



**Institute of European and
Comparative Law**

**Annual Report
2016-2017**

Institute of European and Comparative Law Annual Report 2016-2017

The cover shows the new stairs and entrance to the Institute following the refurbishment of the St Cross Building in 2017.

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Director's Introduction

The highlight of the year was our move back to the St Cross Building, into our new premises. We began the year at the Old Rectory, to which (as noted in last year's Annual Report) we had been relocated in summer 2015, but after a period of delay, the Institute came back to the Law Faculty on 3 January 2017. Our new premises were worth waiting for. We are now at the top of the building, in space formerly occupied by the

Bodleian Law Library (some of the Faculty members' carrels and the public international law collection); and we have light and air, in marked contrast to the dark and rather claustrophobic 'old' Institute in the depths of the building. Our space is also now much more efficiently used. The vast, under-used (because it was hardly usable) foyer has gone: now we have a central, properly-lit open space with eight desks for our short-term visitors; and offices for our staff and some longer-term visitors, all of which have windows to the North or to the South.



We were able to influence the design of the layout, and in place of a small meeting room that had originally been planned, we decided to use part of our space to create a new seminar room, designed to take the largest of the groups we have for Course 2 (Law with Law Studies in Europe) for whom we provide the preparatory foreign law and language teaching. This room will be used also by the Faculty generally for seminars and lectures, but first priority is given to the Institute, and we are already making good use of it ourselves not only for Course 2 teaching, but also for our comparative law lectures and classes, and for our



EU Law and Comparative Law Discussion Groups, and our IECL lunchtime seminars (a new venture this year, to increase the opportunities for our staff and visitors to present their research). It was first known as the IECL Seminar Room; but has now been renamed the Clifford Chance Seminar Room, to reflect the considerable contribution which that firm has made, and continues to make, towards the Institute in general and Course 2 in particular.

We have welcomed new colleagues and visitors this year, and said farewell to some others. Elisabeth Ahlinder was our new Stockholm Centre Oxford Fellow; and Yves-Marie Laithier (University of Paris 1 Panthéon-Sorbonne) was this year's Paris Visiting Fellow during Hilary Term. We extended our list of Faculty and external researchers who have a special link with the Institute: two Associate Professors, Sanja Bogojevic and Matt Dyson were made Research Fellows of the Institute; and Bénédicte Fauvarque-Cosson (Université Panthéon-Assas, Paris 2), Martijn Hesselink (University of Amsterdam), Rodrigo Momberg Uribe (Pontificia Universidad Católica de Valparaíso) and Juan Pablo Murga Fernández (University of Seville) became Visiting Research Fellows. We hosted visitors (for longer or shorter periods) from Austria, Germany, Italy, Poland, Russia, Spain, Sweden and Switzerland, all of whom made lively and valuable contributions to the life of the Institute, many of them taking the opportunity to give presentations about their research to one of our lunchtime discussion groups. We have also further developed the scope of our programme to welcome visiting doctoral students to be associated with the Institute: under our regular scheme with the Maison Française d'Oxford we host two French doctoral students (this year, Augustin Gridel, Université Panthéon-Assas, Paris 2 and Agnès Kwiatkowski, University of Lille, both of whom also assisted with the teaching of our French law classes for Course 2 students), and in addition we hosted students from the universities of Cergy-Pontoise, Paris 1 (Panthéon-Sorbonne), and Trento.

We also have to bid farewell from time to time to longer-term colleagues. At the end of this year our departing members of staff were Martin Brennecke (who after just two years as Erich Brost Career Development Fellow in German and EU Law has moved to an established post at Aston Business School), Axel Moeller (who has been with us for two years as Max Planck Fellow), and Alexandra Braun, who for a number of years has been a very valuable member of the Institute, most recently serving as Deputy Director in her capacity as Academic Director of the Faculty's exchange programmes: she left in the summer to take up the Lord President Reid Chair of Law at the University of Edinburgh, but we are pleased that we shall be able to maintain our link with her as a Visiting Research Fellow of the Institute. Andreas von Goldbeck has also completed his term as DAAD Lecturer in German and EU Law, but we are very pleased (and grateful to him) that he has agreed to continue teaching the German law classes for our Course 2 students for the coming year.

We have continued to develop our links with other universities and research institutions. Last year we announced a new scholarship scheme (generously funded by Professor Guido Alpa) to enable an exchange of doctoral research students or early career scholars between the Oxford Law Faculty and the University of Rome Sapienza: the first two Alpa Scholars made their research visits under this scheme during this year. And we have now agreed two new exchanges which will allow Oxford researchers to spend time in the University of Seville and in Lomonosov Moscow State University (and for their researchers to come to the Institute), as well as agreeing an extension of our long-standing agreement with the Max Planck Institute for Comparative and International Private Law in Hamburg - with some variations, under which we shall normally receive two visitors from Hamburg for shorter visits in the year.

The Institute provides a focus within the Oxford Law Faculty for research in European and comparative law. I very much hope that we can maintain this and further develop it, for the benefit of both Oxford Faculty members and the wider academic community of scholars working in European and/or comparative law, including those whom we welcome here as academic visitors. Now that we have premises where all those working here—staff members, longer- and shorter-term visitors—can feel part of a single scholarly enterprise, we have a context where we can foster the links between researchers, where even those working on apparently very different topics can find common understanding and learn from each other, whether in their methodology or in the substance of their work. That spirit has certainly been visible amongst our visitors and other researchers this year.

My main message this year is therefore about the Institute as a place, and the Institute as its people. The two go together: our new premises have helped to create a stronger link between our people, but it is the enthusiasm of our staff and visitors who really give a sense of academic spirit to the Institute.

*Professor John Cartwright
Director of the Institute
October 2017*

Staff

Academic Staff

Professor John Cartwright, Professor of the Law of Contract and Director of the Institute

Professor Alexandra Braun, Professor of Comparative Private Law, Academic Director of Undergraduate Exchange Programmes and Deputy Director of the Institute (on sabbatical leave this year: replaced as Academic Director of Exchange Programmes by Dr Imogen Goold)

Professor Birke Häcker, Linklaters Professor of Comparative Law and Deputy Director of the Institute

Professor Stephen Weatherill, Jacques Delors Professor of European Law and Deputy Director of the Institute

Dr Elisabeth Ahlinder, Stockholm Centre Oxford Fellow for 2016-17

Professor Ulf Bernitz, Research Fellow, co-ordinator of the Oxford-Stockholm Collaboration

Dr Martin Brenckne, Erich Brost Career Development Fellow in German and EU Law

Professor Ariel Ezrachi, Slaughter and May Professor of Competition Law, Director of the Centre for Competition Law and Policy (CCLP)

Dr Andreas von Goldbeck, DAAD Lecturer in German and EU Law

Dr Geneviève Helleringer, Leverhulme Trust Early Career Fellow and Tutor in French Law

Dr Axel Moeller, Max Planck Fellow for 2015-17

Dr Javier Garcia Oliva, Tutor in Spanish Law

Nello Pasquini, Linklaters Teaching Fellow for Italian Law

Dr Esther van Schagen, Newton International Fellow

Research Fellows

Professor Sanja Bogojevic (Fellow of Lady Margaret Hall, Oxford)

Professor Mindy Chen-Wishart (Fellow of Merton College and Professor of the Law of Contract)

Professor Matthew Dyson (Fellow of Corpus Christi College, Oxford)

Professor Luca Enriques (Fellow of Jesus College and Allen & Overy Professor of Corporate Law)

Professor Mark Freedland (Emeritus Professor of Employment Law, St John's College, Oxford)

Professor Dorota Leczykiewicz (Fellow of St Peter's College, Oxford)

Professor Justine Pila (Fellow of St Catherine's College, Oxford)

Professor Jeremias Prassl (Fellow of Magdalen College, Oxford)

Professor Simon Whittaker (Fellow of St John's College, Oxford and Professor of European Comparative Law)

Visiting Research Fellows

Professor Hugh Beale (University of Warwick and Visiting Professor in the Oxford Law Faculty)

Professor Anthony Bradley QC (Hon) (Emeritus Professor of Constitutional Law, University of Edinburgh)

Professor Gerhard Dannemann (Professor of English Law, British Economy and Politics, Humboldt University, Berlin)

Dr Eric Descheemaeker (Reader in European Private Law at the University of Edinburgh/Professor at the University of Melbourne (from July 2017))

Professor Bénédicte Fauvarque-Cosson (Professor of Private Law, Panthéon-Assas University)

Professor Martijn Hesselink (Professor of European Private Law, University of Amsterdam)

Professor Rodrigo Momberg Uribe (Professor of Civil Law, Catholic University of Valparaíso)

Professor Juan Pablo Murga Fernández (University of Seville),

Conor Quigley QC (Serle Court Chambers)

Professor Wolf-Georg Ringe (University of Hamburg and Visiting Professor in the Oxford Law Faculty)

Professor Katja Ziegler (Sir Robert Jennings Professor of International Law, University of Leicester)

Administrator

Jenny Dix

Law with Law Studies in Europe and the European Student Exchange Programme

The Institute is responsible for the Faculty's four-year BA in 'Law with Law Studies in Europe', together with the associated exchanges with Law Faculties in our partner European universities. The four-year BA course is a variant on the regular Oxford law degree that includes an extra year spent at one of Oxford's partner universities abroad. It is thus also frequently called 'Law Course 2', and is an exchange programme, established under the Erasmus+ scheme, under which we receive in Oxford a student from our partner universities for each of our own students we send there.

In recent years the following options have been offered:

- Law with French Law, with 15 students going each year to the University of Paris 2 Panthéon-Assas;
- Law with German Law, with 12 students going to the Universities of Bonn, Konstanz, Munich or Regensburg;
- Law with Italian Law, with 2 students going to the University of Siena;
- Law with Spanish Law, with 2 students going to the University of Pompeu Fabra in Barcelona;
- Law with European Law, with 4 students going to the University of Leiden.

The arrangements, however, are kept under regular review, and sometimes there is adjustment of the number of places (within the overall total of 35) to reflect demand for the different options. During this year we have revised the number of places on the German law and Spanish law options, so that in future we shall normally send 10 students to Germany (Bonn or Munich) but 4 students to Spain. Moreover, negotiations have been held in recent years for possible extension of the exchange programme in due course to partner universities in the Far East, with the development of courses in Law with Asian Law and Law with Chinese Law.

The Institute administers the Course 2 programme, including the provision of preparatory teaching in foreign law and languages and keeping constant contact with the academic directors and the administrators of the exchange programmes in our partner universities. The Law Faculty's Academic Director of Undergraduate Exchange Programmes is a Deputy Director of the Institute, and the day-to-day administration of the exchange programmes is undertaken by the Administrator of the Institute.

Within this framework, the Institute also provides a focus and support network for the students coming to Oxford from our partner universities under the exchange agreements. These students are registered for the one-year Diploma in Legal Studies programme.

With up to 35 incoming and 35 outgoing students each year, Course 2 is the largest undergraduate exchange programme in the University. Course 2 remains one of the success stories of the Institute. Its graduates are highly sought after by law firms and other employers who appreciate their linguistic skills, their experience abroad and the teaching they receive in Oxford. There are, of course, uncertainties at present about the future of the UK's participation in the Erasmus+ scheme in light of the withdrawal of the UK from the EU in 2019. However, none of the exchange agreements with our European partners depends on Erasmus+ membership, and we remain fully committed to Course 2.

Below are reports from two students of their experiences in Oxford and Barcelona respectively.

A Year in Oxford

Joyce Esser, University of Leiden (Diploma in Legal Studies, 2016-17)



In the third year of my Bachelor degree in Dutch Law in Leiden, I decided to apply for a fourth year abroad and started exploring the options. Spending an entire year in Oxford stood out from the beginning. I decided to apply and I can now safely assert this was one of the best choices I have made so far. After a long and exciting process of administration to Leiden University, Oxford's Law Faculty, St Anne's and the Erasmus+ programme, I finally arrived in Oxford in October, to start what would become the experience of a lifetime.

Studying in Oxford is completely different from studying in Leiden and it took me a little time getting used to the collegiate system, although this turned out to be quite easy in the friendly environment of St Anne's. In Leiden, I took several smaller courses at once, which were mainly taught in big lecture theatres (containing up to 800 students). The change to the tutorial system was quite intense, but turned out to be the best teaching experience I have had. The independent research and the personal teaching challenged me to really get into

the material and form my own thoughts about it. Nevertheless, coming from a civil law background, studying common law was at times quite challenging to me, as many of the doctrines of Tort and Contract did not easily fit into my schematic way of thinking. In the end, it took me the entire year to understand how common law develops gradually but flexibly and how this allows students to bring to the table an original point of view, something that is not as easy in Dutch law. Next to Tort and Contract, I took Roman Law (Delict), which I really enjoyed, as the course has such a rich history of academic legal research. All in all, the academic experience was a very valuable addition to my Dutch Law Degree, which focuses more on teaching 'Dutch law for practitioners' in three years (although it does so quite well).

Next to the academic experience, it was the social experience that made my year at Oxford as valuable as it was. I was placed in the MCR and I immediately loved how the common room system allows you to meet people from different academic backgrounds and from different parts of the world. In the second and third terms, I was part of the MCR committee as social secretary and this allowed me to organise some amazing events. I also signed up for the choir of Christ Church and the Oxford Union. Together with all the other things going on in Oxford, there were almost too many interesting dinners, concerts and lectures going on every evening, making it very hard to choose. In the end, it was this rare combination of the challenging but rewarding academic experience and the rich social life that made Oxford so special for me.

A Year in Pompeu Fabra University, Barcelona

Michael Withers, Merton College (3rd Year Law with Law Studies in Europe Student)



I was lucky enough to spend the third year of my Oxford law degree in the Universitat Pompeu Fabra in Barcelona. Given that the number of places available has historically been quite low, it's wonderful to see this gradually increasing so that more students will have the opportunity to enjoy this amazing experience.

There were many notable differences between the academic system of study in Oxford and Pompeu Fabra. Firstly,

the legal systems of course belong to different families, such that it was very worthwhile getting to grips with the civil law nature of the Spanish legal system after two years of studying the case-based English common law. Secondly, whilst the emphasis in Oxford is on depth, in Barcelona it was most certainly breadth, and I studied around 12 subjects over the course of the year. This meant that during just the one year, it felt like we really got to know a wide cross-section of Spanish law, from core modules like contract to the more niche (and on occasions wacky!) optional courses like economic penal law. During my 4th year so far, it has become somewhat automatic to dwell on the similarities and differences between my current modules and their Spanish equivalents, such that the year has most certainly enriched my academic experience in Oxford as well.

Moving beyond the academic sphere, the experience transformed the way in which I saw and thought about the world. Through being relatively sociable in classes and joining both the university orchestra and choir, I met a huge selection of local students, socialising almost exclusively with students from Catalonia and other regions of Spain over the course of the year. This true immersion in the local lifestyle and culture encouraged me to see life from an alternative perspective and to understand the challenges faced in other parts of the world, e.g. the controversy surrounding Catalan independence. Most importantly, I hope that many of these friendships will be lifelong, and some of my best friends in Oxford are now the Catalan students studying the DLS this year.



Of course, I can't discuss Pompeu Fabra without saying a word or two about the Catalan language! Academically, the divide between classes taught in Catalan and Spanish is roughly half and half, so studying in Spanish for the year is not remotely a problem. Socially, all Catalans are bilingual in Catalan and Spanish, my Catalan friendship groups would always speak in Spanish whilst I was with them, and my Spanish had improved beyond recognition by June. Moreover, the bilingualism of the region and the political debates around this was, for me, one of the most fascinating aspects of the whole year.

Without a shadow of a doubt, my year in Pompeu Fabra was the standout year of my life so far. For people who are curious about the world and keen to improve their Spanish, I would have no hesitation in recommending the Oxford Law with Spanish Law course.

Staff Activities

Institute Staff

Elisabeth Ahlinder



Elisabeth Ahlinder was the Stockholm Centre Oxford Fellow in the Institute for 2016-2017, and a Postdoctoral Fellow at Christ Church. She spent the year here under the terms of our agreement with the Stockholm Centre for Commercial Law.

During the year, Dr Ahlinder's research has primarily been focused on two comparative law projects: fair compensation for telecommunication rights and a comparison of approaches to security of tenure in Swedish, UK and Australian law. During the year, her publications and other activities included:

ARTICLES AND BOOK CHAPTER

'Negativ ränta – avtalsstolkning i ränteunderlandet' in C. Kelly and M. Schultz (eds.), Volume 28 *Stockholm Centre for Commercial Law Årsbok* (2017) VIII, 11-38

Forskningsituationen inom den svenska fastighetsrätten' (2016-17) 3 *Juridisk Tidskrift*, 778-784

'Fair compensation for telecom rights in land in Sweden and the UK' (forthcoming)

'A comparison of approaches to security of tenure in Swedish, UK and Australian law' (forthcoming)

OTHER

Juridiska fakulteten, Remiss Ersättning vid expropriation av bostäder [The Stockholm Faculty of Law's Comments on the Proposed Legislation: Compensation for Compulsory Acquisition of Residential Units] (Ds 2016: 6)

Juridiska fakulteten, Remiss Stärkt ställning för hyresgäster [The Stockholm Faculty of Law's Comments on the Proposed Legislation: Strengthening the Position of Residential Tenants] (SOU 2017: 33)

Juridiska fakulteten, Remiss Näringsdepartementets promemoria Ett aktivitetskrav för rätt att överklaga vissa beslut om lov m.m., Boverkets rapport Begränsad skyldighet att underrätta och rätt att överklaga enligt plan- och bygglagen samt Departementspromemorian Nya steg för en effektivare plan- och bygglag Ds 2014:31 [The Stockholm Faculty of Law's Comments on the Proposed Legislation: Proposals for more Efficient Planning and Zoning Regulation] (N2016/05819/PBB)

OTHER ACTIVITIES

Co-organized a seminar on Land Law Research - Current Status and Future Needs, Stockholm University, Uppsala University, KTH Royal Institute of Technology and Mannheimer Swartling, Stockholm, 13 October 2016

Hosted three seminars and participated in organizing a lecturer on the BCL/MJur course on 'International Commercial Arbitration', 2, 9 and 23 February 2017

Ulf Bernitz



Ulf Bernitz is Co-ordinator of the Stockholm-Oxford Collaboration, and in this capacity he has been a member of the Institute since 2001. He is Professor of European Law at Stockholm University and Visiting Professor of Örebro University. On 19 May he was awarded an Honorary Doctorate in Law at Helsinki University. During the year Professor Bernitz has published in English:

BOOK

(with C. Heide-Jorgensen) (eds.), *Marketing and Advertising Law in a Process of Harmonisation* (Hart Publishing/Bloomsbury, 2017)

BOOK CHAPTERS

'Marketing and Advertising Law in a Process of Harmonisation' in U. Bernitz and C. Heide-Jorgensen (eds.), *supra*, 1-18

'The Road Ahead - Present Status and Need for Reform', in U. Bernitz and C. Heide-Jorgensen (eds.), *supra*, 233-256

OTHER ACTIVITIES

Chaired the Oxford Conference 'Private Labels, Brands and Competition Policy' on 9 June and presented the conclusions

Alexandra Braun



Alexandra Braun was Deputy Director of the Institute, as Academic Director of Undergraduate Exchange Programmes; and Professor of Comparative Private Law and a Fellow of Lady Margaret Hall, until the end of July 2017. Professor Braun was on partial leave this academic year during which her research focused mainly on succession law, including a study of the boundaries of succession law, as well as a paper

exploring developments in the area of forced heirship in Italian law. She also made progress on a monograph to be published by OUP, dealing with the study of testamentary promises from a comparative perspective.

With effect from 1 August 2017 Professor Braun took up the Lord President Reid Chair of Law at the University of Edinburgh but she will continue to maintain her links with the Institute as a Visiting Research Fellow.

ARTICLE AND BOOK CHAPTERS

'The Risk of "Misusing" Trusts: Some Lessons from the Italian Experience' (2016) 24 *European Review of Private Law* 1119-1139

'Testamentary Promises between Selflessness and Self-interest' in A.-S. Hulin and R. Leckey (eds.), *L'abnégation en droit civil* (Editions Yvon Blais, 2017) 21-49

'The State of the Art of Comparative Research in the Area of Trusts' in M. Graziadei and L.D. Smith (eds.), *Comparative Property Law: Global Perspectives* (Edward Elgar Publishing, 2017) 121-149

PRESENTATIONS

'Forced heirship in Italian Law', paper presented at the workshop on 'Family Provision', University of Stellenbosch (March 2017)

'Testamentary freedom v family succession?', paper presented at the workshop on 'Family Provision', University of Stellenbosch (March 2017)

'The concept and the role of jurists in common and civil law jurisdictions', paper presented at the workshop 'Global Jurists Seminar Three - Comparisons, 3 Transplants, Migrations', Queen Mary University, London (January 2017)

'Testamentary promises', seminar with doctoral students held at the University of Innsbruck (October 2016)

'Non-testamentary means of transferring wealth on death: A common law perspective', paper presented at the Annual meeting of the British-German Jurists' Association, Mainz (October 2016)

Martin Brenncke



Martin Brenncke was Erich Brost Career Development Fellow in German and EU Law until Summer 2017. His main research areas are in financial services law (the intersections between the investor protection law and behavioural finance) and statutory interpretation in England and Germany. During the year he continued working on his book on judicial law-making in England and Germany. His teaching in Oxford includes undergraduate tutorials in EU law, constitutional law and, within the

Institute, introductory classes in German Law and Language for the first year students on Course 2 (Law with German Law).

ARTICLE AND BOOK CHAPTER

'MiFID II Conduct of Business Rules' in M. Lehmann and M. Kumpan (eds.), *Financial Services Law* (Hart/Beck/Nomos, forthcoming 2017)

'Hybrid Methodology for the EU Principle of Consistent Interpretation' (forthcoming) *Statute Law Review*

PRESENTATION

'The Legal Framework for Financial Advertising: Curbing Behavioural Exploitation', 34th Annual Conference of the European Association of Law & Economics, London (September 2017)

John Cartwright



John Cartwright, Director of the Institute, is Professor of the Law of Contract at the University of Oxford, and Tutor in Law at Christ Church, Oxford. He is also Professor of Anglo-American Private Law at the University of Leiden, and *professeur invité* at the Université Paris 2 Panthéon-Assas. During the year he was also Visiting Professor at the University of Rome Sapienza, and gave lectures or seminars in Luxembourg, Montpellier, Santiago, Seville, Stockholm, Utrecht and Valparaíso. His research is principally in English and comparative contract and property law. During the year his publications included:

BOOK

(with S. Whittaker) (eds.), *The Code Napoléon Rewritten: French Contract Law after the 2016 Reforms* (Bloomsbury/Hart Publishing, 2017)

ARTICLE AND BOOK CHAPTERS

'Defects of the Contract under Articles 27 to 37 of the Principles of Latin American Contract Law' in R. Momberg and S. Vogenauer (eds.), *The Future of Contract Law in Latin America* (Hart Publishing, 2017) 199-219

'L'introduction au droit en Angleterre' in R. Cabrillac (ed.), *Qu'est-ce qu'une introduction au droit?* (Daloz, 2017) 109-16

'Il diritto inglese dei contratti. Una presentazione per il civil lawyer' (2017) 3 *Contratto e Impresa* 819-856

Ariel Ezrachi



Ariel Ezrachi is Director of the Centre for Competition Law and Policy, within the Institute, Slaughter and May Professor of Competition Law and a Fellow of Pembroke College.

His recently published papers focus on the digital economy, e-commerce, parity clauses, marketplace bans, vertical agreements, buyer power and the limits of competition law. His research and commentary have been featured in 2017 in: *The Economist*, *The New Yorker*, *Wall Street Journal*, *Financial Times*, *The Guardian*, *Nikkei*, *Times Higher Education*, *Harvard Business Review*, *Berkeley Technology Law Journal*, *Chicago University Pro Market*, *New Scientist*, *Politico*, *OBLB*, *WIRED*, *Click - BBC*, *CPI*, *Concurrences*, *The Scotsman*, *The Times*, *Fast Company*, *Nesta*, *UNCTAD*, *OECD*, *Forbes*, *The Australian*, *NRC*, *Business Insider*, *CMS Wire*, *Les Echos* and other international outlets.

Public presentations in the past year included: seminars for enforcement agencies (among others, the Netherlands, South Africa, Philippines, Japan, US, UK, EU), international organizations (UNCTAD, OECD) and conferences (in Hong Kong, Tokyo, London, Amsterdam, Florence, Brussels, Paris, Munich, Chicago, Washington DC, New York, Tel-Aviv, Moscow, Stockholm, Riga).

Publications in the past year included:

BOOK

(with M.E. Stucke) *Sponge* (Harvard University Press, 2016)

ARTICLES

'Sponge' (2017) 5 *The Journal of Antitrust Enforcement* 49-75

(with M.E. Stucke) 'How Digital Assistants Can Harm Our Economy, Privacy and Democracy' (2017) *Berkeley Technology Law Journal*

(with M.E. Stucke) 'Algorithmic Collusion: Problems and Counter-Measures' (2017) *OECD Roundtable on Algorithms and Collusion*

(with M.E. Stucke) 'Looking up in the Data-Driven Economy' (2017) *CPI Competition Policy International*

(with M.E. Stucke) 'Tacit Collusion on Steroids' (2017) 3 *CLPD*

(with M.E. Stucke) 'The Dream of Ultimate Personalization (and the disturbing reality of behavioural discrimination)' (2017) *Concurrences Review*

Andreas von Goldbeck



Andreas von Goldbeck is the DAAD Lecturer in German and EU Law. His main research areas are international commercial arbitration, European private law, European Union law, comparative law, private international law and insurance. He teaches in the BCL/MJur course International Commercial Arbitration as well as in the undergraduate courses European Union Law and Comparative Private Law, and the classes in German Law for the second year students on Course 2 (Law with German Law). As part of the International Commercial Arbitration course he co-organizes the Distinguished Guest Seminar Series.

ARTICLE

'Consumer Arbitrations in the European Union' (2018) *Pepperdine Dispute Resolution Law Journal* XVIII

PRESENTATIONS

'Judicial Control of Pre-dispute Arbitration Clauses' at the Oxford Symposium on Comparative International Commercial Arbitration (November 2016)

'Consequences of the Brussels I Recast' at the Oxford Arbitration Conference—Current Issues in Arbitration and Dispute Resolution (December 2016)

Birke Häcker



Birke Häcker is the Linklaters Professor of Comparative Law. She is Deputy Director of the Institute and a Professorial Fellow of Brasenose College. Professor Häcker's background is in both English and German law. Her comparative research focuses primarily on core private law (especially contract, tort, property/trusts, restitution of unjust enrichment, and succession), often involving a historical angle. At Oxford, she teaches an 'Introduction to the Common Law for Civil Lawyers', the undergraduate (FHS) option in 'Comparative Private Law', and the BCL/MJur course on 'European Private Law: Contract'.

In July 2017, Professor Häcker co-organised a large conference on the topic of 'Counting Votes and Weighing Opinions: Collective Judging in Comparative Perspective' at All Souls College, which was attended by distinguished judges sitting on some of the world's highest and most significant courts and an international academic audience. Her other activities and publications during the past year included:

ARTICLES AND BOOK CHAPTERS

'Honour Runs in the Blood' (2017) 133 *Law Quarterly Review* 36

'La Troisième Jeunesse du Code Civil: A German Lawyer Looks at the Reform of French Contract Law' in J. Cartwright and S. Whittaker (eds.), *The Code Napoléon Rewritten: French Contract Law after the 2016 Reforms* (Bloomsbury/Hart Publishing, 2017) chapter 18

'Fog on the Channel? Six Comparative Lessons in Unjust(ified) Enrichment' [2017] *Restitution Law Review* (forthcoming)

'The Impact of Illegality and Immorality on Contract and Restitution from a Civilian Angle' in S. Green and A. Bogg (eds.), *Illegality after Patel v Mirza* (Bloomsbury/Hart Publishing, forthcoming) chapter 15

PRESENTATIONS

Fait d'autrui – Liability for Acts of Others under the Proposed Reform of the French Civil Liability Regime', Workshop on 'La réforme du droit de la responsabilité civile à la lumière du projet de réforme de la responsabilité civile', Institut de droit comparé, Paris (March 2017)

'Fog on the Channel? Six Comparative Lessons in Unjust(ified) Enrichment', Bentham House Conference 2017: 'Global Futures of Unjust Enrichment', University College London (April 2017)

'The Impact of Illegality and Immorality on Contract and Restitution from a Civilian Angle', Conference on 'Illegality after Patel v Mirza', University of Oxford (May 2017)

'Causa und Consideration – ein historischer Dialog', Trilateral Research Conference 'Causa Contractus. Auf der Suche nach den Bedingungen der Wirksamkeit des vertraglichen Willens / Alla ricerca delle condizioni dell'efficacia della volontà contrattuale / À la recherche des conditions de l'efficacité de la volonté contractuelle (II)', Villa Vigoni, Menaggio, Italy (September 2017)

Classes and presentations on comparative law topics at postgraduate and doctoral workshops for students from all over Europe at the Universities of Oxford and Cambridge.

Geneviève Helleringer



Geneviève Helleringer holds a Leverhulme Trust Early Career Fellowship within the Institute, and is a Fellow of St Catherine's College. She is also an associate law professor at Essec Business School Paris-Singapore where she is the director of the Yale-Paris 2 University – Essec summer school in economic analysis of contracts and dispute resolution. Her academic research focuses on contract, corporate and financial law and alternative dispute resolution, and draws on insights from comparative law, economics, sociology and psychology. She teaches on the Commercial Negotiation and Mediation and the International Commercial Arbitration courses for the Law Faculty. She is also in charge of the French Law and Languages and French Law and Methods courses for Course 2 (Law with French Law).

Dr Helleringer is one of the founders and editors of the *Journal of Financial Regulation*, published by Oxford University Press. She is the Faculty member in charge, and convenor, of the Empirical Legal Studies Discussion Group. During the year her publications and other activities included:

BOOK

(with J.S. Bergé) *Operating Law in a Global Context* (Edward Elgar Publishing, 2017)

ARTICLES AND BOOK CHAPTERS

'The Anatomy of the New French Law of Contract' (forthcoming 2017) *European Review of Contract Law*

(with M. Gelter) 'Opportunity Makes the Thief. Corporate Opportunities vs. Private Profits in Comparative Perspective (US, UK, Germany and France)' (2017) 14 *Berkley Business Law Review* 2

'Transfer of Property' in J. Cartwright and S. Whittaker (eds.), *The Code Napoléon Rewritten: French Contract Law after the 2016 Reforms* (Hart Publishing, 2017) 207-226

(with A.L. Sibony) 'Consumer Protection through the Behavioral Glass' (2017) 23 *Columbia Journal of European Law* 3, 607-646

(with G. Castellano) 'Shedding Light on EU Financial Regulators: A Sociological and Psychological Perspective' (2017) 40 *Hastings International and Comparative Law Review* 1, 69-121

(with P. Ayton) 'Arbitration and Psychology. Bias, Self-insight in Judgment and the Arbitrator's Impartiality' in T. Cole (ed.), *The Roles of Psychology in International Arbitration* (Kluwer, 2017) 45-74

'Banking Law Bi-Quarterly Case-Law Development' (2016-7) *Banque et Droit Journal, Editions Banque*

PRESENTATIONS

'Corporate Opportunity and Private Interests: a Comparative Perspective', Annual conference of the European Association of Law and Economics (EALE), London (September 2017)

'Decision Making in Organised Public Governance and Networks: General Approach and Illustration from EU Regulation', Conference on 'Theories of Choice. The Social Science and the Law of Individual, Collective and Organisational Decision Making', European University Institute, Florence (July 2017)

'Nudges and Conflicts of Interest', conference on 'WINK the Nudge', Utrecht (June 2017)

'Common Principles of Conflicts of Interest Regulation', conference on 'Common Principles of Financial Regulation, Leuven University (February 2017)

Axel Moeller



Axel Moeller has been Max Planck Fellow at the IECL since 2015, undertaking research under the academic exchange programme with the Max Planck Institute for Comparative and International Private Law, Hamburg. His research emphasis has mainly been on the law and economics of European private law, economic analysis of civil law, and axiomatic jurisprudence. During the year his academic activities included:

PRESENTATIONS

'The Law and Economics of Compound Interest in European Private Law', University of Oxford - Faculty of Law, Comparative Law Discussion Group (November 2016)

'The Laws of Maths and the Law', Industrial Mathematics Community Meeting, Prince Philip House, London (May 2017)

OTHER ACTIVITIES

External examiner for the following law and economics courses at Bucerius Law School, Hamburg (in cooperation with Professor Hans-Bernd Schäfer):

1. Internationalisation of the law from an economic perspective.
2. Introduction to the economic analysis of the law
3. Introduction to economics

Esther van Schagen



Esther van Schagen holds a Newton Fellowship within the Institute and is conducting a research project on impact assessments in EU contract law. During the first year, from January–December 2016, the project has analysed impact assessments in the area of EU contract law, the 2015 Better Regulation Guidelines and the Better Regulation Toolbox, which have been compared to the 2009 Impact Assessment Guidelines, OECD Recommendations, and the UK recommendations on evaluation and appraisal and impact analysis. The project has also considered opinions of the Regulatory Scrutiny Board and its predecessor, the Impact Assessment Board.

In August 2017, Dr van Schagen took up a post as an assistant professor in private international law and civil procedure law at the University of Utrecht.

During the year her academic activities include:

ARTICLES

'Better Regulation and the Principle of Consumer Protection in European Contract Law' (2017) *European Review of Contract Law* 239-254

'Europese Betere Regelgeving: "denkrichtingen" voor meer transparantie en participatie in het Nederlandse wetgevingsproces?' (2017) *RegelMaat* 171-188

PRESENTATIONS

'Better Regulation and the Revision of EU Contract Law' presentation to the Comparative Law Discussion Group, Oxford (December 2017)

'The Better Regulation Guidelines and the Principle of Consumer Protection', first Expert Round Table on Impact Assessments in European Contract Law, Somerville College, Oxford (February 2017)

'Choice of Law in Consumer Contracts', presentation to the Comparative Law and the Obligations Discussion Groups, Oxford (May 2017)

'The Contribution of Impact Assessments to European Contract Law', University of Exeter, workshop on Contract Law Harmonisation and Impact Assessments (September 2017)

OTHER ACTIVITIES

Organised the first Expert Round table on impact assessments and European contract law, 9-10 February 2017

Stephen Weatherill



Stephen Weatherill is Deputy Director of the Institute, Jacques Delors Professor of European Law and Fellow of Somerville College. His research interests span the wide sweep of the law of the European Union, embracing both constitutional and institutional law and the law of the internal market. He delivers lectures on the undergraduate FHS course and also leads seminars on the taught postgraduate courses on European Business Regulation (the law of the EU's internal market) and The Constitutional Principles of the EU. He supervises several graduate research students working in the field of EU law. He is getting a little concerned that the promised array of superb trade deals readily available as a result of the UK throwing off the shackles of the EU are not yet readily visible. His publications this year included:

BOOKS

The Internal Market as a Legal Concept (Oxford University Press, 2017)

Principles and Practice in EU Sports Law (Oxford University Press, 2017)

ARTICLE AND BOOK CHAPTERS

'Justification, Proportionality and Consumer Protection' in P. Koutrakos, N. NicShuibhne and P. Syrpis (eds.), *Exceptions from EU Free Movement Law: Derogation, Justification and Proportionality* (Bloomsbury/Hart, 2016), chapter 12, pp.240-264

'The Competence to Harmonise and its Limits' in P. Koutrakos and J. Snell (eds.), *Research Handbook on the Law of the EU's Internal Market* (Edward Elgar, 2017) chapter 5, pp. 82–101

'The Internal Market and EU Fundamental Rights' in S. Douglas-Scott and N. Hatzis (eds.), *Research Handbook on EU Law and Human Rights* (Edward Elgar, 2017) chapter 16, pp.364-379

(with B. Garcia and A. Vermeersch) 'A New Horizon in European Sports Law: the Application of the EU State Aid Rules Meets the Specific Nature of Sport' (2017) 13 *European Competition Journal* 28-61:
<http://www.tandfonline.com/doi/pdf/10.1080/17441056.2017.1311146>

Research Fellows

Sanja Bogojević

Sanja Bogojević is Associate Professor, and a Fellow of Lady Margaret Hall. Her research interest lies in Environmental Law and EU Law more broadly and much of her work explores interlinks and dichotomies between private and public spheres in these two areas of law. To this end, she is currently working on research projects exploring the role of markets in environmental law, greening of procurement law, as well as the adjudication of environmental rights in the EU legal context. During the year her publications and other activities included:

BOOK

(with R. Rayfuse) (eds.), *Environmental Rights in Europe and Beyond* (Hart Publishing, forthcoming)

ARTICLES AND BOOK CHAPTERS

'EU Human Rights Law and Environmental Protection: The Beginning of a Beautiful Friendship?' in S. Douglas-Scott and N. Hatzis (eds.), *Research Handbook on EU Law and Human Rights* (Edward Elgar, 2017) 449-465

'Environmental (Property) Rights in Market-Based Management' in S. Bogojević and R. Rayfuse (eds.), *supra*

(with R. Rayfuse) 'Environmental Rights in Europe and Beyond: Setting the Scene' in S. Bogojević and R. Rayfuse (eds.), *supra*

(with N. Petit) 'Deterring the State versus the Firm: Soft and Hard Deterrence Regimes in EU Law' (2016) 23 *Colombia Journal of European Law* 55

'Judicial Dialogue Unpacked: Twenty Years of Preliminary References on Environmental Matters Initiated by the Swedish Judiciary' (2017) 29 *Journal of Environmental Law* 263

PRESENTATIONS

'Market Mechanisms in Comparative Environmental Law', Oxford Handbook of Comparative Environmental Law Workshop (January 2017)

'Untapped Potentials of Article 260 TFEU Deterrence as a Means to Respond to Implementation Deficit in EU Environmental Law', European Environmental Law Forum, Copenhagen (August 2017)

'Environmental Protection as Judicial Discretion: the Case of EU Public Procurement Law', EU Forum for Judges for the Environment 2017, Oxford (September 2017)

OTHER ACTIVITIES

Co-editor of the Analysis Section for the *Journal of Environmental Law*

Mindy Chen-Wishart

Mindy Chen-Wishart is Professor of the Law of Contract, and Fellow of Merton College. She holds a fractional Professorship at the National University of Singapore, and a Visiting Professorship at Hong Kong University. She is leading a large project on the Contract Laws of Asia. During this year Professor Chen-Wishart's publications and other activities included:

BOOK CHAPTER

'Invalidity of Contract in English and Chinese Law' in C. Lei and L. Di Matteo (eds.), *Perspectives on Chinese Contract Law* (Cambridge University Press, 2017) forthcoming

PRESENTATIONS

'Contract Law: Looking Towards Asia', Plenary Lecture at the 12th Annual International Conference on Contract, Los Angeles (February 2017)

'Looking Towards Asia', Oxford Alumni in Singapore event (March 2017)

'Looking Towards Asia', Keynote address for conference on 'The Future of the Commercial Contract in Scholarship and Law Reform – European and Comparative Perspectives', Institute of Advanced Legal Studies (IALS), London (September 2016)

Matthew Dyson

Matt Dyson is Associate Professor, and a Tutorial Fellow at Corpus Christi College, with a comparative and historical interest in the relationship between tort and crime. His work looks particularly at how and why tort and crime have developed over the last 150 to 200 years across around 10 countries. He teaches criminal law, tort law and Roman law at the moment, and has taught comparative law and EU law, with comparative law a subject to be taught again in the near future. He is particularly engaged in developing more work within the Institute on comparative criminal law.

BOOK

Blackstone's Statutes on Criminal Law 2017-18 (Oxford University Press, 2017)

ARTICLES AND BOOK CHAPTER

- 'Ever Working in Practice, But Never in Theory? The New English Law of Criminal Complicity' (2017) *Zeitschrift für die gesamte Strafrechtswissenschaft* 232-263
- 'Remedies of the Criminal Courts' in G. Virgo and S. Worthington (eds.), *Commercial Remedies: Resolving Controversies* (Cambridge University Press, 2017)
- 'The State's Obligation to Provide a Coherent System of Remedies Across Crime and Tort' in A. du Bois-Pedain et al. (eds.), *Criminal Law and the Authority of the State* (Hart Publishing, 2017)
- 'R v. Hancock and Shankland' in P. Handler, H. Mares and I. Williams (eds.), *Landmark Cases in the Criminal Law* (Hart Publishing, 2017)
- 'Frederick Pollock, The Law of Torts' in Serge Dauchy et al. (eds.), *The Formation and Transmission of Western Legal Culture: 150 Books that made the Law in the Age of Printing* (Springer, 2017)

PRESENTATIONS

- 'Criminal Complicity', Criminal Bar Association Annual Conference, London (December 2016)
- 'Organ Transplants which Harm the Recipient', Hokaido University Centre, Tokyo (December 2016)
- Visiting Professor at Dauphine University, Paris in January 2017, teaching on comparative criminal law
- 'Risk-Reasoning in Tort Law', Utrecht (February 2017)
- 'Structure in Criminal Law', Goettingen (March 2017)
- 'Tort and Crime', Oxford-MPI workshop, Oxford (May 2017)
- 'Mental States and Careless Acts: the Development of Fault in Tort and Crime since 1850', British Legal History Conference, London (July 2017)
- 'Organ Donation: Legal Issues', Yale-Cambridge Symposium in New York City (September 2017)
- 'Age Capacity Across Tort and Crime', University of La Laguna (September 2017)

Luca Enriques

Luca Enriques is the Allen & Overy Professor of Corporate Law and a Fellow of Jesus College. During the past academic year he has kept his research focus on comparative and European corporate law and financial regulation. Throughout the year he has worked on the following research projects:

- (with John Armour) finalising a paper on equity and reward crowdfunding, which has been accepted for publication in the *Modern Law Review* and a paper on financing disruption;
- (with John Armour and Martin Bengtzen) working on a Columbia Law School and Business School project known as the New Special Study where a chapter on globalization in the book that will be the first product of the project has been produced, which will take stock of US securities regulation in the light of the market developments of the last couple of decades;
- the research project on related party transactions, coordinated together with Tobias Tröger of SAFE Frankfurt, has moved forward according to plan. An authors' workshop was held at Jesus College in May 2017 and a SAFE Frankfurt/European Corporate Governance Institute open conference will be held in October 2017. He working on the chapter focusing on the Italian law on related party transactions;
- papers on the project on institutional investor voting and network theory, together with Alessandro Romano (Rotterdam University), have been presented at the 11th Columbia Law School-Ono College of Law Annual Corporate Law Conference, Israel, July 2017, at a conference held at the European University Institute in Florence on 'Theories of Choice. The Social Science and the Law of Individual, Collective and Organisational Decision Making' in July 2017, and at a seminar in the Paris Law and Finance Seminars series organized by the Laboratoire d'Excellence Régulation Financière in September 2017.

BOOK

(with R. Kraakman, J. Armour, P. Davies, H.B. Hansmann, G. Hertig, K.J. Hopt, H. Kanda, M. Pargendler, G. Ringe and E.B. Rock) (eds.), *The Anatomy of Corporate Law* (3rd edition, Oxford University Press, 2017)

ARTICLES AND BOOK CHAPTER

(with M. Gargantini) 'Form and Function in Doing Business Rankings: Is Investor Protection in Italy Still so Bad?' (2016) 1 *University of Bologna Law Review* 1-33

(with M. Bengtzen) 'Editorial: The "Argumentum a Crise": So Powerful, So Prone to Misuse' (2016) 13 *European Company Law* 120-22

'EU Prospectus Regulation: Some Out-of-the-Box Thinking' (2016) *Revista Lex Mercatoria* 39-42

'A Harmonised European Company Law: Are We There Already?' (2017) 66 *International and Comparative Law Quarterly* 763-777

'Il Regno Unito dopo la Brexit: un nuovo, enorme paradiso fiscale e societario alle porte dell'Unione Europea?' (2016) *Osservatorio del diritto civile e commerciale* 577-80

'Il ruolo dei consigli di amministrazione delle società quotate italiane nell'era della disruptive innovation' (2017) *Banca impresa società* 15-21

(with Matteo Gargantini) 'The Overarching Duty to Act in the Best Interest of the Client in MiFID II' in D. Busch and G. Ferrarini (eds.), *Regulation of EU Financial Markets: MiFID II and MiFIR* (Oxford University Press, 2017) 85-122

'Società per azioni (Corporation)' (2017) *Enciclopedia del Diritto, Annali*, Volume X (Giuffrè) 958-76

OXFORD BUSINESS LAW BLOGS

'The Role of Italian Companies' Boards in the Age of Disruptive Innovation', 6 December 2016

(with J. Armour, M. Pargendler and G. Ringe) 'The Anatomy of Corporate Law: The New Edition', 17 February 2017

Brexit Negotiations Series: 'Empty Threats – Why the UK Has Currently No Chance to Become a Tax or Regulatory Haven', 26 June 2017

'The HR Challenge of FinTech for Financial Regulators', 3 July 2017

'A Harmonized European Company Law: Are We There Already?', 11 September 2017

PRESENTATIONS

'Financing Disruption', SOAS School of Finance and Management Staff Seminar (November 2016)

'Related Party Transactions', Second Annual Conference of the Ibero-American Institute for Law and Finance, Havana (December 2016)

'Financing Disruption', Goethe University/University of Pennsylvania Law School Conference on Law and Finance, Frankfurt (December 2016)

'The New Prospectus Regulation: a Critical View', International Working Group on CMU Conference, Amsterdam (January 2017)

'Investor Choice in Global Securities Markets', 'New Special Study of the Securities Markets Initiating Conference', Columbia Law School (March 2017)

'The Kornhass Case', Universidad de Granada and European Law Institute 'Encuentro annual sobre Jurisprudencia europea', Granada (May 2017)

'Investor Choice in Global Securities Markets', Law and Finance Seminar of Hebrew University (June 2017)

'Scandals and Corporate Governance Reforms in Europe', 2017 Corporate Governance Conference, Seoul (August 2017)

Panellist: 'Governing the Corporation: Inside and Out', Antonin Scalia Law School Tenth Annual Transatlantic Law Forum (September 2017)

Co-organised the Oxford University Faculty of Law/Columbia Law School/ECGI Conference on 'The Future Framework for European Capital Markets: Law and Finance'

Introductory speech at the Italy Corporate Governance Conference, Milan (December 2016)

OTHER ACTIVITIES

Editor of the *Capital Markets Law Journal* and of the Italian law journal *Rivista di diritto societario*, a member of the ECGI Research Committee, and a member of the Comité d'orientation of Droit et Croissance/Rules for Growth, a Research and Policy Centre based in Paris. Appointed by the European Securities Market Authority as a member of the Consultative Working Group of ESMA's Financial Innovation Standing Committee. Teaching has included lectures, seminars and tutorials in Comparative Corporate Law and the Principles of Financial Regulation.

Mark Freedland

Mark Freedland is a former Director of the Institute, Emeritus Professor of Employment Law and Emeritus Research Fellow in Law at St John's College.

His main project of research and writing has consisted of acting as the General Editor of a new treatise on *The Law of the Contract of Employment* which was published by OUP in May 2016, for which he led the close co-ordination of a team of twenty eminent contributors, and to which he contributed several chapters. A further stream of research and writing has since started to develop from that work; in the course of the academic year 2016-17, he organized presentations of this new treatise at Doughty Street Chambers in London, in Brasenose College Oxford, and in the University of Toronto at the Third International Conference of the Labour Law Research Network.

Professor Freedland has continued to be engaged in research and writing on 'zero-hours contracts' and other forms of casual and precarious work. He is specially interested in the dimension of socio-economic analysis of these increasingly significant types of employment or work relation, and also to consider the relevant aspects of tax and social security law as well as of labour/employment law. He gave a lecture on that subject at the Carlos III University of Madrid in November 2016, which has since appeared in the Oxford Legal Studies Research Paper Series (see under Publications).

The 'Migrants at Work' project has continued to give rise to a continuing work-stream in the area of intersection between Labour/Employment Law and Migration Law. A chapter was published in 2016 based upon a paper which he had given, with Dr Cathryn Costello, on that subject at a workshop at the Onati Institute in June 2015, and other such opportunities for further work are in prospect.

Professor Freedland has also embarked, with several colleagues, upon a project of research and writing which will consider, under the heading of 'Criminality at Work', the role of criminal law and penal policy in the regulation of employment relations, a project which is

due to give rise to a major colloquium and subsequent symposium publication during the next two to three years.

More generally, Professor Freedland anticipates that the next three years will represent a further and possibly more acute phase of continuing crisis in the fields of Labour/Employment Law, Migration Law, and, increasingly, Public Law, both in the UK and in Europe more generally. In particular, he is convinced that this underlying crisis will have been exacerbated by the result of the UK Referendum on membership of the European Union of 23 June 2016, and he has been engaged since the Summer of 2016 in discussion of and writing about that topic, an activity which he anticipates will continue to occupy quite a lot of his working time during the coming months and years.

ARTICLE AND BOOK CHAPTER

'Seasonal Workers and Intra-corporate Transferees in EU Law: Capital's Handmaidens?' in J. Howe and R. Owens (eds.), *Temporary Labour Migration in the Global Era – The Regulatory Challenges* (Hart Publishing, 2016) Chapter 2

(with Jeremias Prassl) 'Employees, Workers, and the "Sharing Economy": Changing Practices and Changing Concepts in the United Kingdom' (2017) *Oxford Legal Studies Research Paper No.19*

Dorota Leczykiewicz

Dorota Leczykiewicz is Associate Professor of Law, and Official Fellow of St Peter's College. For the most part of 2016-17 she was on maternity leave.

Justine Pila

Justine Pila is Associate Professor in Intellectual Property Law, and Fellow of St Catherine's College. Her research activities lie in the field of European and comparative intellectual property law. In 2016–17 she finished co-editing the intellectual property volume in the Oxford Handbook series, and completed a research monograph on intellectual property subject matter with a European and comparative legal focus, published also by OUP (in September 2017). Her teaching activities relating to European and comparative law include offering EU law tutorials for her College and seminars on different BCL/MJur courses.

BOOKS

(with R.C. Dreyfuss) (eds.), *Oxford Handbook of Intellectual Property Law* (OUP, 2017)

The Subject Matter of Intellectual Property (OUP, 2017)

BOOK CHAPTERS

(with R.C. Dreyfuss) 'Intellectual Property Law: An Anatomical Overview' in J. Pila and R.C. Dreyfuss (eds), *supra*, chapter 1

'Copyright and Related Rights: Outlining a Case for a European Morality/Public Policy Exclusion' in P.L.C. Torremans (ed), *Copyright Law: A Handbook of Contemporary Research* (EE, 2017)

Jeremias Prassl

Jeremias Prassl is Associate Professor of Law and Fellow of Magdalen College. His work over the past year has been primarily in comparative European and international employment law, focusing on access to justice and the rise of the 'gig' economy, and giving more than 30 lectures to a wide range of audiences. He has continued to teach Constitutional, EU and Employment Law on the undergraduate and graduate courses, and held visiting positions at Yale Law School, WU Vienna, and the University of Hong Kong.

Professor Prassl's work on access to justice in the employment tribunals (jointly with Professor Abi Adams of the Economics Faculty and New College, Oxford) has been published in the *Modern Law Review* and was argued before the Supreme Court in the spring of 2017. In *Unison v Lord Chancellor*, the Justices unanimously overturned the Lord Chancellor's 2013 Fee Regime for claimants before employment tribunals and employment appeal tribunals.

Over the summer, Professor Prassl finished the manuscript for a new book exploring work in the 'on-demand' or 'gig' economy from a comparative perspective (including comparative analyses of European, American, and Asian jurisdictions). *Humans as a Service: The Promise and Perils of Work in the On-Demand Economy* will be published by Oxford University Press in early 2018. This work has led to a number of engagements with national governments and international organisations around the world, as well as media coverage ranging from the *Financial Times* to *The Economist*. He also edited a special issue of the *European Labour Law Journal* on Future Directions in European Labour Law, which was published by Intersentia in the autumn of 2016. In the summer of 2017, he organised a conference at the British Academy with Professors Judith Freedman (Oxford Law) and Abi Adams (Oxford Economics) on the employment and tax implications of changing labour markets. He also joined twitter, and tries to keep up @JeremiasPrassl

ARTICLES AND BOOK CHAPTERS

(with A. Adams) 'Vexatious Claims? Challenging the Case for Employment Tribunal Fees' (2017) *Modern Law Review* 412-422

'Reconsidering the Notion of "Employer" in the Era of the Fissured Workplace in the UK: Should Labour Law Responsibilities Exceed the Boundaries of the Legal Entity?' (2017) 95 *Bulletin of Comparative Labour Relations* 81-104 (also published in H. Nakakubo and T. Araki (eds.), *Reconsidering the Notion of "Employer" in the Era of*

Fissured Workplace: Should Labour Law Responsibilities Exceed the Boundary of the Legal Entity? (JILPT Report No. 15/2016) 73-94)

- (with E. Brameshuber) 'Die "europäische Säule sozialer Rechte"' in P. Aschauer and E. Brameshuber (eds.), *Jahrbuch Sozialversicherungsrecht* (NWV Verlag, 2017) 85–96
- (with M. Freedland) 'Chapter 40: Employment' in H. Beale (ed.), *Chitty on Contracts – 32nd edition, 1st Supplement* (Sweet & Maxwell, 2016)
- (with B. Jones) 'The United Kingdom' in M. Ebisui, S. Cooney and C. Fenwick (eds.), *Resolving Individual Labour Disputes: A Comparative Overview* (International Labour Organisation, 2016) 269-311
- 'Abuse of Rights as a General Principle of EU Law' in A. Hartkamp, C. Sieburgh, and W. Devroe (eds.), *Cases, Materials and Text on European Law and Private Law (Ius Commune Casebooks for the Common Law of Europe)* (Hart, 2017) 326-334
- (with M. Risak) 'The Legal Protection of Crowdworkers: Four Avenues for Workers' Rights in the Virtual Realm' in P. Meil and V. Kirov (eds.), *Policy Implications of Virtual Work* (Palgrave MacMillan, 2017)
- 'Flexible Arbeitsverpflichtung, Legitimierte Ausbeutung? Der "Zero-Hours Contract" im Englischen Recht' in T. Tomandl and M. Risak (eds.), *Wie bewältigt das Recht Moderne Formen der Arbeit?* (New Academic Press, 2016) 39-59
- 'The Interaction of EU Law and National Law: Between Myth and Reality' in A. Bogg, C. Costello and A. Davies (eds.), *Research Handbook on EU Labour Law* (Edward Elgar, 2016) 42–63
- 'Who are Employers in Crowd Work: Old Issues, New Perspectives' in H.D. Soon, P. Chanim, P.J. Sung et al (eds.), *Employment Relations Change and Social Welfare Paradigm* (Korea Labor Institute, 2016) 210-235 [in Korean]
- 'Who is a Worker?' (2017) 133 *Law Quarterly Review* 366–372
- 'Uber devant les tribunaux' (2017) 6 *RDT* 439–445
- (with R. Hunter) 'Worker Status for App-Drivers: Uber-rated?' (2017) *OxHRH* [online publication]
- 'Uber: the Future of Work ... Or Just Another Taxi Company?' (2017) *OxBLB* [online publication]
- 'Are Uber, Mechanical Turk, and other "Crowdwork" Platforms Employers?' (2017) *OxBLB* [online publication]
- 'Work in the Gig Economy: TaskRabbit, Uber & Co as Employers?' (2016) *OxCLC Blog* [online publication]
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Simon Whittaker

Simon Whittaker is Professor of European Comparative Law and Fellow of St John's College. During the year he has given lectures, seminars and tutorials for the FHS Comparative Private Law course. His main work has been on the reforms to the French law of obligations, helping to prepare the publications of the workshop of 2016 on Contract Law and working on the proposal to reform the law of civil liability. In addition, he has been working on English consumer contract law, including for a chapter for the new edition of *Benjamin's Sale of Goods*.

BOOK

(with J. Cartwright) (eds.), *The Code Napoléon Rewritten: French Contract Law after the 2016 Reforms* (Bloomsbury/Hart Publishing, 2017)

ARTICLES AND BOOKS CHAPTERS

'Distinctive Features of the New Consumer Contract Law' (2017) 133 *Law Quarterly Review* 47-72

'The Roles of *la prestation* in the new French Contract Law' in *Studi in onore di Antonio Gambaro*, forthcoming.

'Reform Bill on Civil Liability', translation into English in consultation with Jean-Sébastien Borghetti of *Projet de réforme de la responsabilité civile* undertaken at the request of the Ministry of Justice, French Republic and published at <http://www.textes.justice.gouv.fr/textes-soumis-a-concertation-10179/projet-de-reforme-de-la-responsabilite-civile-traduit-en-anglais-30553.html>

'Contracts, Contract Law and Contractual Principle' in J. Cartwright and S. Whittaker (eds.), *supra*, 29-55

PRESENTATIONS

'Les dommages-intérêts punitifs et l'amende civile: une réflexion comparative d'un juriste anglais sur le Projet de réforme de la responsabilité civile', Conférence Responsabilité civile - Laboratoire de sociologie juridique, University of Paris Panthéon-Assas (Paris 2) (December 2016) (publication forthcoming)

OTHER ACTIVITIES

Visiting professor at the University of Paris Panthéon-Assas (Paris 2) March 2017

Guest lecture, Bocconi University, 'Standard Terms in European Contract law: Unfair Terms and Unfair Competition', Milan (November 2016)

Workshop organised with Jean-Sébastien Borghetti of the University of Paris 2 under the auspices of the IECL and the Société de législation comparée on the proposed French reforms to civil liability (Paris, March, 2017); presentation at the workshop

Visiting Research Fellows

Hugh Beale

Hugh Beale is Professor at the University of Warwick, Visiting Professor at the Oxford Law Faculty and Senior Research Fellow at the Commercial Law Centre at Harris Manchester College. He continues to work on the various proposals for EU contract law (currently reduced to two directives) and comparative contract law. With B. Fauvarque-Cosson, J. Rutgers and S. Vogenauer, he is preparing a new edition of *Ius Commune Casebooks for the Common Law of Europe: Cases, Materials and Text on Contract Law*, which is a combination of European and comparative contract law. He teaches a course on European Contract Law at Warwick and did a session on Harmonisation of Contract Law for an Internal Market without the UK for the Oxford BCL/MJur students. He also works on security over personal property, which has a comparative aspect.

BOOK

Chitty on Contracts, First Supplement to the 32nd ed. (Sweet & Maxwell, 2016) (general editor and editor of chapters 3, 6-8 and 26)

ARTICLES AND BOOK CHAPTERS

"Surprising" or "Unfair"? Controls over Standard Terms" in UNIDROIT (ed.), *Eppur si muove: The Age of Uniform Law - Essays in honour of Michael Joachim Bonell* (UNIDROIT, 2016) 975-987

'An Outline of a Typical PPSA Scheme' in L. Gullifer and O. Akseli (eds.), *Secured Transactions Law Reform: Principles, Policies and Practice* (Hart Publishing, 2016) 7-19

'The Story of EU Contract Law - from 2001 to 2014' in C. Twigg-Flesner (ed.), *Research Handbook on EU Consumer and Contract Law* (Edward Elgar, 2016) 431-462

(with L. Gullifer and S. Paterson) 'A Case for Interfering with Freedom of Contract? An Empirically-Informed Study of Bans on Assignment' [2016] *JBL* 203-230.

'The Law Commission Model: Exportable to the EU?' in M. Dyson, J. Lee and S. Stark (eds.), *Fifty Years of the Law Commissions* (Hart Publishing, 2016) 219-234

'Undue Influence and Unconscionability' in A. Dyson, J. Goudkamp and F. Wilmot-Smith (eds.), *Defences in Contract* (Hart, 2017) 87-110

'English Contract Law: Legitimate Deterrence and Penalty Clauses' [2017] (2) *Zeitschrift für Internationales Wirtschaftsrecht* 68-73

'Conclusion and Performance of Contracts: an Overview' in R. Schulze, D. Staudenmayer and S. Lohsse (eds.), *Contracts for the Supply of Digital Content: Regulatory Challenges and Gaps* (Nomos, 2017) 33-57

'Review of Jacobien Rutgers and Pietro Sirena (eds.) *Rules and Principles in European Contract Law* (Antwerp: Intersentia, 2015)' [2017] *CMLR* 951-953

'The Principles of Latin American Contract Law: A Response from an Outsider' in R. Momberg and S. Vogenauer (eds.), *The Future of Contract Law in Latin America* (Hart Publishing, 2017) 265-284

PRESENTATIONS

'The Proposal for a Directive on Online Sales of Goods for S & D Group', Workshop on the contract law proposals on the supply of digital content and online sales of goods, European Parliament (January 2017)

Lecture: 'Harmonisation of Contract Law for an Internal Market without the UK'; and 'Penalty Clauses in English Law' (student seminar), University of Santiago de Compostela (April 2017)

OTHER ACTIVITIES

Autonomous University of Madrid: selection panel for Intertalentum Postdoctoral awards

European Law Institute (Council, and member of working group that produced the ELI Statement on the European Commission's Proposed Directive on the Supply of Digital Content to Consumers

PhD examination On European Contract Law for Manchester University and a PhD that was a comparative study of security rights for KU Leuven

Secured Transactions Reform Project (Executive Committee and Steering Group)

Anthony Bradley

Anthony Bradley is Emeritus Professor of Constitutional Law at the University of Edinburgh.

ARTICLE

'Pressures on a Historical Constitution: the Brexit Decision in the UK Supreme Court' (2017)
23 Diritto Pubblico 3-20

Gerhard Dannemann

Gerhard Dannemann is Professor of English Law, British Economy and Politics, and was until 30 September 2017 Director of the Centre for British Studies, Humboldt University, Berlin. He leads a research project which aims to evaluate the impact which Francis Mann had on the development of English, German and International Law, based on Mann's voluminous correspondence which was donated to the Humboldt University in 2014. He is co-organiser of a Research Group on the Law of Digital Services which in September 2017 presented at

the ELI Annual Conference a Draft Model Law on Online Intermediary Platforms. Together with Reiner Schulze (University of Münster), he is also working on the first English language commentary of the German Civil Code, due to be published in 2018. He teaches English Legal System, British Constitutional Law and Political System, English contract and commercial law, comparative contract law and private international law at Humboldt University.

ARTICLES AND BOOK CHAPTERS

'Anglo-amerikanischer Rechtskreis' in *Staatslexikon Recht Wirtschaft Gesellschaft*, Vol I, 8th edn. (Herder-Verlag, 2017) 195-206

'WiseWoman' in C. Busch, J. Sieck and G. Zhang (eds.), *Forschung, Lehre & Ethik: Festschrift für Prof. Dr Debora Weber-Wulff* (Berlin, 2017) 99-105

'Adjustment/Adaptation (Anpassung)' in J. Basedow, G. Rühl, F. Ferrari and P. de Miguel Asensio (eds.), *Encyclopedia of Private International Law*, Vol. 1 (Edward Elgar Publishing, 2017) 16-20

(with C. Busch and H. Schulte-Nölke) 'Ein neues Vertrags- und Verbraucherrecht für Online-Plattformen im Digitalen Binnenmarkt? Diskussionsentwurf für eine mögliche EU-Richtlinie' (2016) 19 *Multi-Media und Recht* 787-792

Continued as General Editor of the Oxford University Comparative Law Forum and of the German Law Archive.

PRESENTATIONS

'Außenpolitik, Wirtschaft und Arbeitsmarktentwicklung in Großbritannien nach dem Brexit', Herrenhäuser Forum für Politik-Wirtschaft-Gesellschaft. Was nun? - Die Europäische Union nach dem Brexit, Schloss Herrenhausen (November 2016)

'Art. 24 (Applicable Law)', Conference: Discussion Draft of a Directive on Online Intermediate Platforms, Jagellonian University Krakow (January 2017)

'Conflict of Laws', European Law Institute Working Group on Digital Platforms Conference, University of Osnabrück (March 2017)

'Was bedeutet der Brexit für Großbritannien und seine Regionen?', Evening Seminar, Sächsische Landeszentrale für politische Bildung: Das unleinige Königreich. England und der BREXIT (March 2017)

'Was zeichnet gute rechtswissenschaftliche Praxis aus?', Evening Seminar, Law & Society Institute, Berlin (April 2017)

'The Future of German Unjustified Enrichment Law'. Conference: Global Futures of Unjust Enrichment, University College London (April 2017)

'Judges and Legislators as Comparative Lawyers' and 'Methodologies of Comparative Legal Studies', Conference: Comparative Legal Studies in the Contemporary World: An Insight into Iranian and German Law, Azad University, Tehran (April 2017)

“BrexIt means BrexIt” means what?, Zum künftigen Verhältnis von Großbritannien, Europa und Deutschland, PhD Graduation Lecture, University of Hamburg (May 2017)

‘WiseWoman’. Celebration of the 65th birthday of Professor Debora Weber-Wulff, Berlin (May 2017)

‘What Future for the Leistungskondiktion?’, Seminar on Unjust Enrichment, University of Carlos III Madrid (May 2017)

Eric Descheemaeker

Eric Descheemaeker is now a Professor at Melbourne Law School in Australia, having moved there from the University of Edinburgh in July 2017. He is a private lawyer whose main research interests lie in non-contractual obligations, both in the common-law world and in the civilian tradition (in particular France). He is also interested in Roman law and legal history.

This year his publications and other activities included:

ARTICLES AND BOOK CHAPTERS

‘The New French Law of Unjustified Enrichment’ (2017) 25 *Restitution Law Review*, forthcoming

‘Unravelling Harms in Tort Law’ (2016) 132 *Law Quarterly Review* 595-617

‘Claimant-focused Damages in the Law of Privacy’ in N. Moreham and J. Varuhas (eds.), *Remedies for Breach of Privacy* (Oxford, 2018) forthcoming

‘Penser l’ancien droit privé : perspective d’un système non-codifié’ [‘Thinking Historically About Private Law: Perspectives from an Uncodified System’] in N. Laurent-Bonne and X. Prévost (eds.), *Penser l’ancien droit privé : Regards croisés sur les méthodes des juristes* (Paris, 2017) forthcoming

‘La réparation du préjudice corporel : prolégomènes historiques et comparatifs’ [‘Reparation of Bodily Injuries: Some Historical and Comparative Prolegomena’] in D. Fenouillet et al (eds.), *Flexibles notions : La responsabilité civile* (Paris, 2017) forthcoming

Book Review: ‘Vernon Palmer (ed.), *Mixed Jurisdictions Worldwide. The Third Legal Family* (2nd ed., Cambridge, 2012)’ (2017) 116 *Revue trimestrielle de droit civil*, forthcoming

Book Review: ‘Kenneth Reid, Marius de Waal and Reinhard Zimmermann (eds.), *Comparative Succession Law: Testamentary Formalities* (Oxford, 2011)/Comparative Succession Law: Intestate Succession (Oxford, 2015)’ (2016) 15 *Revue trimestrielle de droit civil* 969-73

PRESENTATIONS

'The New French Law of Unjustified Enrichment', Bentham House Conference 2017 on The Global Futures of Unjust Enrichment, University College London (April 2017)

'Penser l'ancien droit privé : perspective d'un système non-codifié' ['Thinking Historically About Private Law: Perspectives from an Uncodified System'], Conference on Penser l'ancien droit privé : Regards croisés sur les méthodes des juristes ["Thinking Historically about Private Law: Perspectives on Legal Methodologies"], Université de Bordeaux (March 2017)

'Claimant-focused Damages in the Law of Privacy', International Workshop on Remedies for Breach of Privacy, Melbourne Law School (December 2016)

'La réparation du dommage corporel: prolégomènes historiques et comparatifs' ['Reparation for Physical Injuries: A Historical and Comparative Prolegomenon'], Symposium on La société civile et la responsabilité civile [Civil Society and Civil Liability], University of Paris 1 (November 2016)

Bénédicte Fauvarque Cosson

Bénédicte Fauvarque-Cosson is Professor of Law at the University Panthéon-Assas, Paris 2.

Her main research areas and teaching activities relate to European and comparative contract law as well as to private international law and corporate social responsibility. She is the author or co-author of numerous articles and books in the field of comparative contract law, Europeanisation of private law and the French contract law reform. She is currently working on the third edition of *Cases, Materials and Texts on Contract Law, Ius Commune Casebooks on the Common Law of Europe* (with H. Beale, J. Rutgers and S. Vogenauer). She is co-editing, together with John Cartwright and Simon Whittaker, the French version of the colloquium held in September 2016 which was organised by the Institute of European and Comparative Law. This year her publications and other activities included:

BOOK

(with F. Ancel and J. Gest, eds.), *Aux sources de la réforme du droit des contrats* (Dalloz, 2017)

ARTICLES AND BOOK CHAPTERS

'La diffusion de la jurisprudence en Europe: jusqu'où anonymiser les décisions de justice ?', in *La jurisprudence dans le mouvement de l'open data*, *JCP*, suppl. to n°9, 27 February 2017, 56

'Première influence de la réforme du droit des contrats: à propos de la nullité, relative ou absolue, du mandat de l'agent immobilier' (2017) *Recueil Dalloz* 793

(with J. Gest and F. Ancel) 'The Process of Elaboration of the Reform of the Law of Contract' in J. Cartwright and S. Whittaker (eds.), *The Code Napoléon Rewritten: French Contract Law after the 2016 Reforms* (Hart Publishing, 2017) 17-24

'Does Review on the Ground of *Imprévision* Breach the Principle of the Binding Force of Contract?' in J. Cartwright and S. Whittaker (eds.), *The Code Napoléon Rewritten: French Contract Law after the 2016 Reforms* (Hart Publishing, 2017) 187-205

OTHER ACTIVITIES

Professor Fauvarque-Cosson is the scientific director of the *Recueil Dalloz* and *Revue internationale de droit comparé*. She is Vice-President of the International Academy of Comparative Law and former President of the Société de Législation Comparée. She co-founded the network Trans Europe Experts (2008) and the European Law Institute of which she was Vice-President (2011-2013). She has been a member of leading international working groups in the field of contract law (Unidroit Principles of International Commercial Contracts, Study Group on a European Civil Code, Hague Principles on Choice of Law in International Commercial Contracts). She is a member of the Unidroit expert group on agricultural land investment contract.

Martijn Hesselink

Martijn Hesselink is Professor of European Private Law and the Director of the Centre for the Study of European Contract Law at the University of Amsterdam. His main areas of research are in European private law and private law theory. He teaches courses in European Contract Law (Amsterdam), Private Law Theory (Amsterdam), Contract Law and Justice (Católica Global School of Law, Lisbon) and Contract Law and Justice (Sciences Po, Paris).

ARTICLES AND BOOK CHAPTER

'The Justice Dimensions of the Relationship between Fundamental Rights and Private Law' (2016) *European Review of Private Law* 24(3/4), 425-455

'Unjust Conduct in the Internal Market. On the Role of European Private Law in the Division of Moral Responsibility between the EU, its Member States and their Citizens' (2016) *Yearbook of European Law* 35(1), 410-452

'Private Law, Regulation and Justice' (2016) *European Law Journal* 22(5), 681-695

'Contract Theory and EU Contract Law' in C. Twigg-Flesner (ed.), *Research Handbook on EU Consumer and Contract Law* (Edward Elgar, 2016) 508-534

PRESENTATIONS

'Private Law, Regulation and Justice', Final workshop European Regulatory Private Law, 'A European Advantage in Transnational Lawyering?', European University Institute, Florence (May 2016)

'Introduction: Private Law, Justice and Democracy', Private Law and Democracy: European Lawyer Programme Summer School, Amsterdam (August 2016)

'Contract Law's Reasons', Summer School 'Contract Law in a Liberal Society', Amsterdam (July 2016)

OTHER ACTIVITIES

Chair, Workshop 'Digital Single Market: Stakeholders' Perspective on Proposed new Contract Law Rules', Amsterdam, February 2016

Participant panel discussion in European Parliament's Joint IMCO-JURI Public Hearing on 'Contractual relations and consumer remedies in the digital sphere', May 2016, Brussels

Visiting professorship, Sciences Po, Paris, course 'The Political Philosophy Contract Law', September–October 2016

Visiting professorship at the Católica Global School of Law, Lisbon, course 'Contract Law and Justice', March 2017

Rodrigo Momberg Uribe

Rodrigo Momberg is Professor of Private Law at the Catholic University of Valparaíso, Chile, where he teaches courses on contract and consumer law. His current areas of research concern, firstly, the process of harmonization of Latin American contract law; and, secondly, private law aspects of personal data, such as the legal nature of personal data, requirements for its collection, processing and transfer to third parties, liability of providers, and data as a tradeable commodity.

BOOK

(with S. Vogenauer) (eds.), *The Future of Contract Law in Latin America* (Hart Publishing, 2017)

ARTICLES AND BOOK CHAPTERS

'The Process of Harmonisation of Private Law in Latin America: an Overview' in R. Momberg and S. Vogenauer (eds.), *supra*, 3-21

'Formation of Contract under the Principles of Latin American Contract Law' in R. Momberg and S. Vogenauer (eds.), *supra*, 179-198

'Acciones colectivas y ley 19.628 sobre protección de la vida personal y datos de carácter personal' (2017) *Revista Chilena de Derecho Privado* N° 28

'Change of Circumstances in International Instruments of Contract Law. The Approach of the CISG, the PICC, the PECL and the DCFR' in F. Ferrari and C. Gillette (eds.), *International Sales Law* (Edward Elgar Publishing, 2017)

'Responsabilidad por productos defectuosos: ¿Estatuto contractual, extracontractual o especial?' in A. Ferrante et al (eds.), *Presente y futuro de la responsabilidad civil* (Thomson Reuters, 2017)

'Restitución de ganancias por incumplimiento contractual' (2017) *Estudios de Derecho Civil*, v. XII

'Standard terms and transparency in online contracts' in A. De Franceschi (ed.), *European Contract Law and the Digital Single Market* (Intersentia, 2016)

'Análisis de los modelos de vinculación del Código Civil y la legislación de protección al consumidor. Hacia un principio general de protección de la parte débil en el derecho privado' (2016) *Revista Chilena de Derecho*, V. 43-2

FUNDED RESEARCH

'Las cláusulas para el uso y tratamiento de datos personales en la contratación por medios electrónicos. Un análisis desde el derecho de contratos', funded by the Chilean National Commission of Science and Technology

PRESENTATIONS

'Los contratos de larga duración en los Principios Unidroit 2017', VIII Jornadas Nacionales de Derecho Comercial, Valparaíso (September 2017)

'Los principios latinoamericanos del derecho de los contratos: la búsqueda de su identidad' Launch of Latin American Legal Studies, Santiago (September 2017)

'Transparencia en la contratación electrónica', XIII Seminario de Derecho Civil, Antofagasta, Universidad Católica del Norte (August 2017)

'La imprevisión contractual en los Principios Latinoamericanos de Derecho de los Contratos', International Congress, Los Principios Latinoamericanos de Derecho de los Contratos. Una mirada desde el derecho europeo, Pontificia Universidad Católica de Valparaíso (July 2017)

'Acciones colectivas por defectos en la calidad de la construcción', Seminar Derecho del consumo, inmobiliario, y libre competencia: Presente y futuro de las acciones colectivas en Chile, Pontificia Universidad Católica de Valparaíso (April 2017)

'La recepción de los instrumentos internacionales de soft-law en la jurisprudencia arbitral', International Congress, Contratación y arbitraje comercial internacional, Cámara de Comercio de Santiago (March 2016)

'El cumplimiento específico en los instrumentos de derecho uniforme', International Congress, Incumplimiento contractual – Ejecución y remedios del acreedor, Pontificia Universidad Católica de Valparaíso (November 2016)

'Responsabilidad por productos defectuosos: ¿Estatuto contractual, extracontractual o especial?', International Congress, Presente y futuro de la responsabilidad civil, Universidad Alberto Hurtado, Santiago (October 2016)

Juan Pablo Murga Fernández

Juan Pablo Murga Fernández is Senior Lecturer in Civil Law at the University of Seville, where he teaches contract law, property law, family and succession law to undergraduate students and in different courses on the LLM in Private Law. He is Professor of Comparative Property and Succession Law at Florida International University in their 'Summer Study Abroad Programme'. He has collaborated with the IECL giving several lectures on property law and tort law in the 'Introduction to Spanish Law' course, in collaboration with Professor García Oliva, Spanish Law Tutor at the Institute. His research concerns contract law, property law and comparative succession law. He is currently working on a monograph focused on the payment of debts in succession law from a European comparative perspective. He is an Editor of various Spanish and Italian law journals: the *Boletín del Colegio de Registradores*, *Crónica Jurídica Hispalense* and *Revista Internacional de Derecho del Turismo, Il diritto della famiglia e delle successioni in Europa*. He is also a member of two research projects financed by the Spanish Ministry of Economy and Competitiveness, which focus on the analysis of the real estate market and the economic crisis.

In 2016 Professor Murga Fernández was awarded a postdoctoral scholarship from the Max Planck Institute for Comparative and International Private Law (Hamburg) where he conducted comparative research as a guest scholar for three months (September-December 2016) in the succession law field.

During 2016-17 Professor Murga Fernández co-organized various workshops and seminars regarding comparative property and contract law as the current Deputy Director of the Private Chairs in Notarial and Land Registry law financed by the Spanish Registrars' Association and Spanish Notaries' Association.

During this year, his publications and other activities included:

BOOKS

(with M. Espejo Lerdo de Tejada) (eds.), *Vivienda, préstamo y ejecución* (Aranzadi Thomson-Reuters, 2016)

(with C. Hornero Méndez, M. Espejo Lerdo de Tejada and F. Oliva Blázquez) (eds.), *Derecho de contratos: nuevos escenarios y nuevas propuestas* (Aranzadi Thomson-Reuters, 2016)

ARTICLES AND BOOK CHAPTERS

'Naturaleza jurídica de la venta judicial a la luz de la doctrina italiana y española' (2016) LXIX, 1 *Anuario de Derecho Civil* 153-219

'Oferta pública de suscripción de acciones y error en el consentimiento: el caso "bankia" (a propósito de las SSTs de Pleno de 3 de febrero de 2016 -RJ 2016, 1; RJ 2016,2)' (2016) 28 *Boletín del Colegio de Registradores de España* 291-297

'Sucesión mortis causa de los títulos nobiliarios y filiación extramatrimonial (a propósito de la STS de Pleno de 8 de marzo de 2016; ROJ 781,2016)' (2016) 30 *Boletín del Colegio de Registradores de España* 527-538

'Excerpta sobre la controvertida naturaleza jurídica de la subasta judicial' (2016) 30 *Boletín del Colegio de Registradores de España* 558-568

'El derecho al olvido digital en un supuesto de concesión de indulto versus la libertad de información. A propósito de la Sentencia del Pleno de la Sala Primera del T.S. de 5-4-2016 y la reciente jurisprudencia dictada en la materia' (2016) 34 *Boletín del Colegio de Registradores de España* 1587-1617

'La obligación de entrega de los inmuebles destinados a vivienda y la incidencia de la licencia de primera ocupación' in C. Hornero Méndez, M. Espejo Lerdo de Tejada, F. Oliva Blázquez, (eds.), *Derecho de contratos: nuevos escenarios y nuevas propuestas* (Editorial Aranzadi, 2016) 403-421

'El domicilio. La ausencia' in M. Espejo Lerdo de Tejada, M. Rivera Fernández (eds.), *Lecciones de Derecho Privado*, Tomo I, Volumen 2 (Derecho de la Persona) (Tecnos, 2016) 109-132

'La costumbre' in M. Espejo Lerdo de Tejada, M. Rivera Fernández (eds.), *Lecciones de Derecho Privado*, Tomo I, Volumen I (Teoría de la norma jurídica. Introducción al Derecho Civil) (Tecnos, 2017) 45-61

'Los principios generales del Derecho' in M. Espejo Lerdo de Tejada, M. Rivera Fernández (eds.), *Lecciones de Derecho Privado*, Tomo I, Volumen I (Teoría de la norma jurídica. Introducción al Derecho Civil) (Tecnos, 2017) 63-73

'La eficacia espacial y temporal de las normas jurídicas' in M. Espejo Lerdo de Tejada, M. Rivera Fernández (eds.), *Lecciones de Derecho Privado*, Tomo I, Volumen I (Teoría de la norma jurídica. Introducción al Derecho Civil) (Tecnos, 2017) 191-205

'La relación jurídica' in M. Espejo Lerdo de Tejada, M. Rivera Fernández (eds.), *Lecciones de Derecho Privado*, Tomo I, Volumen (Relación Jurídica. Derecho subjetivo. Representación. Negocio jurídico) (Tecnos, 2017) 11-18

PRESENTATIONS

'Los derechos de la personalidad y los buscadores universales de Internet: cuestiones controvertidas en la jurisprudencia reciente del Tribunal Supremo', I Jornadas Internacionales NotarTic de Derecho Digital, Universidad de Sevilla (November 2017)

'Payment of Debts in Succession Law: Effects and Defects of the German and Spanish Legal Systems', Aktuelle Stunde, Max Planck Institute for Comparative and International Private Law Hamburg (December 2016)

'Il trasferimento familiare della ricchezza secondo il diritto successorio spagnolo', Convegno Internazionale Prospettive attuali del diritto ereditario in Austria e Spagna, Università di Padova (January 2017)

'Confusione e separazione dei patrimoni nel diritto delle successioni: la protezione dei creditori da una prospettiva comparata', Dottorato di ricerca in Scienze Giuridiche della Scuola di Giurisprudenza, Università degli Studi di Bologna (January 2017)

'Good Faith in Contract Law: a General Overview of the Spanish Legal System', University of Manchester (March 2017)

'An Overview of Spanish Real Property Law from a Private Law Perspective', University College London (March 2016)

Conor Quigley

Conor Quigley is in practice at Serle Court, specialising in European and Competition Law.

BOOK

Hong Kong Competition Law (Hart/Bloomsbury, 2016)

Wolf-Georg Ringe

Professor Georg Ringe is Director of the Institute of Law and Economics at the University of Hamburg. At Oxford, he is a Visiting Professor at the Law Faculty and an associate member of the Oxford Man Institute of Qualitative Finance. He is a General Editor of the *Journal of Financial Regulation* (OUP) and the Research Director for the project on 'Nordic Finance and the Good Society' at Copenhagen Business School. His research continues to lie in the general area of comparative and European business law – with a special interest in the regulation of financial markets, corporate law, capital markets, and insolvency law.

In Hamburg, he teaches courses such as EU Financial Regulation and Corporate Law and Economics. In Oxford, he teaches on BCL/MJur and MLF courses including Comparative Corporate Law and Corporate Insolvency Law.

During this year his publications and other activities included:

BOOK

(with R. Kraakman et al) *The Anatomy of Corporate Law: A Comparative and Functional Approach* 3rd edn (Oxford University Press, 2017)

ARTICLES AND BOOK CHAPTER

'Das Beschlussmängelrecht in Großbritannien' (2017) 81 *Rabels Zeitschrift für ausländisches und internationales Privatrecht (RabelsZ)* 243-292 ('Contesting Shareholder Resolutions in the UK')

'A Brexit Deal for Financial Services' in J. Armour and H. Eidenmüller (eds.), *Negotiating Brexit* (C.H. Beck/Hart/Nomos, 2017) 45-51

'Kornhaas and the Challenge of Applying Keck in Establishment' (2017) 42 *European Law Review* 270-279

WORKING PAPERS AND PROJECTS

'The Irrelevance of Brexit for the European Financial Market', Oxford Legal Studies Research Paper No 10/2017, available at <http://ssrn.com/abstract=2902715>

'Bail-In between Liquidity and Solvency', Oxford Legal Studies Research Paper No 33/2016, available at <http://ssrn.com/abstract=2782457>

BLOGS

'Predictions of Brexit's impact on finserv have been greatly exaggerated', LSE Brexit Blog, 10 March 2017, <http://blogs.lse.ac.uk/brexit/2017/03/10/predictions-of-brexit-impact-on-finserv-have-been-greatly-exaggerated/>

'The Irrelevance of Brexit for the European Financial Market', Oxford Brexit Blog, 24 February 2017, <http://www.law.ox.ac.uk/research-and-subject-groups/research-collection-brexit/blog/2017/02/irrelevance-brexit-european>

'The Irrelevance of Brexit for the European Financial Market', Oxford Business Law Blog, 22 February 2017, <http://www.law.ox.ac.uk/business-law-blog/blog/2017/02/irrelevance-brexit-european-financial-market>

(with John Armour, Luca Enriques and Mariana Pargendler) 'The Anatomy of Corporate Law: The New Edition', Oxford Business Law Blog, 17 February 2017, <http://www.law.ox.ac.uk/business-law-blog/blog/2017/02/anatomy-corporate-law-new-edition>

PRESENTATIONS

Panellist, 'A New Basis for Access to EU/UK Financial Services Post-Brexit', International Regulatory Strategy Group/Hogan Lovells, London (2017)

'Institutional Shareholder Activism: a Renaissance', speaker at conference on 'A New Look at the Role of Institutional Investors in Corporate Governance', Seoul (2017)

'L'administrateur indépendant: une perspective internationale', speaker at Séminaire franco-allemand sur l'actualité du droit des sociétés et du droit des marchés financiers 2017, Université Paris 1 (Panthéon-Sorbonne) (2017)

Panellist at CEPS roundtable on 'Options for EU Financial Market Access After Brexit', Brussels (2017)

'Half time for CMU: Taking Stock', Keynote speaker at CEPS/ECMI Roundtable on the Mid-Term Review of the Capital Markets Union Action Plan, Brussels (2017)

'Changing Law and Ownership Patterns in Germany: Corporate Governance and the Erosion of Deutschland AG', speaker at Hamburg/Kyoto Symposium, University of Hamburg (2017)

'The Irrelevance of Brexit for the European Financial Market', keynote speaker at Elsa Spring Conference, University of Freiburg (2017)

'The Irrelevance of Brexit for the European Financial Market', speaker at conference on 'Financial Regulation and the Rule of Law', Wharton School, University of Pennsylvania (2017)

Panellist at seminar on 'The Future for Banking Law and Banking Lawyers', Christ Church, University of Oxford (2017)

Panellist at conference on 'Negotiating Brexit', St Hugh's College, University of Oxford (2017)

'Institutional architecture', contribution to workshop on "Regulating Finance in a Post-sectoral World", KU Leuven (2017)

'The Deconstruction of Equity', speaker at conference on 'Financial Transparency, Risks and Regulations: Understanding the Use and Abuse of Derivatives', University of Oslo (2017)

Panellist at conference on 'The outlook for European financial centres', Bruegel / Malta Financial Services Authority / Maltese Ministry for Finance, La Valetta (2017)

'The Irrelevance of Brexit for the European Financial Market', speaker at conference 'The Future Framework for European Capital Markets – Law and Finance', University of Oxford (2017)

'Changing Law and Ownership Patterns in Germany', speaker at conference on 'Corporate Governance – Comparing Japan and Germany', Hitotsubashi University, Tokyo (2016)

'The Irrelevance of Brexit for the European Financial Market', Policy Talk, Danish National Bank (2016)

'The Irrelevance of Brexit for the European Financial Market', NCMF conference on 'Brexit and implications for the financial sector', Helsinki (2016)

Discussant on Eilis Ferran, 'A legal framework for financial market integration: from "more Europe" to "better Europe" in the post-Brexit world', Imperial College, London (2016)

Katja Ziegler

Katja Ziegler is Sir Robert Jennings Professor of International Law at the University of Leicester and Director of the Centre of European Law and Internationalisation (CELI). She teaches and researches in the areas of public international, human rights, EU law and comparative constitutional law.

Her research concerns, firstly, the constitutionalisation and intersection of legal orders in an international, European and comparative law context, in particular by human rights and in the context of EU law and international law; and, secondly, limits on executive power to

resort to military force from a comparative constitutional and international law perspective.

ARTICLES and BOOK CHAPTERS

'Autonomy: From Myth to Reality – or Hubris on a Tightrope? EU Law, Human Rights and International Law' in S. Douglas-Scott and N. Hatzis (eds.), *Research Handbook on EU Human Rights Law* (Edward Elgar, 2017) 267-307

'Immunity v Human Rights: The Right to a Remedy after *Benkharbouche*' (2017) 17 *Human Rights Law Review* 127-151

'Beyond Pluralism and Autonomy: Systemic Harmonisation as a Paradigm for the Interaction of EU Law and International Law' (2016) 35 *Yearbook of European Law* 667-711

'The Relationship between EU law and International Law' in D. Patterson and A. Södersten (eds.), *Blackwell Companion for European Union Law and International Law* (Wiley-Blackwell, 2016) 42-61

'AWACS I' in R. Grote, R. Wolfrum and F. Lachenmann (eds.), *Max Planck Encyclopedia of Comparative Constitutional Law (MPECCoL)* forthcoming

PRESENTATIONS

'Academic Research after Brexit', University of Keele, Roundtable: The Impact of Brexit on the Law School (June 2017)

'Les relations de Royaume-Uni post-Brexit: La redefinition des relations au niveau international', University of Lille 2: conference *Les enjeux du Brexit* (March 2017)

'BREXIT: Causes, Process and Consequences', Faculty of Law and Social Sciences, University of Castilla La Mancha (December 2016)

'The EU Charter of Fundamental Rights in UK Courts', Conference: New Instruments to Promote the Correct Application of the EU Charter of Fundamental Rights: Discussing the Outcomes and the Future Perspectives of the "CharterClick! Project" with EU Institutions and National Actors, University of Florence (October 2016)

'The Relationship Between EU Law and Agreements Concluded by Member States', Joint ESIL/CJEU conference on international law and EU law., Luxembourg, Court of Justice of the EU (October 2016)

'Democratic Legitimation of the Use of Military Force and Judicial Accountability in the United Kingdom', Conference on Comparative Foreign Relations Law, Duke University, at the Japanese Institute of International Affairs, Tokyo (October 2016)

OTHER ACTIVITIES

Presentation 'The Clash of the two Europes? The Impact of EU Law on the Conventions of the Council of Europe' as invited expert at hearing at the Council of Europe Parliamentary Assembly, Committee on Rules of Procedure, Immunities and Institutional Affairs: 'Defending the acquis of the Council of Europe: preserving 65 years of successful intergovernmental co-operation', Paris (December 2016)

Leading the UK team in a larger consortium of universities contributing to the project [*CharterClick!*](#) *A user friendly tool to determine claims falling within the scope of the EU Charter of Fundamental Rights*, funded by the European Commission (DG Justice) to create a toolset and database of national judgments on the EU Charter of Fundamental Rights. The project concluded in February 2017

Continued as a member of Peer Review College of the Arts and Humanities Research Council (AHRC)

Obtained funding from ERASMUS+ for a Jean Monnet Project: "Constructing Legal Orders in Europe: The General Principles of EU Law" (July 2017) and a BA/Leverhulme Small Research Grant: "Law Across Boundaries" (March 2017)

Convened the "Brexit Forum", a monthly public seminar series at the University of Leicester

Financial Supporters of the Institute

The Institute is most grateful to all those who support its work in European and/or Comparative Law, or its associated activities in the student exchange programmes. The current financial supporters are listed below.

| | |
|---|---|
| Professor Guido Alpa | support for the exchange of academic staff and graduate students between the Oxford Law Faculty and the University of Rome Sapienza |
| Clifford Chance LLP | ongoing annual funding for the administration of Course 2 and the exchange programme, and for conferences and other events in European and/or comparative law |
| Clifford Chance Paris | annual support for French law related activities |
| John Fell OUP Research Fund | support for the Leverhulme Early Career Fellowship and for the Newton International Fellowship below |
| Gide Loyrette Nouel LLP | funding for annual Oxford French Law Moot |
| The German Academic Exchange Service (DAAD) | ongoing support for the DAAD Lectureship in German and EU Law |
| Leverhulme Trust Early Career Fellowship | 'Differences in Legal Cultures: a Study on Dispute Clauses as a Form of Private Regulation' (Dr Geneviève Helleringer) |
| Newton International Fellowship | 'Improving EU Impact Assessments for European Contract Law' (Dr Esther van Schagen) |
| Ragnar Söderbergs Stiftelse and Torsten Söderbergs Stiftelse | funding for the Oxford/Stockholm Association in European Law (Professor Ulf Bernitz) |
| Stifterverband | ongoing support for the Erich Brost CDF in German and EU Law |
| Stockholm Centre for Commercial Law | funding for the Stockholm Centre Oxford Fellowship and the Stockholm Senior Visiting Fellowship |

Events Organised by the Institute

Current Issues in Arbitration and Dispute Resolution 16-17 December 2016

The biennial conference on Current Issues in Arbitration and Dispute Resolution was held on in St Catherine's College, organised by Geneviève Helleringer, Horst Eidenmüller and Andreas von Goldbeck on behalf of the Institute of European and Comparative Law, in collaboration with le Comité Français de l'arbitrage and ESSEC Business School. The conference, supported by Orrick Rambaud Martel, brought together leading academic writers and practitioners in the fields of commercial arbitration and mediation from England, Continental Europe and the United States and—as always—gave rise to a rich and lively debate between the presenters of papers, their discussants, and the conference participants generally.



The programme this year included a wide range of papers grouped around the themes of international commercial arbitration: Brussels I recast (Andreas von Goldbeck, Oxford), competition in the arbitration market (Martin Fries, Munich) and arbitrator impartiality (Peter Ayton, London City University); arbitration and mediation: comparative economic analysis of arbitration and mediation (Sarath Sanga, Northwestern University); and evolutions and trends in

negotiation and mediation: process design in complex business mediations (Andreas Hacke, Düsseldorf and Munich), and concluded with perhaps the most topical of all current issues: negotiating and mediating Brexit. Horst Eidenmüller presented his paper which analyses the negotiation position of the parties (UK, EU, Member States) and proposes an international, tailor-made mediation process as a means to efficiently steer the withdrawal negotiations and help the parties agree on a value-preserving 'withdrawal agreement' ('Brexit Mediation').

Speakers: Peter Ayton (City University), Marie Berard (Clifford Chance LLP), John Cartwright (Oxford University), Gilead Cooper QC, Jean-André Diaz (Consultant in the Law of Energy, the Sea and Arbitration), Horst Eidenmüller (Oxford University), Martin Fries (University of Munich), Jason Fry (Clifford Chance LLP), Nicolai Goeke (Deutsche Bank AG), Andreas von Goldbeck (Oxford University and Essec Business School), Andreas Hacke (Zwanzig Hacke Meilke & Partner), Genevieve Helleringer (Oxford University and Essec Business School), Laurent Jaeger (Orrick Rambaud Martel), Charles Jarrosson (University of Paris 2 Panthéon-Assas), Neil Kitchener QC, Diana Paraguacuto-Maheo (Ngo Jung & Partners), Klaus Reichert SC, Sarath Sanga (Northwestern University), Johanna Stark (Ludwig-

Improving EU Impact Assessments for European Contract Law **9-10 February 2017**

In its new Working Programme, the European Commission announced the revision of key EU measures in contract law, including Directive 93/13 on unfair terms. Debate in EU contract law currently largely overlooks a specific means to help improve these measures: EU impact assessments, i.e. expert reports preceding planned EU measures. EU impact assessments should critically analyse policy options that decide how EU law should be developed, exploring, for example, consolidation, full or minimum harmonisation, or alternative policy approaches. This analysis should help EU decision-makers to learn from successful and unsuccessful experiences, and to identify new approaches to help address problems in EU contract law. However, the quality of EU impact assessments has been criticised. If EU impact assessments are to contribute to the revision of the Unfair Contract Terms Directive and the Consumer Sales Directive, improvement is necessary. This first Expert Round Table organised by Dr Esther van Schagen as part of her project on 'How can impact assessments improve EU contract law?' brought together decision-makers and academic experts on EU contract law and EU impact assessments from different jurisdictions. Participants discussed what should be expected of policy analysis in EU impact assessments in European contract law. It focussed on soft instruments designed to enhance RIAs, particularly the European Commission's 2015 Better Regulation Guidelines, as well as national Guidelines. It also compared EU guidelines to EU and national experiences with impact assessments, contrast current practices in EU contract law with best practices and explore which actors are best placed to realize improvement. The second Expert Round Table will be held in November 2017.

Speakers: Michael Gibbons (Regulatory Policy Committee), Didier Herbert (Regulatory Scrutiny Board), Evangelia Kekeleki (European Economic and Social Committee), Alexia Maniaki-Griva (European Parliament), Anne Meuwese (Tilburg University), Hans Micklitz (European University Institute), Esther van Schagen (Oxford University), Stephen Weatherill (Oxford University)

The Oxford French Law Moot 2017 **13 March 2017**

The Oxford French Law Moot (*Concours de plaidoiries en droit français*) brings together law students from outside France who argue, in French, over a problem of French law. It is geared mostly towards students for whom French is a second language and French law a second legal system. The Moot is made possible through the financial support of Gide Loyrette Nouel. Each year, the final of the event is judged by a panel consisting of a partner of Gide, a law professor from France and a judge from the Cour de Cassation, France's supreme court in civil and criminal matters.

The 9th Oxford French Law Moot took place on 13 March 2017 and was followed by a dinner for all participants at Trinity College. Twelve teams representing the Universities of Birmingham, Bristol, Cairo, Cologne, Exeter, Florence, Galatasaray, King's College London, Oxford (2 teams), Kiev and University College London debated the problem, set by Mr Lacabarats of the Cour de cassation, in which Mr Talon, a guest in an up-market hotel, went out to his balcony to smoke a cigarette, but found the door stuck and was injured when he fell as he was trying to reach the balcony of his friend's adjacent room. Mr Talon sued the hotel company for damages. The advocacy on both sides of the argument was of an extremely high level – and its persuasiveness was matched by its ingenuity: some of the advocates even invoked TripAdvisor in support of their case, or painted a vivid picture of circumstances which explained why it was obvious why Mr Talon fell (or, equally obviously, why he should not have fallen).



The final of the Moot was won by Corrado Abate and Sara Scarpelli representing the University of Florence. The team was mentored by Dr Antonio Musella. The runners-up were Alexander Kanishchev and Cécile Wirxel representing Oxford University and mentored by Roderic Kermarec.

The Moot is organised—indeed it is “animated”—on behalf of the Institute by Dr Geneviève Helleringer, who received special

thanks at the end of the proceedings for her lively, enthusiastic and inspiring work in running the proceedings so successfully. The toast at the end was: *à la prochaine édition en 2018!*

Reform of the Law of Civil Liability in France

27 March 2017

In March 2017, the French Ministry of Justice published a draft parliamentary bill for the reform of ‘civil liability’, putting together for this purpose liability for contractual non-performance and the general grounds of ‘extra-contractual liability’. The Ministry of Justice commissioned Simon Whittaker (Research Fellow of the Institute) in consultation with Jean-Sébastien Borghetti (University of Paris Panthéon-Assas, Paris II) to translate the bill into English: the translation has been published on the [Ministry website](#).

On 27 March a workshop was held at the Institut de droit comparé, Paris, at which French and English colleagues presented papers on a range of issues raised by these reform proposals. The workshop formed part of the Institute’s wider project on [Reform of the French Law of Obligations](#), and a further intensive workshop on the reform of the law of civil

liability is planned for 2018, to be followed by a volume to complement the recently published volume on the reform of the French law of contract (see Studies of the Institute of European and Comparative Law, below).

Speakers: Jean-Sébastien Borghetti (University of Paris II), John Cartwright (Oxford University; chair), Suzanne Carval (University of Rouen), Birke Häcker (Oxford University), Denis Mazeaud (University of Paris II), Philippe Stoffel-Munck (University of Paris I), Sandy Steel (Oxford University), Simon Whittaker (Oxford University)

Online Markets and Offline Welfare Effects – the Internet, Competition, Society and Democracy

22 May 2017

This event, hosted by the Centre for Competition Law and Policy, brought together more than 170 delegates from academia, practice, industry, enforcement agencies and courts, to discuss the changing dynamics of competition. The stimulating discussion focused on the changing technological landscape and market dynamics and how these may affect competition and welfare.



Themes discussed included the scope of competition enforcement, the role of disruptive innovation, whether privacy forms one of the values protected by competition law, the impact increased online concentration may have on the market for ideas, democracy, choice and autonomy. Leading enforcers who participated at the event, provided illuminating insights to enforcement trends.

The lively discussion made headlines in the press during the day, as it was reported by several news outlets. Notable was a report by Reuters that disseminated news from Tommaso Valletti who noted that EU Commission will conclude the Google antitrust cases in next few months. Also noteworthy were reports by other outlets commenting on Andreas Mundt's speech and the role privacy plays in competition law analysis.

Speakers: Adi Ayal (Bar Ilan University), Phillip Blond (ResPublica), Alec Burnside (Dechert LLP), Philippe Chappatte (Slaughter and May), Tim Cowen (Preiskel & Co), Pepper Culpepper (Oxford University), Christian D'Cunha (European Union), David Currie (Competition and Markets Authority), Maurits Dolmans (Cleary Gottlieb Stein & Hamilton LLP), Josef Drexl (Max Planck Institute for Innovation and Competition), Ariel Ezrachi (Oxford University), Harry First (New York University), Michal Gal (University of Haifa), William E. Kovacic (George Washington University), Liza Lovdahl Gormsen (British Institute of International and Comparative Law), Barry Lynn (New America), Munesh Mahtani (Google), Terrell

McSweeney (Federal Trade Commission), Brian Message (Courtyard Management), Mario Monti (Bocconi University and Italian Senate), Martin Moore (King's College London), Andreas Mundt (German Bundeskartellamt), John Naughton (Cambridge University), Agustín Reyna (BEUC, The European Consumer Organisation), Sir Peter Roth (Chancery Division, High Court of England and Wales), Isabelle de Silva (Autorité de la concurrence), Maurice E. Stucke (University of Tennessee), Tommaso Valletti (European Commission), Spencer Weber Waller (Loyola University Chicago), Larry Whitty (House of Lords), Rebecca Williams (Oxford University).

The 13th Symposium on Trends in Retail Competition. Private Labels, Brands and Competition Policy

10 June 2016

This year the Symposium considered pricing, unfair trading practices and the horizontal and vertical guidelines. In the morning programme, perspectives were presented on vertical price fixing, the US approach to RPM and predatory pricing and the interplay between pricing and buyer power. The session on Unfair Trading Practices featured an assessment of the Australian Code of Conduct, the performance of the UK's Groceries Code of Practice and the perspective of the Fair Trade movement, closing with a panel discussion. The afternoon programme concentrated on the horizontal and vertical guidelines, featuring presentations on the European Commission's e-commerce market investigation, parallel trade and selective distribution. A panel discussion on the changing competition landscape closed the Symposium.

Speakers: Ulf Bernitz (Oxford and Stockholm Universities), Gunnar Kallfass (Bundeskartellamt), James O'Connell (Covington & Burling LLP), Kadambari Prasad (Compass Lexecon), Caron Beaton-Wells (University of Melbourne), Andrew McCarthy (British Brands Group), Sergi Corbalán (Fair Trade Advocacy Office), Bruce Lyons (University of East Anglia), Terry Jones (NFU), Maria Rehbinder (DG GROW, European Commission), John Shine (Competition and Consumer Protection Commission), Zsuzsa Cserhalmi (DG COMP, European Commission), Stephen Smith (Bristows), Robert Schulz (BSH Hausgeräte), Nicola Mazzarotto (KPMG), Javier Berasategi (Berasategi & Abogados), Jan Werner (METRO AG Wholesale & Food Specialist Company).

The Antitrust Enforcement Symposium 2017

24-25 June 2017

In June the Centre for Competition Law and Policy hosted its seventh Antitrust Enforcement Symposium, in collaboration with the *Journal of Antitrust Enforcement*. Leading competition officials, academics and practitioners, from around the world, took part in the intensive two-day discussion on recent enforcement trends.

Speakers: Arianna Andreangeli (University of Edinburgh), Terry Calvani (Freshfields Bruckhaus Deringer US LLP), Ariel Ezrachi (Oxford University), Lucília Falsarella Pereira (Competition and Markets Authority), Hans W. Friederiszick (E.CA Economics), David Gilo (Tel Aviv University), Pierre Horna (UNCTAD), Pablo Ibáñez Colomo (London School of Economic), Maria Ioannidou (Queen Mary

University of London), Paul Johnson (Bates White Economic Consulting/Competition Bureau of Canada), Stephen Kinsella (Sidley), William E. Kovacic (George Washington University), Kelvin Kwok (University of Hong Kong), Jenny Leahy (Freshfields), Ioannis Lianos (University College London), Sandra Marco Colino (Chinese University of Hong Kong), Robert C. Marshall (Pennsylvania State University), James R. Modrall (Norton Rose Fulbright LLP), Renato Nazzini (King's College London), Julian Nowag (Lund University), Maureen K. Ohlhausen (Federal Trade Commission), Nicolas Petit (University of Liege), Arno Rasek (Bundeskartellamt), Cyril Ritter (DG COMP, European Commission), Viktoria Robertson (University of Graz), Maarten Pieter Schinkel (University of Amsterdam), D. Daniel Sokol (University of Florida), Sadaaki Suwazono (Japan Fair Trade Commission), Joseph Wilson (formerly Competition Commission of Pakistan).

In addition to the above, members of the Institute convene and administer the meetings of the EU Law Discussion Group, the Comparative Law Discussion Group and the IECL Seminar Series. The following meetings were held in 2016-17:

| EU Law Discussion Group | |
|---|--|
| Do we still need directives or rather can we afford not to do regulations! | Karl Falkenberg (Oxford University) |
| The magical mystery of words: "direct effect" and all that | Stefan Enchelmaier (Oxford University) |
| EU constitutionalism and Brexit | Daniel Halberstam (University of Michigan) |
| Interpretive twists, argumentative turns, and new reference frames: unpacking the jurisprudential shift in the European citizenship jurisprudence | Urška Sadl (European University Institute) |
| What does it mean to comply with EU law? Brexit and the problem of over-deference to the Court of Justice | Gareth Davies (University of Amsterdam) |
| Leaving the EU and becoming a member of the Agreement on the EEA – the main legal differences following accession to the EEA Agreement | Páll Hreinsson (Judge of the EFTA Court) |
| The global reach of EU law | Marise Cremona (European University Institute) |
| Is the CJEU too francophone? | Anthony Arnall (University of Birmingham) |
| Internet challenges for EU intellectual property rights | Maciej Szpunar (Court of Justice of the EU) |

| | |
|---|---|
| The path of technical standards and legal metrics | David Restrepo Amariles and Arnaud Van Waeyenberge (HECL Paris) |
| Brexit, but rEEAmain | Heinrich Nemecek and Ulrich G. Schroeter (University of Basel) |

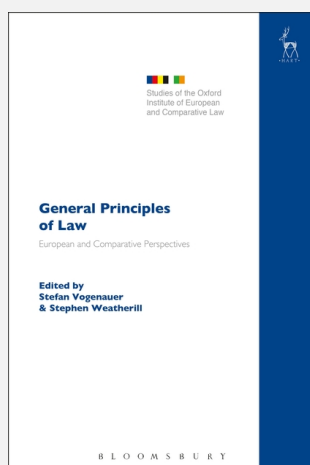
| Comparative Law Discussion Group | |
|--|---|
| Instigation in international law: a comparative private law analysis | Miles Jackson (Oxford Law Faculty) |
| Compound interest regulations: comparative and legal economics aspects | Axel Moeller (IECL) |
| Better regulation and the revision of EU contract law | Esther van Schagen (IECL) |
| Cavendish, ParkingEye and penalty clauses from a civil lawyer's perspective | Francesco Patti (Bocconi University) |
| Private law effects of EU (financial) regulatory law | Danny Busch (University of Nijmegen) |
| Norms arrangements in Chinese contract law | Wang Yi (Renmin University of China) |
| Efficiency, regulatory competition and the new French law of contract | Yves-Marie Laithier (University of Paris 1) |
| Why judicial control of price terms in consumer contracts might not always be the right answer – insights from behavioural law and economics | Yesim Atamer (Istanbul Bilgi University) |
| What comparative law methodology for competition law research? On the quest for a sound approach | Viktoria Robertson (University of Graz) |
| Choice of law in consumer contract | Esther van Schagen (IECL) |
| Acknowledgement of debt in Turco-Swiss law of obligation | Ilhan Helvaci (Istanbul University) |

IECL Seminar Series

| | |
|--|--|
| Brexit and the conflict of laws | Augustin Gridel (University of Paris 2) |
| Reasonable and fair compensation for rights to use land for telecommunication purposes in Sweden and the UK | Elisabeth Ahlinder (University of Stockholm) |
| The interplay between public regulation and private law from the European and comparative perspective | Olha Cherednychenko (University of Groningen) |
| Multijurisdictional cartel investigation: comparative analysis of cross-border jurisdictions and the choice of law | Pierre Horna (United Nations Conference on Trade and Development (UNCTAD)) |
| English commonhold and Swiss condominium – a comparison | Nadja Schwery (University of Fribourg) |

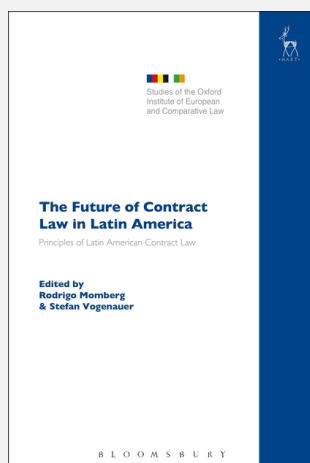
Studies of the Oxford Institute of European and Comparative Law

Studies of the Oxford Institute of European and Comparative Law is the main forum for publication of the research pursued at the Institute. The series is published by Hart Publishing Ltd. The Series Editor is Professor John Cartwright and the Advisory Editors are Professor Mark Freedland, Professor Stephen Weatherill and Professor Stefan Enchelmaier. During the year the following three volumes have been published:



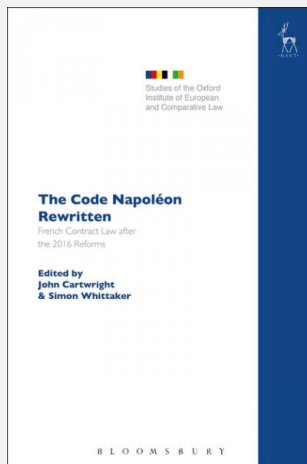
In September 2015 the Institute of European and Comparative Law organised a two-day conference at which speakers and participants investigated the nature, purpose and development of general principles of law. The conference celebrated the 20th anniversary of the Institute. The 23rd volume in the series entitled *General Principles of Law: European and Comparative Perspectives*, edited by Stefan Vogenauer and Stephen Weatherill, is the outcome of the conference.

Examining general principles of law provides one of the most instructive examples of the intersection between EU law and comparative law. This collection draws on the expertise of high-profile and distinguished scholars to provide a critical examination of this interaction. It shows how general principles of EU law need to be responsive to national laws. In addition, it is clear that the laws of the Member States have no choice but to be responsive to the general principles which are developed through EU law. Viewed through the perspective of proportionality, legal certainty, and fundamental rights, the dynamic relationship between the ingenuity of the Court of Justice, the legislative process and the process of Treaty revision is comprehensively illustrated.



The 24th volume in the series is *The Future of Contract Law in Latin America* edited by Rodrigo Momberg and Stefan Vogenauer. The book presents, analyses and evaluates the Principles of Latin American Contract Law (PLACL), a recent set of provisions aiming at the harmonisation of contract law at a regional level. As such, the PLACL are the most recent exponent of the many proposals for transnational sets of 'principles of contract law' that were drafted or published over the past 20 years, either at the global or the regional level. These include the UNIDROIT Principles of International Commercial Contracts, the Principles of European Contract Law, the (European) Draft Common Frame of Reference and the Principles of Asian Contract Law.

The PLACL are the product of a working group comprising legal academics from Argentina, Brazil, Colombia, Chile, Paraguay, Uruguay and Venezuela. The 111 articles of the instrument deal with problems of general contract law, such as formation, interpretation and performance of contracts, as well as remedies for breach. The book aims to introduce the PLACL to an international audience by putting them in their historical and comparative context, including other transnational harmonisation measures and initiatives. The contributions are authored by drafters of the PLACL and contract law experts from Europe and Latin America.



The 25th volume in the series is *The Code Napoléon Rewritten: French Contract Law after the 2016 Reforms*, edited by John Cartwright and Simon Whittaker. The provisions of the French Civil Code governing the law of obligations remained largely unchanged since 1804 and have served as the model for civil codes across the world. In 2016, the French Government effected major reforms of the provisions on the law of contract, the general regime of obligations and proof of obligations. This book explores in detail the most interesting new provisions on French contract law in a series of essays by French lawyers and comparative lawyers working on French law and other civil law systems.

The book is one of the publications which will result from the research project on [Reform of the French Law of Obligations](#), developed within the IECL by John Cartwright and Simon Whittaker.

Visitors to the Institute

The Institute hosted the following academic visitors in 2016-2017:

Paris Visiting Fellow 2017

Professor Yves-Marie Laithier, University of Paris 1 Panthéon-Sorbonne

The French law of obligations

Visiting Academics

Professor Isaac Martin Delgado, University of Castilla-La Mancha

Towards prevention of EU law infringements. The need to improve the transposition procedure of European directives in Spain

Dr Viktoria Robertson, University of Graz

Antitrust market: definition, innovation and intellectual property rights. A comparative law analysis of EU and US law

Dr Andrea Edenharter, University of Regensburg

Protection of fundamental rights in multilevel system

Dr Nadja Schwery, University of Fribourg

A contractual analysis of condominium ownership

Professor Cesare Pinelli, University of Rome Sapienza

The referendum and the crisis of political representation in Europe

Dr Miguel Martinez Gijon, University of Seville

The effects of disability and incapacity on employment contracts and social security benefits of workers in the EU

Dr Alexander Molotnikov, Moscow State University

A comparative perspective on independent directors in Russia

Mr Pierre Horna, UNCTAD

Multijurisdictional cartel investigation: comparative analysis of cross-border jurisdictions and the choice of law'

Dr Elbert de Jong, Utrecht University

Judge-made risk regulation: redressing government failures in the context of health and environmental risks?'

Dr Laura Carlson, University of Stockholm

Grappling with democracy: trade unions, representation and the law'

Professor Olha Cherednychenko, University of Groningen

The impact of EU law on private law relationships'

Dr Elisabeth Brameshuber, University of Vienna

'Information and consultation rights' in the context of EU collective labour law

Ms Dorine Verheij, University of Leiden

Towards a European tort law for the financial sector

Professor Raul Lafuente, University of Alicante

European Union law and international successions: towards a common 'civil law and common law' approach

Professor César Cicero Seira, University of Lleida

Vaccination against basic contagious diseases: is it a citizen's right or duty to contribute to the protection of public health?

Professor Arkadiusz Wudarski, European University Viadrina/University of Zielona Góra

Digital inheritance: a challenge for European private law?

Professor Maria Villamarin López, Complutense University Madrid

Presumption of innocence: a study of the Directive 343/2016

Dr Elena Perez Carrillo, University of Leon

Relational contracts in commercial-business law

Visiting Graduate Students

Augustin Gridel, Panthéon-Assas University (Paris 2)

Securities in private international law

Agnes Kwiatkowski, University of Lille

The contract's patrimonial dimension

Pauline Trouillard, University of Paris 1 Panthéon-Sorbonne

The funding of public service broadcasting under EU law through the examples of French, British and Italian law

Karina Tata, University of Cergy-Pontoise

Digital contents and contract law

Leonardo Parona, Trento University

The private/public divide in US administrative law

Governance of the Institute

Management Committee

The Management Committee has general oversight of the Institute including its administration of the degree in Law with Law Studies in Europe. It receives reports on academic activity and programmes, monitors financial outcomes and approves strategies for income generation. The composition during 2016-17 was:

Professor Donal Nolan (Chair)
Professor John Cartwright
Professor Hugh Collins
Professor Ariel Ezrachi
Dr Andreas von Goldbeck
Professor Imogen Goold
Professor Birke Häcker
Dr Hartmut Mayer
Professor Antonios Tzanakopoulos
Professor Stephen Weatherill

Advisory Council

The Advisory Council provides guidance to the Director on the strategic direction of the Institute. Its members are prominent persons in public life and the legal world who are well placed to advise upon and support the work of the Institute. The composition during 2016-17 was:

The Right Honourable Lord Mance (Chair)
Professor Guido Alpa (Sapienza University of Rome)
Professor Sir Frank Berman QC (Essex Court Chambers)
Mr Christopher Bright (Shearman & Sterling LLP)
Professor John Cartwright (Director of the Institute)
The Conseiller Culturel of the French Embassy in London
Professor Paul Craig (Oxford Law Faculty)
The Honourable Mr Justice Cranston
Director, German Academic Exchange (DAAD)
Professor Sir David Edward (University of Edinburgh)
Professor Mark Freedland (Oxford Law Faculty)
Professor Sir Roy Goode (Oxford Law Faculty)
Professor Sir Francis Jacobs (King's College London)
Professor Angus Johnston (Oxford Law Faculty)
Mr Alexander Layton QC (20 Essex Street)
Ms Alexandra Marks (Judicial Appointments Committee)
Mr Hugh Mercer QC (Essex Court)
Mr Rupert Reece (Gide Loyrette Nouel LLP)

The Right Honourable Lord Reed
Sir Peter Roth (Competition Appeal Tribunal)
The Honourable Mr Justice Silber
Professor Henk Snijders (University of Leiden)
The Vice Chancellor of Oxford University