

## The Ius Commune Prize 2006

Since 2001 the Ius Commune Prize has awarded and further stimulated talented young researchers regarding their work in the Ius Commune research area. Our laureates have come from the ranks of the School itself as well as from outside: I see that some are present today.

This year's jury consisted of Hildegard Schneider (UM), Vincent Sagaert (KUL), Sander Jansen (UM), Marco Loos (UvA) and Michael Milo (chairman, UU).

The jury had to decide on the basis of criteria such as outstanding quality (contents, methodology), originality, and the contribution to the discussion on the ius commune (feasibility, methodology and content).

This year these criteria were applied to many papers of high quality, from a variety of jurisdictions. The authors were not surprisingly from The Netherlands and Belgium, but also from jurisdictions such as the United States, France, Ukraine, Sweden, Canada, Greece, Portugal, Italy and Germany.

The papers covered topics such as constitutional law, EU law, environmental law, and a variety of private law topics. All the authors used comparative law methodology, often strengthened by other disciplines, legal history, philosophy, economics or sociology. This interdisciplinary approach certainly impressed the jury.

After a stringent study and discussion, the jury came to its decision that three of the papers were of outstanding quality, and competed for the 2006 prize. After careful and ample consideration the jury came to the conclusion that two of these papers deserve to be honourably mentioned *ex aequo*.

Olha Cherednychenko of the Free University of Amsterdam, with the paper: *EU Fundamental Rights, EC Fundamental Freedoms and Private law*

Cherednychenko analysed the important development towards the constitutionalization of private law on the level of European Union law. She dealt in particular with the balancing of fundamental rights and freedoms in private law issues, and compared these developments with German national law.

The second paper to be honourably mentioned is:

Julie de Coninck, of the Catholic University of Leuven, with the paper: *Parsimony in Contract Law. The case of the Potestative Condition.*

Parsimony is the preference for the least complex explanation for an argumentation. This sound, but often overlooked principle has been applied by Julie de Coninck to contract law, particularly to the potestative condition. After a skilful analysis, De Coninck's conclusion is that the theory on potestative conditions should be rejected in continental Western European contract law.

The contributions by both De Coninck and Cherednychenko are wholeheartedly honourably mentioned. Both papers could well have won the prize, had it not been for another paper which was submitted.

The winning paper deals with European Union law. In a very clear style the author explores the potential meaning of the European Court of Justice's case law with regard to articles 226 and 228. The author argues that these cases lead to an –in the words of the author- 'invigoration of the Commission's role as guardian of the *acquis communautaire*' and as 'far reaching as *Van Gend en Loos* and *Francovich* were for private enforcement.' It is an article which strongly impressed the members of the jury across the boundaries of disciplines. The paper deals with a very actual and new topic, is written in a very clear, pleasant and convincing style, and rightly deserves to win.

The winning paper is entitled:

*A new dawn for commission enforcement under article 226 and 228 EC: General and persistent (GAP) infringements, lump sums and penalty payments*

The winner of the Ius Commune Prize 2006 is: Pål Wennerås.