



ESCL MASTER THESIS PRIZE 2017

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 associated 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 Professor Dr. Hubert Stöckli from Switzerland (*Institute for Swiss and International Construction Law, University of Fribourg*). 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 scientific 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

Gerben Hofmeijer

Title: "Optimising the usability of the innovation partnership procedure for contracting authorities"

University: Delft University of Technology

Study program: Construction Management and Engineering

IN GENERAL

This thesis is a work of quality. It scores highly on all five assessment criteria.

The thesis provides the reader with an in-depth analysis of an original topic: the innovation partnership. The analysis is convincing and based on literature review as well as field research (interviews with professionals in the field). This research is helpful for construction lawyers and professionals who want to learn more about the (usability of the) innovation partnership.

ASSESSMENT BY CRITERION

Originality of the topic

The thesis scores highly on originality, because it deals with a relatively new procurement tool, the innovation partnership, that was introduced in the latest European procurement directives.

It is likely that readers of this thesis will learn something new from this thesis, because the topic has not been extensively discussed in the existing legal literature.

Approach/quality of analysis

The thesis has a genuinely fresh approach and methodology linking procurement and sustainability. The point of view in this thesis is not purely legal, but also sociological.

With this interesting approach an engaging and thorough analysis has been performed, both of the literature and the results of the field-work, that leads to convincing results. The conclusions of the research are reasonably persuasive.

Approach/quality of presentation

The presentation is generally clear and the text reads very well. The thesis includes helpful tables and illustrations. However, in the opinion of the Jury not all graphics add much value to the presentation.



Interest to construction law and construction professions

This thesis is of high interest for people looking for a clearer understanding of the innovation partnership. The topic is focused on the construction industry and seems likely to be of interest to construction law and construction professions in all EU nations.

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

The legal basis for the innovation partnership is formed by the European procurement directives, which means there is a strong connection with European law. This thesis seems therefor, although it was written from a Dutch perspective, likely to be of interest for other European jurisdictions.

SECOND PRIZE

Eugenio Zoppis

Title: "Contract conditions for ground risk under the 1999 FIDIC Suite of Contracts: a critical review"

University: King's College, London

Study Program: Construction Law and Dispute Resolution

IN GENERAL

This thesis deals with an important topic in construction law: ground conditions. The focus is on the FIDIC Conditions and seeks to consider a number of jurisdictions. It is likely that this comparative approach is also of interest for readers outside the UK.

The thesis is well written and well presented.

ASSESSMENT BY CRITERION

Originality of the topic

Ground conditions are an important topic in practice, but not all that original for a thesis. The Jury considers the topic of this thesis to be less original in comparison with the thesis that won the first prize.



Approach/quality of analysis

The thesis takes on the challenging task of considering FIDIC contracts from common law and civil law perspectives in the specific context of unseen ground conditions. The number of jurisdictions chosen (English law, Hong Kong, Australia, USA, France, Italy, Germany, Ethiopia and UAE) means that depth of analysis is a potential problem. Nevertheless, the quality of discussion is generally good and the conclusions are convincing.

Approach/quality of presentation

The presentation is impeccable and the thesis is clearly referenced.

Interest to construction law and construction professions

The thesis is of high interest to construction law and construction professions, because ground conditions are an important topic in all construction industries.

Because the thesis deals with international contracts and seeks to consider a number of jurisdictions, it has potential appeal outside the UK.

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

The thesis reviews contract conditions for ground risk under the 1999 FIDIC suite. This contract suite is self-evidently of international interest.

The FIDIC contracts are mainly analysed from the perspective of the law of England and Wales. In addition to this analysis, a comparison is made with a number of national jurisdictions, including three European jurisdictions (France, Germany and Italy).

Hubert Stöckli (Chairman)

Anthony Lavers

Benoît Kohl

Hugues Périnet-Marquet

Date: 3 November 2017