

TLS

Oude Kijk in 't Jatstraat 5-9, Harmony building 3rd floor

www.rug.nl/rechten/tls T: 050-3635695 (Secretariat)

Please, if you wish your relevant research and updates to be published in our newsletter then send all your input to: TLS@rug.nl

The next issue is planned around **April 2019**; we would like to present members of our department and their relevant research to you on a regular basis, also to get to know each other better. Is there anyone who would like to volunteer? Please send me your info (and a picture); tls@rug.nl



Upcoming Events

TaLkS,
13 February 2019

See: [Spotlighted](#)

Workshop TRICI-Law
20 February 2019:

<https://www.rug.nl/rechten/congressen/archief/2019/customary-international-law/>

Fifth Avril McDonald Lecture
14 March 2019:

<https://www.rug.nl/rechten/congressen/archief/2019/avril-macdonaldlezing>

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General research activities

From 26 until 28 November 2018 **Everhard Tilstra** attended the UN Forum on Business and Human Rights at the Palais des Nations in Geneva. This year's forum focused on the second pillar of the UN Guiding Principles on Business and Human Rights, the corporate responsibility to respect. Key themes during the forum were business actors; government actions in this pillar; and human rights due diligence for businesses.

Positive developments during the sessions centered around the increase in countries adopting a National Action Plan on business and human rights, and business commitments to carry out due diligence. Challenges that were indicated focused on the time and resources spend by businesses to carry out human rights impact assessments, community engagement, and to gain pre-informed consent by local communities. Another challenge is the role of small and medium enterprises and how these businesses can carry out due diligence. And concerning governments the challenge is to ensure policy coherence with the UN Guiding Principles.

Muriel Poepon (co-promoted by **Brigit Toebes**) has defended her thesis on January, 24, 2019

Renske Giljam will defend her thesis - **Towards ecological governance in EU energy law**- on Thursday 7 March 2019 at 14:30 (auditorium of the Academy Building)

Brigit Toebes joined the Commissie verplichte vaccinatie kinderopvang (Committee on compulsory vaccination child care), advising the Netherlands Ministry of Social Affairs on this matter.

Jaap-Henk Hoepman has participated in the panel "Is the blockchain anything new?", Blockchain Workshop Theory & Practice, Conservatoire National des Arts & Métiers (CNAM), CNRS/CERSA, Paris, 21-1-2019.



SPOTLIGHTED

"**TLS: TaLkS**", are *informal and non-obligatory* monthly meetings of colleagues from the TLS department to discuss ongoing research and developments, present the research to the members of the department, and remain informed of the work and progress of the various sections of the department.

Each meeting will feature two or three short presentations followed by a brief feedback session and a roundtable discussion. The meetings will take place once every month, between 15:00 and 17:00 o'clock, and will be followed by drinks and snacks.

The first "**TLS: TaLkS**" will take place on 13 February 2019 in the newly acquired departmental meeting room (1312.213A) and will feature presentations by Prof. Panos Merkouris, Nina Mileva, and Marina Fortuna. The speakers will present the ERC project TRICI-Law and their individual research within the project.

The organization of the seminar will be handled by PhD researchers Kostiantin Gorobets and Nina Mileva, under the supervision of Prof. Pauline Westerman. We hope to see you all in February!

Evgeni Moyakine (IT Law) was appointed a "Research Fellow" at the **Center for Cyber Law & Policy** of the University of Haifa, Israel, at the end of 2018 for a period of three years. From February to March 2019, he will work in Israel on his research in which various aspects of the issue of imputing cyber operations to nations will be examined from a legal and technological perspective.

Panos Merkouris held a presentation at the Conference on Evolutionary Interpretation in Different International Legal Systems organized by the University of Geneva, Switzerland. A videolink is available at this link: <https://www.unige.ch/droit/evolutionary-interpretation/documentation/>

(the relevant video is the first video file [Thursday afternoon]. The presentation starts at 202:46).

Lottie Lane will organize a meeting on October 4th, 2019 | for the Business and Human Rights Working Group of The Netherlands Network for Human Rights Research bringing together scholars and NGOs to discuss the draft treaty on business and human rights. The Working Group is planning to make a contribution to the treaty negotiation process in the future.

Panos Merkouris was interviewed by the documentary series *28Europe for the TRICI-Law* project is available at: <http://webtv.ert.gr/ert1/28europe/18dek2017-28-fores-evropi/> the interview starts at 36:00, in Greek).

From 11 till 15 March **Trix Mulder** will be at the University of Osaka (Japan) with five other colleagues to discuss the possibilities of working more closely together regarding student exchange and teaching possibilities. Her role in this delegation will focus mostly on the possibilities of (personal) data exchange between Europe and Japan.

Panos Merkouris was nominated and appointed as member of the **Advisory Board** for the Project of Excellence of the University of Verona, named IUSTeC 'Law, Technologies and Social Changes'. The Advisory Board is a body composed of external experts with an excellent international curriculum. Having consulting and scientific monitoring functions, the main role of the Advisory Board is to monitor, through biannual reports, the progress of the Project.

On 29 January 2019 **Panos** acted as Judge at the Dutch National Rounds of the Philip C. Jessup International Law Moot Court Competition.

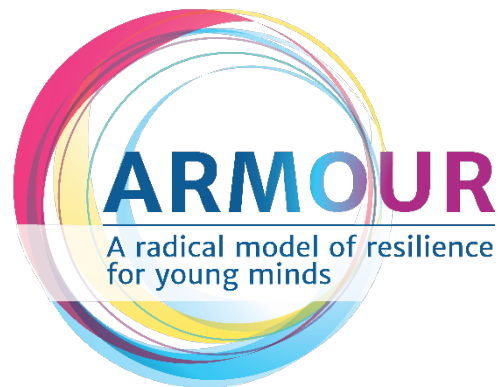
Lottie Lane did a consultancy talk on 22nd January for the technology company Target Holding to explain to them the human rights impact of their work (especially in relation to artificial intelligence) and what they could do to mitigate the negative effect that their work has on human rights.

IT law shop

Last year, the IT law shop was added to the easily accessible, student-driven legal aid agencies (rechtswinkels). About fifteen students give advice on IT law subjects as part of their studies. Up to now, questions have mainly come in on data protection, e-commerce and intellectual property law. The IT law shop works together with the legal consultancy firm [ICTRecht](#) known from our former colleague Matthieu Paapst (and a large number of our graduates).

Kick off ARMOUR project

STeP research group are part of a new project, ARMOUR. ARMOUR is about influencing societal polarisation and radicalisation. ARMOUR intends to do this by delivering A *Radical Model of Resilience for young Minds*. The project targets professionals who work with youths aged 10-18, so they will have the knowledge to recognize radicalisation in youngsters and the tools to counter it. The model aims at empowering teenagers and adolescents, for instance by helping them to develop critical thinking and emotional intelligence. ARMOUR is financed under the European Commission's Internal Security Fund for Police (Grant Agreement Number 823683).



The consortium is made up of seven partners from seven European countries. The partners range from universities, to an independent research group, to a non-profit human rights group. During the kick off meeting in Malta on 17th January 2019, the contents of the work packages were discussed in a very energetic and cooperative manner.

STeP has the lead in developing the final Train the Trainer programme, which will consist of a three day face to face training and two weeks distance learning. The effects on the learner will be measured by surveys. If you would like to contribute to our project by sharing your knowledge or by providing feedback, or if you have any questions, please feel free to contact us.

Carola Onderdelinden (c.b.onderdelinden@step-rug.nl)

Jeanne Pia Mifsud Bonnici (g.p.mifsud.bonnici@step-rug.nl)

PUBLICATIONS

Hans Vedder has just published a book on competition law in Dutch. In the third edition of this widely used textbook EU competition law is again central, with a prominent role for the competition law of the Netherlands. It is a scientific textbook that will explain to students what the law is and challenge that right away, helping them to adopt a critical reflection on competition law. The approach for this edition, much more so than the first two editions, is to stress the transboundary nature of competition rule making. I explain how competition rules are formed in an international comparative setting, that involves learning between the EU and US and within the EU, where I use the experimentation by Member States of the EU as an influence between the Member States and the Member States and the EU. I also explain how other laws, like the laws of economics, physics, and rules of information technology, impact the creation and adaptation of competition rules. I'm very happy to list this as my first research output for TLS. To those out there who have never thought about competition law, I'm always open to cooperation, if only because there's a competition angle to everything.



In December 2018, the volume **Legal Validity and Soft Law** was published by Springer: <https://www.springer.com/gp/book/9783319775210>

The volume is the upshot of a conference organized in December 2015 in Groningen by the editors of the volume. The book features essays (among others of **Marcel Brus**, **Anne Ruth Mackor** and **Pauline Westerman**) that investigate the nature of legal validity from the point of view of different traditions and disciplines. Validity is a fascinating and elusive characteristic of law that in itself deserves to be explored, but further investigation is made more acute and necessary by the production, nowadays, of soft law products of regulation, such as declarations, self-regulatory codes, and standardization norms. These types of rules may not exhibit the characteristics of formal

law, and may lack full formal validity but yet may have a very real impact on people's lives. The essays focus on the structural properties of hard and soft legal phenomena and the basis of their validity. Some propose to redefine validity: to allow for multiple

concepts instead of one and/or to allow for a gradual concept of validity. Others seek to analyze the new situation by linking it to familiar historical debates and well-established theories of law. In addition, coverage looks at the functions of validity itself. The discussion considers both international law as well as domestic law arrangements. What does it mean to say that something is valid? Should we discard validity as the determining aspect of law? If so, what does this mean for our concept of law? Should we differentiate between kinds of validity? Or, can we say that rules can be "more" or "less" valid?

Panos Merkouris has recently published the following;

'*In Dubio Mitius*' in J Klingler, Y Parkhomenko and C Salonidis (eds), *Between the Lines of the Vienna Convention?: Canons and Other Principles of Interpretation in Public International Law* (Wolters Kluwer 2018), 259-306, a pre-published version of the article is also available online: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3003890

Panos Merkouris, Photini Pazartzis, Geir Ulfstein and Daniel Peat, 'Interim Report of the ILA Study Group on the Content and Evolution of the Rules of Interpretation' (ILA 2018).

Panos Merkouris and Photini Pazartzis, 'Preliminary Report on the Human Rights Committee and other UN Human Rights Treaty Bodies' (ILA 2018).

Panos Merkouris and Daniel Peat, 'Preliminary Report on the ICJ and PCIJ' (ILA 2018). All publications are available online, and can be downloaded here (scroll down, then select documents):

<http://www.ila-hq.org/index.php/study-groups?study-groupsID=75>

Last week in Amsterdam the book '*Good Data*' was published, containing a chapter by **Gerard Ritsema van Eck**; '**Algorithmic mapmaking in 'smart cities': data protection impact assessments as a means of protection for groups**'.

Here is the relevant tweet, and a nice little picture:

<https://twitter.com/INCAmsterdam/status/1088721906277199873>

..and the entire book can be downloaded here:

<http://networkcultures.org/blog/publication/tod-29-good-data/>

Tobias Nowak has recently (January 2019) published: *Using Mixed Methods to Explore the Legal Consciousness of Judges*. *SAGE Research Methods Cases*. SAGE Publishing, Part 2. doi.org/10.4135/9781526462756

SEMINARS, EVENTS, WORKSHOPS AND CONFERENCES

On January 16th 2019 **Anne Ruth Mackor** lectured on a discussion evening of the KNMG (Royal Dutch Medical Association) about medical disciplinary law. She argued that medical disciplinary law is failed law, lacking both effectiveness and perceived legitimacy of both civilians and doctors. Moreover, the changes that will be made to medical disciplinary law in 2019 seem insufficient to remedy the problems. The ominous title of her lecture was "Medical disciplinary law as potlatch".

On 26 November 2018, **Lottie Lane** chaired a panel in a conference entitled 'The UDHR at 70: What next for human rights?', which was an international conference organized by the Centre for Religion, Conflict and Globalization and the Groningen Journal of International Law.

Panos Merkouris was invited speaker at the Seminar on Customary International Law organized by the Faculty of Law of the Universidad Externado de Colombia (Profs. Jose Manuel Álvarez. *Title:* 'The Theoretical Validity of the Interpretation of Customary International Law')

He also joined the following meetings as invited speaker:

22 August 2018:

Where: 78th Biennial Conference of the ILA in Sydney, Australia.

Title: 'ILA Study Group on the Content and Evolution of the Rules of Interpretation: Interim Report'

22 August 2018:

Where: 78th Biennial Conference of the ILA in Sydney, Australia.

Title: 'ILA Study Group on the Content and Evolution of the Rules of Interpretation: Preliminary Report on the Human Rights Committee and other UN Human Rights Treaty Bodies'

22 August 2018:

Where: 78th Biennial Conference of the ILA in Sydney, Australia.

Title: 'ILA Study Group on the Content and Evolution of the Rules of Interpretation: Preliminary Report on the ICJ and PCIJ'

24 August 2018:

Where: ELSA Summer School on Investment Law in Athens, Greece

Title: 'Interpretation of Customary Rules of International Investment Law' (invited speaker)

4 October 2018:

Where: Conference on Evolutionary Interpretation in Different International Legal Systems organized by the University of Geneva, Switzerland

Title: 'Protection of the Environment as the Object of and Tool for Evolutionary Interpretation'

12 October 2018:

Where: Workshop on 'Arctic Cooperation: Drifting Apart or Working Together?' co-organized by the Arctic Centre and the Centre for European and International Legal Affairs.

Title: 'The Future of the Arctic Council'

15-17 October 2018:

Where: 1st Greek ERC Grantees Meeting at FORTH (Heraklion, Crete)

Title: 'ERC Starting Grant Project: The Rules of Interpretation of Customary International Law (TRICI-Law)'