



ESCL MASTER THESIS PRIZE 2018

JURY REPORT

The ESCL consists of 20 national construction law societies. One of the tasks of the ESCL is to promote knowledge of international construction law. Once a year, in that context, a conference is organized by one of the member societies. Because of the great appreciation for education and research an annual Master Thesis Prize has been created. This is the sixth year this prize has been awarded.

The jury is chaired by the President of the ESCL who appoints two or more other members of the jury. The current President of the ESCL is dr. Ovidiu Dumitru (president of the Romanian Society of Construction Law). He appointed Professor dr. Benoît Kohl (*Professor, University of Liège and University of Paris II - Counsel, Stibbe Brussels*) and Professor dr. Anthony P. Lavers (*Counsel, White & Case LLP, London - Visiting Professor of Law, King's College London*) and Professor dr. M. Hugues Périnet-Marquet (*Professor, University of Paris II*) as jury members.

In assessing the academic quality of the thesis, the jury evaluates the following aspects of the thesis: originality of the topic, approach/quality of analysis, approach/quality of presentation, interest to construction law and construction professions and connection with either European law or with the law of more than one European country.

The First prize awarded is EUR 2.500,- and the Second prize awarded is EUR 1.000,-.

The winners are invited to submit a (modified) version of the thesis for publication to the editorial board of the International Construction Law Review to be considered for publication.

The jury has come to a decision on the First and Second prizes, based on a written assessment of the theses and a conference call discussion.



FIRST PRIZE

Giuseppe Giancarlo Franco

Title: "Dispute boards: A comparative study of international practice"

University: Bocconi University, Milan

Study program: Master of Arts in Law

IN GENERAL

The candidate has engaged with a subject of growing importance in the resolution of international construction disputes, drawing together sources from several European jurisdictions. The conclusion offers some stimulating, and very relevant, thoughts on the role of UNCITRAL. The thesis is very well written.

ASSESSMENT BY CRITERION

Originality of the topic

The candidate has delivered an interesting analysis on a topic of growing significance in international construction dispute resolution. The thesis addresses this topic with an in-depth and valuable analysis.

Approach/quality of analysis

There is a substantial literature on the development of dispute boards, which is well-referenced throughout the thesis. However, the originality of it consists not of the interesting presentation of historical materials in Chapters 1 and 2 but in the comparative analysis in Chapter 3 in which the available sources are particularly well used. Furthermore, the candidate uses examples particularly well and comparisons are convincing. The assertions are well supported by reference to authority and scholarly material, which makes the thesis worthy of the first prize.

Approach/quality of presentation

The thesis is well-written and thoroughly referenced. The style is clear and the conclusion in particular is illuminating.

Interest to construction law and construction professions

Dispute boards are an essential feature of modern dispute resolution mechanisms in construction. The different approaches to enforcement in different legal systems are of considerable interest and therefore the interest to construction law and construction professions of the thesis is considerable.



Connection with either European law or with the law of more than one European country

Because of the connection made with FIDIC and UNCITRAL, the thesis transcends a national approach and delivers an analysis and conclusions useful for both disputes on the national level as well as for international construction dispute resolution. A thesis with a real European and comparative scope.

TWO SECOND PRIZES

Yu Gao

Title: "Early Warning of NEC3 ECC, A Solution for Dutch Design and Build Construction Problem Solving?"

University: Delft Technical University

Study Program: Construction Management and Engineering

IN GENERAL

The thesis shows an interesting application of a contractual mechanism from one European country (the U.K.) in the context of another one (the Netherlands). The candidate has achieved clarity of exposition within a logical structure. Furthermore, the thesis is well written and well presented.

ASSESSMENT BY CRITERION

Originality of the topic

The super-imposition of an English law contract feature on a Dutch standard form contract constitutes an unusual and therefore conceptually interesting and original approach.

Approach/quality of analysis

The methodology is well explained and the discussion is soundly-based on the thorough review of sources. The research and analysis is going to be of interest to construction professions and are very capable of being developed into further research.

Approach/quality of presentation

The thesis shows a clear and logical structure. Although very valuable, it shows a more sociological approach than a legal one. Nonetheless, it offers an original and useful perspective on the subject.



Interest to construction law and construction professions

Although the thesis is of greater academic than immediate practical relevance, it is capable of being adapted to apply to genuine professional concerns.

Connection with either European law or with the law of more than one European country

Although the subject of the thesis and its approach is of limited (immediate) value to European law in general, it meets this criterion of the ESCL Thesis Prize because of consideration of relevance of an English standard form to the Dutch context.

Edwina Elena Udrescu

Title: "What legal and contractual issues can determine the success or failure of a PPP project?"

University: Kings' College London

Study Program: Construction Law & Dispute Resolution

IN GENERAL

The thesis approaches an interesting topic for construction law, despite the fact that the subject has already been discussed extensively in literature, the thesis shows a different and more practical approach by addressing the contractual issues.

ASSESSMENT BY CRITERION

Originality of the topic

Although Public private partnership (PPP) is already extensively discussed in existing literature, the discussion of the crucial legal and contractual issues shows a side of this topic that has been fairly underexposed in the past. The thesis offers a practical and useful analysis of a number of European jurisdictions and therefore shows its value for construction practice.

Approach/quality of analysis

Although the approach and analysis of the subject lacks a certain method, it contains a practical, legal and positive approach which offers useful insights for construction practice.

Approach/quality of presentation

The quality of presentation is overall of a good standard.



Interest to construction law and construction professions

Public private partnerships (PPP) are of importance to certain areas of the construction industry and the relationship between law, contract and commercial success is significant for participants. Therefore, the thesis shows its value for construction professions.

Connection with either European law or with the law of more than one European country

In principle, Public Private Partnerships can be relevant to most countries, including most European countries. The choice of Poland, Serbia (and Uganda) as well as Romania establishes the connection with other European jurisdictions is made and makes the thesis and its analysis valuable for more European jurisdictions.

Ovidiu Dumitru (Chairman)

Anthony Lavers

Benoît Kohl

Hugues Périnet-Marquet

Date: 26 October 2018