

TLS

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Born on the 2nd of November 2018; **Rivka Koolhoven**

Please, if you wish your relevant research and updates to be published in our newsletter then send all your input to: TLS@rug.nl

The next issue is planned around February 2019

Upcoming Events

TLS Meeting

18 december
2018 -16:00-17:00
in room 1313.0346

TLS Christmas Dinner

18 december
2018 Feithhuis-
17:30-



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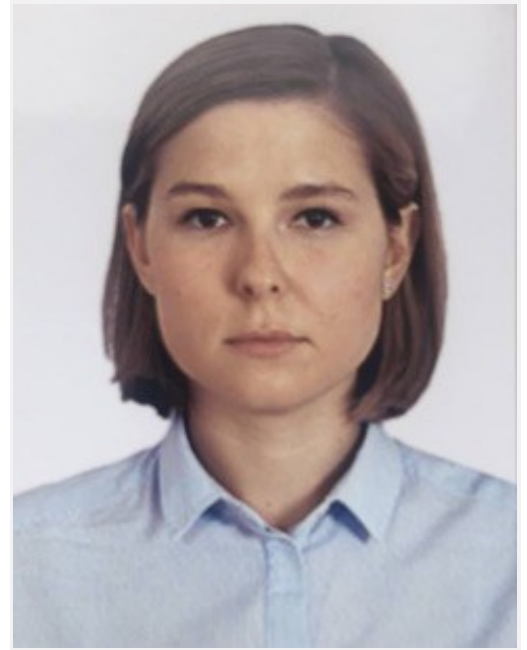
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New members and research

My name is **Yuliia Khyzhniak**, and I am a new PhD student at the TLS department. I specialise in the *Law and Literature* studies, and the topic of my thesis is ***The European Court of Human Rights and the Shadow of the Past: A Literary Approach to the Court's Jurisprudence.***

My research deals with an eternal problem of confrontation between continuity and change which is relevant for any writing enterprise, including a judicial tradition. From this perspective, the jurisprudence of the European Court of Human Rights being a vast mass of international legal texts can be regarded as a holistic unity flowing from the past to the present. The Court aims at maintaining continuity and consistency of its jurisprudence even though there is no *stare decisis* principle and the Court is not bound by its previous judgments. In this sense, there is always a room for a change, but this change should be substantiated by the Court in a convincing manner, without jeopardising coherence of the jurisprudence. As a French philosopher Gaston Bachelard put it once, "to remain in touch with the past requires a constant imaginative effort." Within the ECtHR, this imaginative effort goes far beyond a legal technique of an interpretation of the European Convention on Human Rights. I am curious in what way judges use their imagination in the process of choosing words about previous judgments when they disagree with their predecessors.

Thus, my research aims at discovering what rhetorical strategies judges use to inscribe their judicial opinions, which deviate from the previous case law, into the jurisprudence of the Court in order to develop this jurisprudence in a coherent way. When judges apply evolutive interpretation or when they just slightly depart from previous judgments on a similar matter, how do they reconcile their wording in the present case with the wording in previous judgments? I want to address this issue with the help of literary theory. Particularly, I aim to use the literary theory of the anxiety of influence by American literary critic Harold Bloom. This theory shows how poets deviate from the influence of their predecessors through the use of specific rhetorical strategies in their own texts. These strategies are various rhetorical positions of a text in its relation to a previous text or texts. In this sense, Bloom's theory is unique within the whole literary theory as it pays attention specifically to the problem of overcoming an influence and authority of previous texts. Bloom's approach allows seeing the jurisprudence of the ECtHR as an ongoing enterprise, in which texts are constantly reinterpreted, evaluated in a new way, accepted, or rejected. I hope that my research will contribute to a better understanding of a manner in which the Court justifies its judgments and develop the jurisprudence.



General research activities

Gerard Ritsema van Eck will be speaking about 'privacy in public space and the use of new technologies by the police' at the *Groninger Juristen Congres* (Groningen Lawyers Conference).

On November 22nd **Frank Geelkerken** was plenary speaker at the 13th international "Young scientists towards the Challenges of modern technology" conference (<https://openreviewhub.org/lea-2018>). I have also been asked to submit a (longer) paper that will be published in the scientific quarterly *Challenges of Modern Technology* (<http://www.journal.young-scientists.eu/>).

The selection for best paper / presentation has not (yet) taken place, but if I win it I will let you know after the 24th.

Aline Klingenberg led a discussion panel on cybersecurity at the conference of the study association LISA, Thursday 22 November, 2018

Evgeni Moyakine gave a keynote presentation entitled "Fighting the Cyber Battle in the Age of Digital Chaos" at the conference "Unleashing Cyber Security" in Amsterdam and reflected on various trends, issues and challenges in the field of cyber security. (25 October 2018)

Evgeni Moyakine participated as a guest speaker in the conference "Cyber Warfare: The Battle-ground of Your Digital World" organised by Nexus Student Association Groningen, discussed legal aspects of international responsibility for cyber operations and engaged in a panel discussion with other experts. (21 November 2018)

Evgeni Moyakine has been appointed as a research fellow at the Center for Cyber Law & Policy of the University of Haifa, Israel. (November 2018)

Law & NCDs in Tanzania

As part of her work on tobacco control and children's rights and law and non-communicable diseases more generally, **Marie Elske Gispén** went on a two-week teaching and training Erasmus+ exchange to Mzumbe University in Morogoro, Tanzania. Together with Dr. Mackfallen Anasel and Dr. Idda Lyatonga Sway – who both received their PhD at our Law Faculty, and other colleagues, Marie Elske worked on developing a joint summer school on global health and sustainable development and taught in their LLM and health systems masters on the role of law in regulating risk factor such as tobacco and unhealthy diets and prevention more generally. They also exchanged experiences in supervision and discussed other opportunities to continue to collaborate in the field of law, health, and governance.



PUBLICATIONS

Tobias Nowak (2018), The Turbulent Life of the Working Time Directive, *Maastricht Journal of European and Comparative Law*, vol. 25, no. 1, pp. 118-129
<https://doi.org/10.1177%2F1023263X18760547>

Tobias Nowak (2018): The Rights of EU Citizens– A legal -historical analysis. In Jan van der Harst,, Gerhard Hoogers, Gerrit Voerman (eds.): *European Citizenship in Perspective: History, Politics and Law*. Edward Elgar, pp. 62-81

Tobias Nowak (2018): Book Review: "The Transformation or Reconstitution of Europe: The Critical Legal Studies Perspective on the Role of the Courts in the European Union, edited by T.Perišin and S.Rodin (Oxford: Hart Publishing, 2018)", Journal of Common Market Studies, vol. 56 (7), pp. 1682-1683

Brigit Toebes' new book entitled Research Handbook on Global Health Law just came out, see here <https://www.e-elgar.com/shop/research-handbook-on-global-health-law>

The book IT law with contributions of members of the section IT law, was published recently, by Boom Legal.

SEMINARS, EVENTS, WORKSHOPS AND CONFERENCES

ANNOUNCEMENT: On December 12-14 the 31st International Conference on Legal Knowledge and Information Systems (JURIX 2018) will be held in Het Kasteel in Groningen. The organisers are **Jeanne Mifsud Bonnici** and **Henry Prakken** of the Faculty of Law and Bart Verheij of the Bernoulli Institute for Mathematics, Computer Science and Artificial Intelligence of the RUG.

JURIX is since 1988 an annual international forum for the presentation of research on legal applications of artificial intelligence. JURIX is the main European conference and the second-most important conference world-wide in this area. On the first day there will be several workshops and tutorials while the second and third day will be devoted to presentation of the accepted conference papers and two invited talks. The conference proceedings will be published by IOS Press.

The early registration deadline is December 3rd. Registration is possible for the entire conference but also for just the workshop day. More information, including the programme, can be found at <http://jurix2018.ai.rug.nl/>

Professor Burris from Temple University visited our department and Faculty from 1-6 November, and gave a keynote lecture during our seminar on empirical legal research, see <https://www.rug.nl/rechten/congressen/archief/2018/seminar-empirical-legal-research-poster.pdf>

Heleen Weyers and **Brigit Toebes** attended the U4 conference in Gottingen from 21-23 November and both gave a presentation, see <http://www.u4network.eu/index.php/events/conferences/2635-u4-ssel-cluster-conference-on-current-challenges-for-a-sustainable-future-goettingen-21-23-november-2018> (under current challenges in medical law)

On 9 November, Brigit Toebes gave a keynote address at the Netherlands Society for Tropical Medicine and International Health, see <https://www.nvtg.org/uploads/congressen/Programmaboekje-2018-NVTG-Symposium.pdf>