

The Ius Commune Prize 2015

The Ius Commune Prize 2015 will be awarded to a paper which is of outstanding scholarly quality, concerning content, method, sources and style; it should be an original contribution, on the area of the Ius Commune Research School, and should justify an encouragement of the author for further research.

We received over 30 papers – the amount has remained stable over the years, and the quality as well. Particularly the jury was impressed by the analytical creativity with which various topics of imminent practical, and thus academical importance were undertaken, by often very young scholars. We noticed taxation issues being dealt with in a style which deserves a broad audience; administrative law looked upon from the Olympic heights of Kant and Hegel; pre-contractual obligations have been constructed for quite some time now, but is there life for obligations after the death of the contract? How do individual entitlements to intellectual property need to be balanced in the domain of fundamental rights against the interests of service providers? What to do with stereotypes as generalizations of individuals in court-decisions? Piercing the veil of legal personality, appointment of judges will most likely remain important topics. We came to a shortlist.

One of the papers stood out sufficiently to be honorably mentioned. It is a paper which deals with the difficult issue of violating law by highest courts – more in particular, the violation of European Union law by highest national courts. The paper has carried out extensive research into the reception of the Kobler doctrine into all national EU jurisdictions – 27 of the 28 member-state jurisdictions have been paid a visit – some rather short, others more in-depth – in order to draw conclusions. Her upcoming thesis will reveal probably more on the important issue of reception of EU law in national law. The author is Zsofia Varga, from Budapest.

But here were other papers that stood out, even more in the eyes of the jury. One of those papers analyses by means of comparative methodology, use of constitutional analysis, alongside the principled tracks of the rule of law, proportionality and non-discrimination, and strongly guided by the age-old ideal of fairness, the problematic topic of double taxation. In building her argument, the author convincingly and thoroughly reinforces the foundations of our ideal and its constituent principles in Aristotle's Nicomachean Ethics. Its author is Anne van de Vijver, from the University of Antwerp.

The other paper that likewise made an enduring impression on the jury made use of more traditional legal methods. It beautifully analyses through arguments taken from the civilian frameworks of Belgium and France, and the common law framework of England and Wales, towards the building of a normative reference for multinational enterprises. This is highly needed, as multinational enterprises are a major player in the field of private law, and at the same time a major constituent and institutional part of our society. To construct a liability of the mother company vis-à-vis the involuntary creditors of the subsidiary companies using the traditional building blocks of tort law is an invaluable enterprise – in the words of Gierke: *eine soziale Aufgabe des Privatrechts*. Its author is Siel Demeyere, from the Universities of Rijssel and Leuven.

Who will win the price? We will do justice to all: both authors will win wholeheartedly the Ius Comune prize 2015 prize ex aequo.

Anne van de Vijver with her paper *International double (non) taxation: comparative guidance from European legal principles*

as well as

Siel Demeyere with her paper *Liability of a Mother Company for its Subsidiary in French, Belgian and English Law*

The jury:

Hildegard Schneider (Maastricht)

Ilse Samoy (Leuven)

Sander Jansen (Maastricht)

Carla Zoethout (Amsterdam)

Michael Milo (Utrecht)