

1. BOUNDARIES OF LAW

1.1. OBJECTIVES

General Background; nature and composition of the research group

Processes commonly associated with the 'turn from territoriality to functionality', 'global governance' or 'globalisation' challenge established legal categories. Increasingly, transnational legal arrangements transgress boundaries between international and domestic; public and private; law and politics; or between past, present and future. Take, for example, the fight against global terrorism. Contemporary counter-terrorism measures combine international, European and domestic legal arrangements, encroach upon fields

that were previously reserved for political decision-making and primarily aim at the prevention of possible future attacks. Another example is the regulation of cyberspace. Here, the combination of international, European and domestic legal regulation is accompanied by a web of private regulations that escape traditional political conceptual and territorial boundaries. The examples of the fight against global terrorism or the regulation of cyberspace illustrate how issues of globalisation and global governance challenge the constitutive function of sovereignty for the construction of legal arrangements. Making legal sense of globalisation requires a rethinking of the foundations of transnational law and the formulation of new answers to present challenges to the state system. In particular, it calls for a re-conceptualization of the boundaries of law in at least three interrelated respects: territorial, functional and temporal.

Studying reconfigurations in the boundaries of law requires interdisciplinary cooperation and research that goes beyond the confines of traditional legal dogmatics. The research group *Boundaries of Law* does exactly that: it brings together scholars from ten different countries, from different disciplines: including international and European law, IT & Law, legal theory, political science and philosophy. Although researchers come from different disciplinary backgrounds, they all share openness towards approaches from adjacent disciplines and a

willingness to engage in collaborative projects that transcend established disciplinary boundaries. In the past three years alone, this has led to joint research projects resulting in peer reviewed publications,

Research and Teaching

The assumptions underlying the research programme also inform the teaching programmes offered at the faculty. Consequently, outcomes of research projects developed by members of the group filter through to the Faculty's curricula as well. The minor *Transnational legal Studies*, for example, studies how the rise of new forms of regulation in cyberspace as well as changing risk perceptions have unsettled established legal categorization. The Master programme on transnational law combines legal theory, the sociology of law and more traditional legal-dogmatic approaches, in an attempt to understand contemporary transboundary legal problems. The Master programme, *Law and Politics of International Security* focuses more specifically on the politics of international law. This programme is offered in cooperation with the faculty of social sciences. Finally, all law students are required to take a course on the methodology of law, where insights developed in the research program are discussed.

interdisciplinary PhD projects, one European grant, three Veni applicants¹ that got as far as the last round and of which one was awarded a Veni grant, one Vidi grant and three awards for dissertations. Given that *Boundaries of Law* is a relatively small research group, the number of grants and awards can be taken as a signal that our interdisciplinary approach has gained international recognition.

The three boundaries

1. *Territorial boundaries.* Traditionally, transnational law was strongly linked to territory. It aimed to regulate relations between sovereign, independent states and helped to define territorial and jurisdictional boundaries between those states. While this function is still important there are now also many forms of regulation that escape the contours of the international-domestic divide. Domestic legislation or adjudication increasingly transcends the contours of the nation-state. The law of the European Union blurs distinctions between sub-national, national and European affairs, in terms of law-making, law-application and the content of norms. Similarly, the recent turn towards ‘world-legislation’ by the UN Security Council questions the neat division between domestic and international affairs. The law of cyberspace posits an even more radical challenge to the territorial make-up of the legal world. Here, legal regulations have become global and polycentric, thus raising questions as to the locus and legitimacy of the legislative body, the nature of the relevant legal communities, etc.
2. *Functional boundaries.* The creation of global institutions such as the United Nations marked a significant change in the nature and function of transnational law. As Kennedy has argued, the birth of global legal structures, e.g. in the field of collective security, meant that transnational law was now used as “primarily the instrument for building the institutions to *transform* the political order – not for articulating the normative boundaries and limits of sovereign power”.² More and more, transnational law attempts to regulate fields that had for long been the prerogative of international or domestic politics. Examples can be found in international human rights law, the legal regimes of the WTO, World Bank or international criminal law. Moreover, the rise of transnational private regimes has questioned established distinctions between the sphere of politics and law, public and private, etc. The most outspoken expression of the juridification of international politics can be found in the European Union, where a web of legal regulations and institutions has effectively replaced many instruments of classical interstate politics. As a consequence, international and European laws are now confronted with questions that long belonged to the realm of politics. The juridification of transnational politics, in other words, went hand in hand with the politicisation of transnational law.
3. *Temporal boundaries.* Law’s relation to time is in a constant flux. On the one hand, we are witnessing a higher sensitivity towards injustice done in the past worldwide. Legal institutions are created, both on a national and a transnational level, to provide for compensation or retribution to people(s) who have suffered from severe acts of violence, sometimes after a considerable lapse of time. In general, there is a tendency against statutes of limitation in cases of historic injustice. This annulment of conventional temporal legal boundaries calls into question basic functions of the mundane legal

¹ Veni, Vidi and Vici are prestigious grants of NWO in their *Innovational research incentives scheme*.

² David Kennedy (2006), *Of War and Law*, Princeton: Princeton University Press, at 75 (italics added).

order, such as the establishment of legal peace and the organisation of legal closure. In short, time-related problems regarding restitution or compensation for past injustice have to a large extent become a defining feature of the current global age, drawing a lot of attention.

On the other hand, globalisation confronts us with an unforeseeable future by posing risks and threats that are very hard to control. Risks such as environmental despoliation, financial meltdowns, and breakdowns of essential computer networks or global terrorism not only transcend national boundaries, they also combine two other features: they are (presented as) inherently uncertain and yet potentially catastrophic. In order to deal with such risks, transnational law has developed procedures and principles to manage an unknowable future, such as risk-assessment procedures or the precautionary principle. The evolution of such future-oriented arrangements indicates a shift in the temporal focus of law. The aim is not merely to seek reparation for a wrong done in the past nor to anticipate a foreseeable and manageable future, but rather to actively engage with an uncertain future, to deal with an unpredictable threat that endangers essential conditions of our way of life. The shift towards prevention and precaution, however, raises serious questions regarding some basic legal categories and fundamental rights of peoples and individuals.

Core questions of the Programme, key publications and planned activities

The core questions of the programme follow from the three dimensions of change identified above: territorial, functional and temporal.

A As noted before, processes of globalisation have challenged the constitutive function of state sovereignty. Yet, in an attempt to make sense of the emergence of legal regimes beyond the state, people often borrow from concepts that were developed in the context of the nation-state, such as constitutionalism or legislation. The research programme critically examines this paradox by studying four leading questions:

1. What are the limits of using concepts with domestic origins in contexts that fundamentally differ from the national, sovereign state? Is it possible to make sense of recent developments in law by using concepts that were not originally tied to the existence of sovereign states, such as 'humanity' or 'cosmopolitanism'?
2. Which alternative concepts can be used to make sense of the evolution of a transnational space where boundaries between international and domestic, law and non-law, public and private become increasingly problematic?
3. How can we conceptualise and enhance accountability and legitimacy of transnational legal arrangements?

Planned activities related to the subtopic

For the coming two years, the following projects will address the topic of territorial boundaries:

- In cooperation with the European Institute in Florence, the research group is working on an edited volume on the concept of territoriality in transnational law and politics. The first steps in this project will be set in two seminars at the Central and Eastern European International Studies Association meeting in Krakow, to be followed-up by meetings in Florence.

- Members of the research group have worked together in a project on the use of the concept of 'humanity' across international law, bio-law and legal philosophy. This project brings together 10-15 scholars from different parts of the world. The volume is currently under review with Cambridge University Press and will be revised after reviews. The book will be followed up by joint publications by the editors from the research group.
- The EU funded project Hemolia (2011-2013) brings together researchers with an internet background and EU law background. The aim of the project is to develop a European normative model, underlying technology designed to automatically detect money laundering.

B The second set of core questions relate to the expansion of transnational law into areas that were traditionally reserved for international and domestic politics. As a corollary, transnational institutions are now increasingly faced with the task of balancing potentially conflicting societal and political interests (freedom of movement vs. national self-determination, security vs. fair trial protection, ecological concerns vs. free trade, etc.). At the same time, however, transnational law is undergoing a process of functional differentiation: separate legal regimes and supervisory organs are set up in areas such as the economy, foreign investment, criminal law, the environment, human rights, peace and security, etc. Each regime knows its own forms of expert-knowledge, its built-in biases, procedures and rules. The combination of expansion and differentiation raises important questions for the role of transnational legal institutions. The research programme focuses on four such questions:

1. How are societal and political problems translated into specific legal regimes and specific forms of expert knowledge?
2. How do transnational legal regimes balance conflicting societal and political interests?
3. How are boundaries between law and politics drawn and redrawn in concrete cases? Which institutions are involved in this process of boundary-drawing and how are they to be held accountable?
4. Is it still possible and sensible to speak of an autonomous legal sphere, apart from other spheres such as society, politics, morality, economy, etc.?

Probing the Boundaries of Humanity

Researchers from bio-law, political theory and international law have joined forces in an attempt to come to terms with the increasing popularity of the concept of 'humanity' across legal fields, including the relatively new field of biomedical law. The three researchers have invited some twenty scholars coming from different disciplines and different countries to study three main questions:

1. What are the aims for which 'humanity' is mobilized, and how do these affect the ensuing interpretations of this concept?
2. What is the negative counterpart of 'humanity' (e.g. the 'inhuman', the 'inhumane' and the 'a-human')?
3. What happens when 'humanity' is transposed from one context (e.g. criminal law) to another (e.g. bio-law)?

These questions have been discussed at a two-day conference. The papers presented at the conference have subsequently been published as an edited volume currently under review with Cambridge University Press.

Planned activities related to subtopic

- In coming years, a group of researchers will focus on issues of representation and protection of national interests and values in international and EU law. This research specifically covers the growth and control of investment law and EU criminal law. The interactions between substantive policy and constitutional principles, and between economic and non-economic interests, are both recurring themes.
- For the period 2010-2014, the research group has acquired approximately €125.000 per year from the pan-European 'Cooperation in Science and Technology' (COST) in order to set up a European network on issues of fragmentation, constitutionalisation and politicization of international and European law. One of the three core topics of this Action is the functional fragmentation of International and European law. The COST Action therefore opens new venues to study the core questions of the research programme in an international setting and to increase the number of international publications. The plan is to have a series of seminars, expert meetings, etc. on the topic of the transformation of functional boundaries in International and European law in the coming four years. Concrete examples are: a conference on the changing role of legal expertise in international security (leading up to a special issue of *Security Dialogue*) and a conference on the role of experts in international courts and tribunals leading up to an edited volume. The research group will focus on the role of the exception as a means to delineate law and politics. This will be done through a study of the role of concepts such as necessity in positive law, combined with studies on the role of the exception within political and ethical discourse. The results will be published in international journals in the field of International and European law as well as legal philosophy. In this context, the research group has started a research project together with the Universities of Jena and Leipzig which studies questions of European integration through the lens of Carl Schmitt's international theory.

C The final set of core questions follow from the reconfiguration of the temporal boundaries of transnational law. The increasing sensitivity towards injustice and the urge to repair it place a high burden on the law. This raises the question whether law is capable of meeting all expectations. At the same time, the turn to risk-prevention and precaution has brought an increasing reliance on expert-knowledge and measures based on risk-assessments, profiling and precaution instead of formal determinations of responsibility by independent courts. This raises questions regarding the role of expert-knowledge in legal decision-making and the continued relevance of fundamental legal protections in the face of perceived catastrophic risks. The research programme takes up these issues and attempts to answer the following research questions:

1. How do legal regimes provide for compensation or retribution for severe acts of violence in the past? To what extent is law capable of "undoing injustice"?
2. How are perceptions of risk and danger as well as expert-knowledge translated into legal norms, principles and procedures?
3. How do discourses on catastrophic risk affect fundamental legal protections and political accountability?

Planned activities in relation to subtopic

- Prof. Veraart is finishing his NWO (Veni) project on problems of restitution and the role of time in addressing past injustices. This has already resulted in a number of publications, some in international, peer reviewed journals. In 2012 he has planned to further elaborate this line of research; specifically by setting up PhD-projects, one on the role of the Dutch notariat in and after WW-II (carried out by an external PhD student), and another one on the role of the passage of time in international criminal law (to be submitted to NWO in 2012-2013). In 2012-2013, the research group will organize an expert meeting together with other stakeholders such as the Dutch Institute for War-, Genocide- and Holocaust Studies (NIOD) in order to explore further possibilities for collaboration and of hosting and funding more specific PhD-projects dealing with legal and conceptual boundaries in the field of transitional justice, in which different disciplines (especially law, history and legal philosophy) intersect.
- As noted above, the research group has acquired approximately €125.000 per year from the pan-European 'Cooperation in Science and Technology' (COST) in order to set up a European network on issues of fragmentation, constitutionalisation and politicisation of international and European law. One of the three core topics of this Action is the turn to prevention and risk-management in international and European law. The COST Action therefore opens new venues to study the core questions of the research programme in an international setting and to increase the number of international publications. The plan is to have a series of seminars, expert meetings, etc. on the topic of the transformation of temporal boundaries in international and European law in the coming four years. The next meeting is planned in September 2012, on the topic of "the transformation of anticipatory knowledge into legal decision-making"

Methodology

Research on global governance and globalisation transgresses disciplinary boundaries. In order to answer the questions raised above an interdisciplinary approach is needed. In particular, insights and methods from discourse analysis, sociology of law, political science, legal theory and political theory are combined and confronted with traditional legal research. Therefore, the research programme raises a series of methodological questions which run through all the subtopics discussed above:

1. What are the limits of traditional legal research for the questions identified above? What are the possibilities and limits of multi/interdisciplinary approaches?
2. How can insights and methods from different disciplines be combined?
3. Given the need for interdisciplinary research, what role does legal research play in protecting specific legal values that are at stake in claims of good governance?

Currently, the research programme has no joint projects with a specific focus on methodology. Still, as was noted above, methodological questions regarding multi/interdisciplinary cooperation will keep popping up in the coming years. The programme aims to provide a forum to discuss such questions and will also stimulate publications in the field of legal methodology that result from such discussions. In this context it is worth noticing that in 2009 Bart van Klink, professor legal methodology, has joined the research programme. Prof. Van Klink will play a prominent role in instigating discussions and publications on issues of methodology and multidisciplinary cooperation.

1.2. SCIENTIFIC RELEVANCE AND SOCIETAL IMPACT

The research programme deals with one of the biggest challenges facing both legal scholarship and legal professionals: how to conceptualize the impact of globalisation on law? It builds upon an outpouring of literature that seeks to address this question by combining insights from legal philosophy with insights from

PhD Schools

The research program *Boundaries of Law* is one of the co-organizers of annual European PhD Schools focusing on the theoretical and philosophical aspects of transnational law.

The first PhD school was held at the European Institute in Florence on the topic of transnational constitutionalism, followed by a school at the University of Minho (Braga), on legal pluralism. The PhD schools give candidates the opportunity to present their work, to receive intensive comments from senior researchers, to discuss their work with a group of 25-30 fellow PhD's from different European countries and to establish an interdisciplinary research network.

The next PhD school is planned for January 2013 in Prague, on the topic of *The Politics of International Criminal Justice*.

international and European law as well as insights developed in the area of IT and law. Examples are studies on the emergence of global legal pluralism,³ the politics of international law,⁴ international and European constitutionalism⁵ or the normative foundations of the newly emerging global legal order.⁶ As diverse as the above examples are, they all struggle to come to terms with the basic structure and foundations of contemporary transnational law. The added value of the research programme is that it studies these fundamental questions from a specific and so far neglected perspective: the changing contours of three interrelated boundaries of transnational law. This focus makes it possible to research how changes in, for example, the territorial boundaries of transnational legal regimes affect transformations in the functional or temporal boundaries and vice versa. Moreover, the programme creates a good research environment in which to study the reconfiguration of the boundaries of law as it brings together scholars from the most involved disciplines: legal and political philosophy, international law, European law, internet governance and political science. In addition, the programme has structural forms of (international) cooperation with sociologists, philosophers and political scientists studying the evolution of transnational law.

The basic questions that underlying this research programme are not only of academic interest – they have practical implications as well. Take, for example, the blacklisting of suspected terrorists by the United Nations

³ Peer Zumbansen, Transnational Legal Pluralism, *Transnational Legal Theory*, Vol. 10, No. 2, pp. 141-189, 2010 Andreas Fischer-Lescano & Gunther Teubner (2004), Regime Collisions, The Vain Search for Legal Unity in the Fragmentation of Global Law, *Michigan Journal of International Law* 25 (4), 999-1046. Gunther Teubner (1997), *Global Law Without a State*, Aldershot/Brookfield, MA: Dartmouth.

⁴ Martti Koskeniemi (2009), The Politics of International Law- 20 Years Later, *European Journal of International Law* 20(1), 7-19. David Kennedy, supra note 2.

⁵ For an overview see Nicholas Tsagourias (Ed.) (2007), *Transnational Constitutionalism: European and International Perspectives*, Cambridge: Cambridge University Press; Neil Walker (2008) 'Taking Constitutionalism Beyond the State', *Political Studies*. 56 pp. 519-543.

⁶ Jürgen Habermas (2001), *The Postnational Constellation*, Cambridge MA: The MIT Press.

and the European Union. The assessment of such measures to a large extent depend on one's perspective on issues such as the desirability to use law to manage an uncertain future, the nature and identity of organisations such as the United Nations or the European Union or the relation between political decision-making and human rights protection. Additionally, there are questions regarding issues of property or the protection of personal data in cyberspace. Quite often such issues are covered by normative regimes that are set up without the involvement of states and escape classical territorial boundaries. Whether such regimes can be regarded as binding law is just as much a foundational as a very practical question.

While the primary aim of the programme is not to solve current societal problems, its focus on fundamental issues does have societal impact. The programme's societal impact is also evidenced by the fact that participants in the programme participate in advisory boards to the government, conduct research for international organisations, are consulted as experts on topical legal and societal issues and collaborate with non-governmental organisations.

1.3. SWOT-ANALYSIS

| Strengths | Weaknesses |
|---|--|
| <ul style="list-style-type: none"> - Multidisciplinary and international composition of the group - Successful in obtaining international and national awards and research grants - Well embedded in international research networks - Strong connection between research and teaching | <ul style="list-style-type: none"> - Imbalance between members in terms of (international) publications - Visibility of research group as a whole is insufficient |
| Opportunities | Threats |
| <ul style="list-style-type: none"> - Group studies topic high on societal and political agenda that create opportunities for external funding and cooperation (e.g. cyberwar, bio-regulation, transitional justice) - Unique position in the Netherlands in research on “the politics of transnational law - Combination of disciplines facilitates development of original theoretical perspectives | <ul style="list-style-type: none"> - Pluralistic nature of the group could endanger coherence - Relatively small size makes the group vulnerable, especially in light of university policy of sticking to temporary contracts as much as possible - Pressure for more intensive teaching methods affects parts of our research group unevenly, with possibly negative consequences for research |

1.4. STRATEGY AND POLICY FOR THE NEXT PERIOD

The SWOT analysis above gives rise to three types of strategic questions:

1. Which opportunities can be exploited through the strengths of the institute well?

The multidisciplinary composition of the research programme gives it a comparative advantage over most other research groups in law in the Netherlands. The programme brings together researchers from legal and political theory, international en European law, IT & law, philosophy and political science. The group consists of relatively young, enthusiastic researchers that think outside their disciplinary boxes and create new links

between fields of study. This makes it possible to develop innovative theoretical perspectives on concrete problems in transnational law. Our research group also has a distinctive, critical perspective on the limits and possible downsides of legal regulation, e.g. in the field of transitional justice, European regulation or international criminal law. This perspective sets it apart from more traditional, positive-law oriented research in the field of law.

The combination of disciplines makes it possible to study these topics from original angles, which forms a comparative advantage in terms of publication strategy and application for research funds. Our past successes on this front are a good indication that the multidisciplinary approach chosen in this programme is internationally recognized. Because the research group is embedded in international, interdisciplinary networks it is particularly well-suited to pursue collaborative projects and institutional cooperation. The existence of the Centre for European Legal Studies and the creation of the Centre for the Politics of Transnational Law will help to bring in good researchers and improve the visibility of the research. With relatively big funds from the Dutch Research Council and COST already obtained, the research has excellent possibilities to manage new funds for the coming years.

2. Through which ways can the institute use its strengths to reduce its weakness?

The multidisciplinary composition of the group is both a strength and a weakness. The best way to turn the composition of the group into an asset rather than a burden is to: (a) set up concrete collaborative projects between different members of the group (b) ensure a good flow of information about the different research projects, research interest, and research approaches across the programme. Both strategies have been used quite successfully in recent years and we will intensify our attempts to improve the coherence of the group even further. Collaborative projects have also been helpful in activating researchers with a relatively low output- although it must be said that tackling the uneven distribution of publications across the programme cannot be solved through collaborative projects alone. The innovative nature, collegial atmosphere and enthusiasm of the participants can help to remedy the limited possibilities of offering career paths to promising researchers. We are proud that several (internationally operating) researchers have indicated a strong interest in accepting a job at our Faculty because of the special nature of the research programme, both in terms of approach and in terms of the working environment.

3. Which opportunities may help to overcome weaknesses?

The opportunities for external funding and further international cooperation will help to mitigate the vulnerability of the research group. Through external funding we will be able to expand the programme while retaining qualified researchers. Our recent success in obtaining Innovational grants from the Dutch Scientific Council strengthens our optimism in this respect. In addition, further intensification and formalization of existing international networks will immediately affect the size of the research group. Formally integrating participants from, for example, the COST network makes the group less vulnerable. Setting up further cooperation with renowned institutes also provides an extra reason for promising researchers to come and stay at the Faculty.

Policy measures

The SWOT analysis overlaps with the findings of the Koers committee. While the Committee did not doubt the quality of the researchers of the programme nor the importance of its central topics, it did express concerns about the coherence of the programme and the uneven distribution of the publications over the

participants. Below, we will set out the policy initiatives that aim to address this critique and answer these two strategic questions.

Regular meetings of research group as a whole

Building on the participants' willingness to learn from each other, the programme organises regular meetings and seminars (approx. 15 per year) where researchers discuss their own work, explore possibilities for further cooperation and meet with external (international) researchers in fields relevant to the topics at issue. These meetings lay the groundwork for a better understanding of each other's work and perspective and have already led to joint research projects by members of the research group.

Meetings with core professors

The programme manager has regular meetings with the core professors involved in the programme to discuss internal coherence, strategy and possibilities for further cooperation between the participants.

Joint research projects

In the past two years, members of the research group coming from different disciplinary traditions have started to work together on concrete research projects. Examples are the conferences on necessity, exceptionalism, world legislation and 'humanity' which have resulted in special issues of international journals and an edited volume currently under review with Cambridge University Press. In the coming years such initiatives will be further expanded, e.g. by follow-up projects on the above-mentioned topics as well as new projects on cyberwar and the politics of international criminal justice. Such joint projects offer members of staff the opportunity to (further) develop an international network and to publish in international journals. Moreover, they help to build an international profile for the programme as a whole and thereby increase the possibilities of obtaining external funding. In addition, the programme will stimulate joint research applications. The programme manager will address participants individually and ask them to set up funding applications with others. Even when such applications do not result in actual funding, they still have an important function in bringing researchers together on one of the core topics of the programme.

Building an international network

The programme manager has obtained funding from COST to build a pan-European research network in the period 2010-2014. Currently, the core participating universities in this network are Leiden, Cambridge, Copenhagen, Warsaw, Florence and Helsinki. The network is of great value to the international profile of the programme and offers individual members the opportunity of participating in international seminars and conferences at VU University and abroad.

Expand external funding

Despite the fact that obtaining external funding has become increasingly difficult, several staff members have managed to obtain substantial research scholarships. This creates opportunities, not only in terms of additional research time, but also in terms of enhancing the chance for subsequent funding. Moreover, it sends a positive signal to other members of the research group that applying for external funding is worth the time and effort. The programme manager will therefore discuss the opportunities to apply for external funding with individual members of the research group. In this context, participants should be able to profit from the fact that they operate in a research programme whose combination of disciplines offers the

opportunity to explore innovative questions. Moreover, they will be stimulated to make joint applications, bringing together insights from two or more (sub)-disciplines.

Attract and keep good researchers

The research has very limited financial resources to attract and keep new, highly qualified researchers. Still, the programme is able to compete with other universities in terms of stimulating research environment, openness to multidisciplinary cooperation and innovative perspectives on transnational law. In the past two years this has induced a couple of high quality researchers to accept a position at the law Faculty of VU University. These researchers will help to raise the number of international publications, bring in an international network and build bridges between the participants in the programme. The fact that the programme is linked to innovative and research oriented teaching programmes such as the LLM *Law and Politics of International Security* and the Bachelor minor programmes *Transnational Legal Studies* and *Law and Society* helps to attract high quality researchers. Several of the newly appointed researchers have expressed their enthusiasm for the possibilities to teach in these programmes. Within the field of legal philosophy, the research group strongly participates in the two-year master Philosophy of a Particular Discipline (Law), coordinated by the VU Faculty of Philosophy, in which individual students can get acquainted with research themes of the programme.

Guard research output at individual level

Individual researchers should meet the minimum norm as set out by the Smits Commission. According to the Smits Commission, individual researchers should have three publications per year, or alternatively, one or two articles in international peer reviewed journals (depending on the ranking of the journal). Given the international character of the research programme, participants will be stimulated to publish in (high ranking) international fora, even if this would imply a lower number of total publications. If an individual researcher fails to meet the Smits criteria in a particular year, the programme manager, in coordination with the head of the department concerned, will discuss how this can be remedied. If the failure to meet the minimum requirements is structural, the researcher will have to leave the research programme.

1.5. KEY PUBLICATIONS

Nouwen, S.M.H. & Werner, W.G. (2010). Doing Justice to the Political; The ICC in Uganda and Sudan, *European Journal of International Law*, 4, 1-25.

Davies, G.T. (2012). Activism relocated: the self-restraint of the European Court of Justice in its national context. *Journal of European Public Policy*, 19(1), 76-91.

Veraart, W.J. (2012). Forgetting, Remembering, Forgiving and the Mundane Legal Order, in: B. van Stokkom, N. Doorn & P.J.M. van Tongeren (eds.), *Public Forgiveness in Post-Conflict Contexts* (Series on Transitional Justice Vol. 10), Cambridge-Antwerp-Portland: Intersentia, p. 65-89.