



ESCL MASTER THESIS PRIZE 2012 JURY REPORT

The ESCL consists of 17 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 is created. This is the first year this prize is awarded. No less than 11 (edited) theses were submitted.

The jury is chaired by the President of the ESCL who will appoint two other members of the jury. The President of the ESCL is Professor Dr. Benoît Kohl (*Professor, University of Liège and University of Paris II - Counsel, Stibbe Brussels*). He appointed Professor Dr. iur. Hubert Stöckli (*Professor, Universität Freiburg Schweiz*) and Professor Anthony P. Lavers (*Counsel, White & Case LLP, London - Visiting Professor of Law, Oxford Brookes University*) as jury members.

In assessing the scientific quality of the thesis the jury will evaluate 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.

The first prize will be awarded with € 2.500,- and the second prize will be awarded with € 1.000,-. The Dutch Institute for Construction Law made this year's prize financial possible.

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

The jury has come to a first prize and second based on the assessment of the theses and a brief consultation.



FIRST PRIZE

PATRICK HEHENBERGER

"UK SUCCESS TO BE REMADE IN GERMANY: WILL ADJUDICATION COLLIDE WITH FUNDAMENTAL CIVIL LAW PRINCIPLES?",

SUBMITTED AS PART OF THE MSc IN CONSTRUCTION LAW & DISPUTE RESOLUTION, KING'S COLLEGE LONDON, SEPTEMBER 2011

IN GENERAL

According to the Jury this Thesis has a very interesting topic, with a comparative approach. The dissertation is useful for many continental jurisdictions where the UK system of adjudication is not very known. The entry is well written, well documented, with an intelligent use of comparative law.

The entry tackles a difficult and important potential development in construction dispute resolution and offers intelligent comment and answers key questions. The paper has the benefit of discussing the implementation of an English concept in a continental jurisdiction and thus implicates both English and German law. Also for this reason the Jury awards the first prize to this paper.

ASSESSMENT BY CRITERION

Originality of the topic

The Jury labels the Thesis as very interesting and original. The subject is of considerable importance and relatively little material is published in English. The research focusses on adjudication UK style vs. the Germans' approach to an alternative method of dispute resolution (Adjudikation). Is it a clash of cultures?

Approach/quality of analysis

The thesis brings good comparisons; it's not a mere description. Comparative law is used within the text at different places. The thesis also displays an authoritative grasp of the material.

Approach/quality of presentation



Well-presented and useful annexes.

Interest to construction law and construction professions

The topic is very interesting; it could be of use in several continental countries with a construction law based on a Civil Code and a Code of Civil Procedure. It has genuine importance to both construction industry and dispute resolution professionals. The analysis is helpful to professionals in jurisdictions where an introduction of adjudication is considered, for example Switzerland.

SECOND PRIZE

TIMOTHY LEONE GANADO

"INTERFACE AGREEMENTS IN UK PFI HEALTHCARE PROJECTS",

SUBMITTED AS PART OF THE MSc IN CONSTRUCTION LAW & DISPUTE RESOLUTION, KING'S COLLEGE LONDON, SEPTEMBER 2011

IN GENERAL

It's an interesting topic on the specific "interface agreements" of the PFI contracts. And it's well written and documented. It's not an "EU" or a "comparative" subject, but the research can be useful as such in continental countries, where most of the PPP contracts are organized or regulated in using the UK experience. The thesis raises interesting issues regarding subcontracting and presents solutions developed in the 'motherland' of PFI. The Jury refers to the analyses as quite illuminating.

ASSESSMENT BY CRITERION

Originality of the topic

This is an interesting study of the interface agreement of PFI contracts. It's also interesting in continental countries, where most of the PPP contracts are organised or regulated in using the UK experience. Much is already researched on PFI although less on interface agreements.

Approach/quality of analysis



The material is mainly from (sometimes superficial) articles and is well assembled. The analysis is helpful and interesting and the discussion is sensible.

Approach/quality of presentation

The thesis is very well presented and well-referenced.

Interest to construction law and construction professions

The thesis doesn't contain an EU approach, but it is well of use in continental countries where the UK experience of PPP is very often taken as an example. The synthesis is useful, but the research has a limited advancement of thinking. Issues raised in this paper are of great importance in an industry where subcontracting is a standard mode of operation. It's clear that privity of contract does not always generate satisfactory results in a civil law environment.

Prof. Dr. Benoît Kohl (Chairman), Prof. Dr. Hubert Stöckli and Prof. Anthony Lavers

3 October 2012