><b>Respondent: TBD</b>   |

- 15.35 – 16.00 **Coffee break**
- 16.05 – 16.35 **Emile Zitzke** (University of the Witwatersrand)  
*Children's extra-contractual liability: lessons for South Africa from Belgium's new rules*  
**Respondent: Françoise Auvray** (Université Libre de Bruxelles)
- 16.40 – 17.10 **Yoni Bosschaart** (Erasmus University Rotterdam)  
*The reform of Belgian tort law: implications for the role of the foreseeability of damage*  
**Respondent: Christopher Borucki** (KU Leuven)
- 17.15 – 17.35 **Louis Visscher** (Erasmus University Rotterdam)  
*Closing remarks: a law and economics perspective*
- 17.40 – 18.00 Brainstorm workshop L&I @ Ius Commune conference 2025