

Research Group: Multilevel Regulation



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Dr Barbara Warwas

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THE HAGUE
UNIVERSITY OF
APPLIED SCIENCES

Background

The research group Multilevel Regulation (MLR) is a new research group at The Hague University of Applied Sciences (THUAS) established in August 2018. The main research aim of the research group is to investigate the emerging practical developments in the field of multilevel regulation that have been transforming ways in which standards, rules, and laws are being made, complied with, and practiced.



Mission

The central concern is that—in view of the recent global governance crises and the accompanying criticisms of traditional public regulation—private, commercial actors (i.e. civil society, corporations, citizens) have begun to assume new regulatory roles. Those roles entail not only that private, non-state actors have gained more powers to shape key public policy questions but also that new regulatory solutions and cooperative frameworks are needed to improve public regulation at national, regional, and global levels.

The research group Multilevel Regulation wants to get ahead of this trend by creating a forum to connect academics, practitioners, representatives of local and central governments, and students to work together towards improving contemporary multilevel regulation through innovation and experimentation.

Aims

Our main focus is informal dispute resolution. The research group aims at getting ahead of emerging trends in the research and practice of informal dispute resolution in the Netherlands, Europe, and the world. Informal dispute resolution has traditionally been considered a highly specialized field reserved for lawyers and businesses. This is no longer the case. Negotiation, mediation, and arbitration are transforming many aspects of our lives without us even realizing it. This trend is widespread and increasing.

Politicians, governments, courts, service providers, and local communities all use informal techniques to improve relationships and increase compliance.

We are not aiming at understanding the informal dispute resolution and multilevel regulation *per se*. Rather, we research how the practices of private, arbitration actors affect the contemporary legal systems, professional practice, education, and the modern society. Here, we aim at:

- Conducting high-quality research of relevance for the professional practice.
- Promoting professionalization of (legal) practitioners including THUAS lecturers.
- Promoting innovation in education.
- Raising awareness of regulatory processes and informal regulatory practices among the public.

Global Governance

In 2019, the first steps were taken for the integration of our research group into the Centre of Expertise on Global Governance. Together with the research groups Changing Role of Europe (Mendeltje van Keulen) and United Nations Studies in Peace and Justice (Alanna O'Malley) we drafted a first joint annual plan centered around the theme of 'New Actors, New Solutions'.

About the Lector



Dr Barbara Warwas

Barbara Warwas is a professor at The Hague University of Applied Sciences. Barbara is also a lecturer in arbitration and coordinator of the minor in dispute resolution at the International and European Law programme at THUAS. Prior to her position as professor she was a coordinator of the Comparative Law Line and Commercial Law Specialization at the International and European Law programme.

Barbara is the author of *The Liability of Arbitral Institutions: Legitimacy Challenges and Functional Responses* published by Springer, 2016. In 2014, she worked as a drafter, researcher, and administrator for the ground-breaking study on the Legal Instruments and Practices of Arbitration in the EU and Switzerland, commissioned by the European Parliament. Barbara has a PhD in Law from the European University Institute (Florence, Italy). Prior to joining The Hague University, Barbara worked as visiting counsel in the litigation department at GE Oil & Gas in Florence and in the Italian law firm Studio Legale Calabresi Guadalupi.

Members of the research group



Dr Marina Lostal 0.2 FTE

Marina Lostal is a lecturer in International Law at International & European Law programme of The Hague University. She holds a PhD from the European University Institute, an LLM from the University of Cambridge, and is admitted to practice in Spain. She is widely published in the area of cultural heritage law, including her book *International Cultural Heritage Law in Armed Conflict* published with Cambridge University Press. In 2017, she was appointed expert by the International Criminal Court in the reparations phase of the Al Mahdi case and, in 2018, she was appointed by the International Law Association to sit at the Global Cultural Heritage Governance committee. Her current research interests include the law of reparations under the Rome Statute, illicit traffic of cultural property, dispute settlement in the art & law market, and the treatment of animals in armed conflict.



Mrs Marike Hehemann 0.2 FTE

Marike H. Hehemann is a former company lawyer. She currently works as lecturer and coordinator of corporate law at HBO-Rechten. She is also the official secretary of the staff objections committee at THUAS. As of September 2019 she is a member of the research group Multilevel Regulation. Marike also works as senior lecturer in the vocational training for corporate lawyers at the SBB/CPO (University of Nijmegen).



Dr Luca Pantaleo 0.4 FTE

Luca Pantaleo is a lecturer in International and European Law at The Hague University of Applied Sciences since August 2016, as well as Adjunct Professor of the European Law and Governance School (Athens) since autumn 2018, until April 2019. He holds a PhD in EU external relations law from the University of Macerata, Italy. His PhD thesis focused on Member States' International Agreements and EU Law. Prior to The Hague University, Luca has worked as a Senior Researcher (Postdoc) at the University of Luxembourg, and as a Senior Researcher at the T.M.C. Asser Institute, where he also served as Coordinator of the Centre for the Law of European External Relations (CLEER). Luca's research interests include the law of EU external relations, with a special focus on anti-terrorism and the common commercial policy; as well as public international law, with a special focus on trade and investment law. Dr Pantaleo has written numerous articles in international peer-reviewed journals, edited a number of volumes and has recently published a monograph titled *The Participation of the EU in International Dispute Settlement - Lessons from EU Investment Agreements*. His research activities are not limited to fundamental research. He has also carried out applied research in the context of projects commissioned by third parties. His most notable achievement in this field is a Report concerning EU Free trade agreements and illicit financial flows, that he co-wrote with a number of colleagues for the INTA Committee of the European Parliament. Luca is also an experienced legal trainer.



Mrs Stefania Marassi

Stefania Marassi has a Master Degree in European and International Law from the University of Trento (Italy) and an LL.M. in International and European Labour Law from the University of Tilburg (The Netherlands). She is a lecturer and researcher in international and European labour law in the LL.B. Programme International and European Law.

As a researcher, she is a member of the lectorate 'Multilevel Regulation' where she acts as the managing editor of the International Labor Rights Case Law journal (ILaRC) and she carries out research on transnational industrial relations and compliance with labour rights in the global supply chain.

Stefania is also part of the lectorate 'Changing Role of Europe' where she conducts research on the use of new technologies (e.g. people analytics and wearables) in the workplace and the privacy-related implications under the GDPR.

In 2015, she published a book, "Globalization and Transnational Collective Labour Relations". In 2017-2018 she worked as an independent expert in a European project led by ETUC and BusinessEurope on transnational company negotiations.

Research themes:

Experimentalist governance and dispute resolution

Often, the role of private actors in multilevel regulation is assumed as potentially endangering the public systems. While there is some evidence for this kind of criticism, it is limited, predictable, and not particularly constructive. Our research group takes a different approach and starts with a different hypothesis: private actors are equipped with the tools necessary to *improve* traditional public regulation. Why? Because some private actors use informal yet effective solutions and procedures that have origins in the communitarian values and reputational mechanisms used by different local communities before the development of the modern political system.

Informal dispute resolution practices

Within the second research line, the research group investigates to what extent informal dispute resolution helps mitigate the legitimacy deficits of traditional public regulation. Here, the research focuses on the

communitarian values and trust lying at the core of informal dispute resolution and how dispute resolution *practices* inform multilevel regulation. The main goal is to investigate the informal practices of private actors—that are usually kept behind the closed door—and incorporate them into the practice of traditional public regulation.

Public awareness and dispute resolution

Most of the recent developments in the field of dispute resolution is progressing without citizen realizing it, except as intermittent and unwelcome surprises. The lack of public awareness of the increasing role of informal dispute resolution in our lives and in multilevel regulation hinders the effectiveness of informal dispute resolution for users, practitioners, and rule-makers. Hence, the research within this line aims at disseminating the knowledge on informal dispute resolution to the public through the research, public events, and practical toolkits.



Partners and network:

The research group works towards increasing the local presence in The Netherlands and entering into international collaborations and partnerships in the field of multilevel regulation and dispute resolution.

In 2019-2020, the research group joined an international consortium for the project on **Trust, Independence, Impartiality and Accountability of judges and arbitrators under the EU Charter (TRIAL)**. The project, for which the research group was a co-applicant, was awarded funding from the European Commission (Horizon 2020).

The partners include the main applicant, the **Centre of Judicial Cooperation of the European University Institute**, and **12 co-beneficiaries: 2 Judicial Schools (the Italian School for the Judiciary and the Belgian Judicial School); the National Association of the Romanian Bars; 8 academic institutions (Universities of: Barcelona-Pompeu Fabra, Eötvös Loránd, Florence, Gdansk, Ljubljana, Maastricht, Centre for Research in Public Law of the Lisbon University, THUAS), and a Polish think tank (INPRIS).**

Projects and research output

In 2019, the research group produced a diverse output including (among the others): articles in international journals, (scientific) book chapters, editing of three issues of a scientific journal (ILaRC – see below), signing a collaboration agreement with Leiden University regarding ILaRC, signing a grant agreement for the TRIAL project; teaching, organization, and moderating of educational activities such as guest lectures including in minors; submitting grant applications (for example, for the Comenius Senior Fellowship), theses supervision, presentations during scientific and professional conferences, research lunches, meet-a-lector series, and other events; teaching in masterclasses; development of student-led projects including the website for student projects, podcast series, blogs, and internship repository (see below); involvement in the curriculum development in selected educational programmes (HBO-Rechten and International and European Law)

Highlights

Kick off

On February 5th, 2019 the research group kicked off with an interactive event bringing together leading academics and practitioners, representatives of The Hague municipality, and students to discuss new approaches to practice-oriented research, and education in the field of informal dispute resolution. Audience had the opportunity to interact with experts and to shape the research agenda of the research group through their participation in the interactive workshops. Speakers at the event included: **Sandrine Clavel**, Conseil Supérieur de la Magistrature (keynote), **Michael McIlwrath**, Baker Hughes (keynote), **Anita Regout**, mediator, Randstad-Mediation, Training, Coaching, **Laura Skillen**, International Mediation Institute, **IIZE Dubava**, the State Chancellery of the Republic of Latvia; **Antoine Duval**, The TMC Asser Institute.



MLR Student projects



Since the establishment of the research group, student engagement is at the core of our research activities. Students developed their own website dedicated to their projects. Those include a podcast series, blog posts, and events.

Although we have many students

who occasionally get involved in the work in the context of the research group, the following students take (or took) the lead on our sub-projects: Carla Loghin (alumna), Simona Jansonaite, Delilah van Tol, Mimi Oosterveen, Andra Curutiu, Suela Dervishi, Hanna Falkiewicz, and Bianca Oprea (alumna). Many thanks to all of you for your commitment and hard work!

For more information, please see the website of student projects at: <https://mlrstudentprojects.squarespace.com>.



TRIAL

(Project no. 853832, JUST-JTRA-EJTR-AG-2018)

Quoting from the project proposal:

"**TRIAL** provides training activities and tools for judges, lawyers, arbitrators and other legal professionals in areas of salient importance for the application of the EU Charter of Fundamental Rights: trust, independence, impartiality, accountability of judges and arbitrators. Its main objective is to explain and disseminate knowledge of the Charter of Fundamental Rights (CFR) potential for ensuring and improving the fundamental rights standards, ultimately



benefiting the rule of law in the Member States." For more information on the project see the project website at: <https://cjc.eui.eu/projects/trial/>.



As part of the project (and among other educational and training activities), the Multilevel Regulation research group will organise training for arbitrators on the Charter of Fundamental Rights.

We are pleased to participate in this timely project that addresses the rule of law challenges in the EU!

ILaRC: International Labor Rights Case Law - BRILL Journal

THUAS and Leiden University signed a collaboration agreement in relation to the Journal on International Labor Rights Case Law (ILaRC). As a result of the collaboration Stefania Marassi (THUAS, International and European Law) became a managing editor of ILaRC and Barbara Warwas joined Paul van der Heijden (Leiden University) as a co-editor in chief. ILaRC focuses primarily on jurisprudential developments relating to fundamental rights at the workplace. It produces three issues a year. It is published by BRILL in collaboration with the Department of Labour Law and Social Security of Leiden Law School, Leiden University and THUAS. The BRILL website of the Journal is available at www.brill.com.

The launch of the cooperation took place on 26 November 2019 at THUAS with the participation of Paul van der Heijden and Yvonne Erkens from Leiden University; Liduine Bremer, Barbara Warwas, Stefania Marassi and Nadia Rusinova from THUAS and Annachiara Sarto (WE ACT and Protection4Kids, THUAS student).

The research group welcomes this initiative as an opportunity for both THUAS and Leiden University to further engage their students and lecturers in research and educational activities in the field of labor law.



Looking ahead at 2020

In February 2020 the research group will be supported by new researchers including Dr Agnieszka Machnicka, Dr Artemis Malliaropoulou, and Ms Zamira Xhaferri.

We are looking forward to these new collaborations!

On 1 April 2020, the research group officially became part of the Centre of Expertise on Global Governance, one of the seven Centres of Expertise established at THUAS. We are thrilled about this transition as we see it as an opportunity to further increase research collaborations for MLR researchers as well as educational opportunities for our students.

List of partners of the research group

- International consortium for the project on Trust, Independence, Impartiality and Accountability of judges and arbitrators under the EU Charter (TRIAL): Centre of Judicial Cooperation of the European University Institute, Italian School for the Judiciary, Belgian Judicial School, National Association of the Romanian Bars, 8 academic institutions Universities of: Barcelona-Pompeu Fabra, Eötvös Loránd, Florence, Gdansk, Ljubljana, Maastricht, Centre for Research in Public Law of the Lisbon University, THUAS), and Polish think tank (INPRIS).
- Leiden University for the collaboration on the International Labor Rights Case Law (BRILL) Journal.



List of publications

Barbara Warwas

- Warwas B., "Arbitration in the Baltic States and Scandinavia: Insights from a Large-Scale Empirical Study", *European Journal of Comparative Law and Governance*, Volume 6, Issue 1 (March 2019), 7-77.
- Warwas B., "Access to Privatized Consumer Justice: Arbitration, ADR, and the Future of Value-oriented Justice in the EU" in *Privatizing Dispute Resolution: Trends and Limits* (Studies of the Max Planck Institute for International, European, Regulatory Procedural Law), 325-351, Nomos 2019.
- Warwas B., "EU Rules and Values, Transnational Legal Ordering, and International Arbitration" in *The Role of the EU in Transnational Legal Ordering: Standards, Contracts and Codes*, eds. Hans Micklitz, Marta Cantero-Gamito, 80-99, Edward Elgar, 2019.
- Warwas B. & Novy Z., "The Recent Developments in Arbitration and the European Regulatory Space", in *The Transformation of Economic Law: Essays in Honour of Hans-W. Micklitz*, 247-269, Hart Publishing 2019.

Luca Pantaleo

- Pantaleo L., *The Autonomy of the EU Legal Order and International Dispute Settlement in the Wake of Opinion 1/17* on the peer-reviewed journal "Studi sull'integrazione europea".
- Luca Pantaleo, 'The participation of the EU in international dispute settlement. Lessons from EU investment agreements', T.M.C. Asser Press/ Springer, 2019.
- 'Secondo l'avvocato generale Yves Bot, il meccanismo di risoluzione delle controversie in materia di investimenti istituito dal CETA è compatibile con il diritto dell'Unione', in *Il Diritto dell'Unione europea*, Osservatorio europeo, March 2019.

Stefania Marassi

- Publication of issue 1/2019, issue 2/2019 and issue 3/2019 of the *International Labor Rights Case Law Journal* (ILaRC) as managing editor.

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details/multilevel-regulation](https://thehagueuniversity.com/research/research-groups/details/multilevel-regulation)