

# UTRECHT LAW SECTOR PLAN (2019-2025): THE KEY TO COLLABORATION AND COLLABORATION AS A KEY TO RELEVANT KNOWLEDGE ADVANCEMENT

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## 1 INTRODUCTION

In September 2019, the first Sector Plan Law was launched. This was a unique opportunity for the law faculties in the Netherlands to jointly implement a research agenda and to join forces thematically. Cooperation has been sought on important social themes. Utrecht University's School of Law has further developed the themes of *Institutions for Conflict Resolution* (COI) with the universities in Nijmegen and Leiden, and *Empirical Legal Studies* (ELS) with the universities in Leiden, Amsterdam (VU), Rotterdam and Groningen. Dedicated researchers have created innovative research and intensive collaboration on socially relevant research topics.

It is important to mention that, in addition to this unique substantive opportunity, the Sector Plan Law offered financial opportunities for talent development. In Utrecht, 10 PhD projects have been started and 24 post-PhD researchers have been given 0.3 FTEs extra research time (on top of the standard 0.3 FTE) for two years. In addition, two additional full professors have been appointed in the field of COI and ELS.

The purpose of this introduction is to record the content of the Sector Plan Law 2019-2025. In this introduction, the following will be discussed: the setting up of the ERI research cluster, the sub-themes that were central to it, the methodological innovation that was pursued, the social relevance of the thematic research and an overview of researchers who have given wings to the sector plan.

## 2 COI + ELS = ERI

The Utrecht Sector Plan Law wanted to make its own contribution to the preservation and strengthening of the rule of law. This contribution has been made by conducting research into conflict-resolving institutions in a changing rule of law, with an emphasis on compensation systems and law enforcement, and by conducting empirical legal research into how institutions work in legal practice and what insights this provides for task performance, transparency, responsibility and accountability. As a result, COI and ELS have been working together from the

start in Utrecht in the cross-research research cluster *Empirical Legal Research into Institutions for Conflict Resolution* (ERI).

The ERI research in Utrecht has proven to be innovative and unique in three areas: content, method and the interaction between them. *In terms of content*, what was new and unique was that ERI not only focused on the functioning of classical legal institutions (the judge) in a changing society, but also on new institutions that emerge because the classical institutions, such as the judge, are sometimes avoided. Examples of new institutions are platforms, alternative dispute resolution or compensation systems, or public-private partnerships. Moreover, ERI aimed to achieve an important *methodological innovation* within the field of law by conducting research into the actual functioning of institutions and making use of a variety of empirical legal research methods. Finally, what was unique was that COI and ELS were directly related to each other, which immediately created an *interaction* between content and method in order to gather substantively focused knowledge about classical and new institutions.

The added value of this three-pronged innovative approach lies in being able to answer research questions that matter in legal practice, and that focus on concrete conflicts not just on abstractions. These include e.g. the settlement of mass harms and the role of the judge in politically sensitive cases. In combining COI and ELS, Utrecht gave its own, distinctive contribution to the collaboration with Leiden University and Radboud University within COI – allowing these faculties to complement each other. In addition, ELS immediately received a substantive focus. The choice for the close link between content and method was made based on the idea that ELS as a method needs to be fleshed out in order to be relevant to legal science.

### 3 FOUR COI-SUBTHEMES

The core idea behind the Utrecht approach to the COI theme was that institutions at national, European and international level must ‘deliver’: it is essential that they actually function effectively and efficiently in order to prevent and/or resolve problems and conflicts. At the same time, they must comply with rule of law values and legitimacy requirements. It is important that institutions (traditional and new) function in a rapidly changing environment. To contribute to this knowledge, it was decided to focus on four sub-themes. On the one hand, the focus was on two sub-themes that are directly related to the core idea: the functioning of problem-preventing and problem-solving (classic and new) institutions, and issues of the rule of law. On the other hand, there were two sub-themes that are directly related to the legal mechanisms for dealing with or preventing conflicts in legal practice: the functioning of compensation and compensation systems and of law enforcement. The ultimate goal has always been to investigate whether the institutions operating in the legal system in their current form are suited to their task. This is a broad question, which has been concretized in many projects, but which also offered the

opportunity to work together across jurisdictions. This was also necessary because there was also a desire to mainstream ELS – as a methodical innovation.

#### 4 MAINSTREAMING ELS

As mentioned, the Utrecht view is that ELS can only be relevant to legal science if it does not become detached from the legal content. A fruitful way to achieve this integration is to start with legal questions, perform a classical legal analysis, and then combine this with empirical methods. Because of the desire to mainstream ELS within Utrecht School of Law and the view that ELS only has added value if there is a connection with the content, it was decided to investigate the four COI sub-themes partly with classical legal methods and empirical methods. The ELS research focused on the underlying assumptions and the effect in practice (*law in action*), starting from a legal question. The ultimate goal of classical legal and empirical legal research together was (and is) to make a well-defined contribution to the answer to the more comprehensive question of whether the legal system and the institutions operating within it are currently tailored to their task: are they able to respond adequately to current developments, and if so, how? Can they do this within the essential frameworks of the rule of law? And what can follow from this for the future fulfilment of tasks?

#### 5 SOCIETAL RELEVANCE

By focusing on a key question that always touches on the important social issues about real conflict resolution and prevention in individual cases and at the macro level, and by collecting information from society through the method, ERI has been able to make a knowledge contribution to social issues during the term of the sector plan. For example, research has been conducted (together with other faculties) into community justice centres (*wijkrechtspraak*), justice during Covid the position of vulnerable people, the improvement of claims settlement and compensation in personal injury and mass harm cases and the role of the judge in public interest actions. Specifically in Utrecht, research has also been carried out on access to justice and effective remedies for vulnerable people or groups, arbitration, transgressive behaviour in the workplace, the right to speak in the criminal court, the Dutch childcare benefits scandal, energy transition and just transitions, climate crime, the position of transgender prisoners, disciplinary law for civil servants, the working poor, state-owned enterprises on the private market, investigation within the EU, international law and human rights, the consideration applying Islamic law in court, and the process of constitutional review and the duty of care of companies. These examples illustrate that the focus was on both individual conflicts and conflicts that occur at the societal level.

## 6 THE SECTOR PLAN WAS A TEAM EFFORT

The Sector Plan Law has been a team effort in many ways. Nationally, there has been very pleasant cooperation within the COI and ELS research network. There was and still is mutual confidence that a collective collaboration is always stronger than an individual faculty. The program directors have always been able to maintain and strengthen that trust. As a result, conferences, and stakeholder and PhD meetings were organised together. Research proposals were written together and research was carried out together. Publications were also written together. Also, plans were carried out together for the benefit of internationalisation and interdisciplinarity. There was solidarity among each other: the theme was paramount.

Within Utrecht, the established research groups have stimulated collaboration across their domains for the benefit of the Sector Plan Law. Researchers from different research groups and legal fields have come to know and inspire each other. As a result of these achievements, collaborations have been started in all kinds of ways and at all levels; from large research applications to publications and conferences, both nationally and internationally.

A large number of researchers have contributed to ERI. The researchers who have received funding from the Sector Plan Law funds are:

### The functioning of conflict-preventing and conflict-resolving institutions

Who	Subject	Method
Marc Simon Thomas	Socially effective justice and community justice ( <i>wijkrechtspraak</i> )	Literature review, interviews, observations and participatory observation
Sofie Oosterhuis	Boards of Appeal of European Union agencies	Literature review, doctrinal research and interviews
Julie Fraser	How is Islamic law (perceived to be) significant in the Al Hassan case, and to what extent can and should the ICC engage it under the Rome Statute?	Literature review, doctrinal research and transcript analysis of court proceedings
Machiko Kanetake	How domestic courts and regional human rights courts engage with UN treaty monitoring bodies.	Doctrinal research, structured case law analysis, automated text analysis
Gentrita Bajrami	The role of corporate social responsibility norms in international commercial arbitration, specifically in the decision-making processes when resolving contractual disputes	Literature review, doctrinal research and interviews
Daan van Uhm	The ecocentric and biocentric principles used in court cases that have been reviewed by nine European environmental courts.	Structured case law analysis, interviews

Who	Subject	Method
Annelies Hommes	Investigate whether the right to speak meets the needs of those entitled to speak in a criminal procedure	Literature research, doctrinal research, interviews, survey
Lorena Sosa	To what extent do approaches to resolving conflicts between parents and children regarding their gender identity and expression and/or sex characteristics meet the demands and experiences of the trans and intersex collective, and how can these inform legal and institutional reforms?	Literature review, case study, survey, interviews
Paulien Jacobs	The treatment and placement of transgender detainees	Literature review, doctrinal research and interviews
Urszula Jaremba	Completeness of system of judicial review of EU legal acts in the EU	Doctrinal research and interviews
Remy Gaarhuis	The complex role of the public prosecutor in the healthcare authorisation procedure pursuant to Section 2.3 of the Wfz	Doctrinal research, literature review and interviews
Sonja Bekker	Labour relations and the role of social dialogue in improving labour markets, for instance for working poor, or domestic workers. Both at EU and national level	Interviews, document analysis, analysis EU Labour Force Survey.

### Compensation and compensation systems

Who	Subject	Method
Rianka Rijnhout	From compensation conflicts to meaningful compensation: mass harm and personal injury	Literature review, doctrinal research, comparative research, interviews, structured case law analysis
Salvatore Nicolosi	The compensatory systems available to migrants, attempting to enter the EU and being faced with measures adopted by new institutional actors like FRONTEX	Case law analysis, focus group with interviews, field research
Marlou Overheul	Compensation schemes for occupational diseases as an alternative to liability law	Doctrinal research, literature review, interviews and survey
Jacob van der Tang	Financing mass harm claims	Literature research, doctrinal research, comparative research, interviews