

Report of the Jury for the Ius Commune Prize 2002

1. Members of the Jury

The jury has consisted of members of the three participating faculties in the Ius Commune Research School:

- Dr. J. Michael Milo (Utrecht University)
- Prof. dr. Jan M. Smits (Maastricht University) (Chairman)
- Prof. dr. Sophie Stijns (Catholic University of Leuven)
- Prof. dr. Luc Verhey (Maastricht University)

With the selection of these members, it was guaranteed that expertise in both private law and public law was present in the Jury.

2. In General

The jury has received a total of 26 submissions for the Ius Commune Prize 2002. These were sent in by participants from the Netherlands, Belgium, Scotland, England, France, Germany, Switzerland, Italy, Denmark, the Czech Republic, Croatia, Hungary and Lebanon. After having had previous contact by phone and email, the jury has made its decision in a meeting on 5 November 2002.

The jury has used the following criteria in making its decision:

1. The quality of the article. The contribution has to be of outstanding scholarly quality as to contents and the use of sources.
2. The original character of the contribution.
3. The contribution must have a direct link with the material scope of the ius commune research school. The degree to which the paper contributes to the debate on the feasibility, methodology and contents of a future ius commune Europaeum is taken into account. In addition, the contribution should make use of the comparative method.
4. The contribution justifies an encouragement of the author for further research in the field.

3. Assessment of the Submissions

As last year, the jury was impressed by the large amount of submissions and by their quality. Again, the topics on which the papers were written ranged from classic comparative (private) law to European law, international law and private international law themes. To its satisfaction, the Jury found that, as compared to last year, the amount of papers on public law (including human rights) had increased. It was good to see that the broadening of the debate on a new ius commune was in this sense reflected in the submitted papers. This however also implied that comparing the submissions with each other was not an easy job: many of the submitted papers were of high quality of their own. In deciding about the winning contributions, the Jury therefore laid special emphasis on the ius commune character of the contributions and on the extent to which encouragement of the author was indicated.

The jury was in particular impressed by several contributions. Thus, the submission by Catherine Delforge (Louvain-la-Neuve) on *La formation des contrats sous un angle dynamique – réflexions comparatives* was found to be a well-written and very thorough study on formation of contracts. Likewise, Jane McAdam (Oxford) has to be praised for her article on *The European Proposal on Subsidiary Protection*, as Ana Mercedes López Rodríguez wrote an interesting contribution on *Lex Mercatoria and the Internal Market – Some Critical Reflections on the Harmonization of Contract Law in the EU*. The submission by Krisztina Rozsnyai (Budapest) on *Der Aufbau der Verwaltungsgerichtsbarkeit in Ungarn als Organisations- und Managementproblem* also struck the Jury as innovative and interdisciplinary (but unfortunately the comparative aspect was largely missing), while Hugo van Kooten (Utrecht) wrote an impressive short essay on *Illegality and Restitution as a Matter of Policy Considerations*. Katja Lubina (Maastricht) wrote a good overview on *The Aftermath of the Second World War: Restitution of Looted Art*. Finally, Lukás Michna (Brno) managed to write a highly interesting article on *An emphasis of Central European traditional principles of the civil procedural law in Czech republic*, but, again, the author did not incorporate the comparative aspect.

4. Winning and Honourably Mentioned Submissions

In deciding who should be the winner of the prize, the jury has paid special attention to the *ius commune* character of the contribution and to the extent to which encouragement of the author was indicated. In view of these criteria in particular and on the basis of the other criteria mentioned sub 2, the following three contributions have been qualified as the best:

- Geert de Baere (Antwerpen/Cambridge), *Houdt het communautair herkomstlandbeginsel een verborgen conflictregel in?*
- Ihor Olekhov (Edinburgh/London), *Security Interests in Personal Property: the Perspectives of Harmonisation*
- Sejal Parmar (Florence/Amsterdam), *International Human Rights and the EU Charter*.

The jury has decided that the submissions by Geert de Baere and Ihor Olekhov should *ex aequo* win the *Ius Commune Prize 2002*. The submission by Sejal Parmar is honourably mentioned.

Geert de Baere (Antwerpen/Cambridge), Houdt het communautair herkomstlandbeginsel een verborgen conflictregel in?

This submission is to be praised for its excellent and well-documented account of the relationship between the principle of origin in EC law and private international law. De Baere has managed to integrate EC-law aspects and private law aspects in a powerful way. He has written a thorough study, in which not only this important question is addressed, but in which also more general considerations on the relationship between EC law and private international law can be found. After having read his submission, it is no longer true that there is, as it is said in a quote referred

to by De Baere, 'une antinomie fondamentale opposant ces deux matières'. This author deserves every encouragement to proceed on the way he embarked upon.

Ihor Olekhov (Edinburgh/London), Security Interests in Personal Property: the Perspectives of Harmonisation

Olekhov has written a fine analysis of the perspectives of harmonisation in the field of security interests. His submission is to be praised for its comparative aspect (comparing English, German, American and Ukrainian law, but also some conventions and the case law of the ECJ) and the conclusions that are drawn from this. Olekhov also incorporated the *ius commune* aspect by asking what the best way forward in this area of law would be. His plea for a new European Convention on Secured Financing is well argued. The jury concludes that this article also deserves to win the prize.

Sejal Parmar, International Human Rights and the EU Charter

The research done by Mrs. Parmar is of high quality. She has examined the international human rights context of the EU Charter of Fundamental Rights. Her main thesis, that the EU ought to sever the ties with its original Market-orientated objectives and develop a new EU human rights policy, is provocative and well-argued. Mrs. Parmar deserves to be honourably mentioned for this outstanding paper.

The two winning contributions will be available at the website of the School as of December 2nd 2002.

Maastricht/Utrecht/Leuven, 5 November 2002