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 **THE TRUMPET**

 **Stirling Law School’s Bulletin 1/2023**

This quarterly bulletin is for sharing Stirling Law School’s collective and individual achievements in research, teaching, and citizenship. In these difficult times, it’s crucial to celebrate, strengthen our sense of community, and create opportunities for cross-Faculty and cross-University collaborations. We hope you’ll enjoy the read!

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# **Highlight of this issue**

Professor Paul Beaumont was a member of the EU delegation again at the Working Group on Jurisdiction in The Hague in February 2023 helping to **draft a new Treaty on conflicts of jurisdiction in parallel proceedings in civil or commercial matters** at the Hague Conference on Private International Law (HCCH). The HCCH is the global organisation on private international law made up of 90 States and the EU. Paul was influential in developing a new provision in the draft Treaty on choice of court agreements giving respect to party autonomy which started out as a text developed with two US colleagues (Professor Ron Brand and Paul Herrup), was then agreed as a Working Document submitted to the Jurisdiction Working Group by the EU and the US, and finally was adopted into the draft text of the Treaty in Article 7 of Annex I to the Preliminary Document submitted by the Working Group to the Council of the HCCH for its meeting in March 2023 (see [here](https://assets.hcch.net/docs/fd997e67-381e-47f1-9ff8-74c28e2faf68.pdf)).

The Council has agreed to the Working Group on Jurisdiction meeting twice in the coming year (see para 9 of the [Conclusions and Decisions of the Council](https://assets.hcch.net/docs/5f9999b9-09a3-44a7-863d-1dddd4f9c6b8.pdf) of its March 2023 meeting) with the first meeting likely to be in Buenos Aires in September 2023.

# **Impact and engagement**

Stirling Law School’s Private International Law Research Cluster recently gave a written response to the **UK Ministry of Justice Consultation** on whether the UK should become a Party to the Hague Convention on the **Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters** of 2 July 2019. The response was prepared by Professor Paul Beaumont, Dr Jayne Holliday and Dr Pontian Okoli. They enthusiastically encouraged the UK to become a Party to the Convention. Professor Beaumont was a member of the EU delegation that negotiated the Convention from its earliest drafts through to it being concluded. The EU and the Ukraine are already Parties to the Convention. If the UK becomes a Party to the Convention it will fill a large gap in the system of recognition and enforcement of judgments between the UK and the Member States of the EU created by Brexit.

# **Income generation**

Dr. Zoi Krokida has been awarded a **research grant** (£500) from the **British and Irish Law Education and Technology Association** (BILETA) in order to work on a research project on **website blocking injunctions** (interdicts in Scots law) and their effectiveness in practice. Zoi will conduct semi-structured interviews to shed light on the different requirements and scope of issuing website blocking injunctions across the EU and the UK and invite recommendations in order to make the injunctions compliant with fundamental rights.

The **RSE Research Network** funding for the **Scottish Law and Innovation Network (SCOTLIN)** is coming to an end. Its PI, Dr Guido Noto La Diega, expresses their satisfaction with the delivery of the outcomes set forth in the bid, and more generally with the creation of links and synergies between researchers across Scotland and globally, to the benefit especially of early career researchers and PhD students. In this vein, Guido and the Deputy Directors – Dr Rossana Ducato (Aberdeen) and Professor Martin Kretschmer (Glasgow) – are identifying the ECRs who will take the baton in the leadership of the Network. Guido wishes to thank the Royal Society of Edinburgh for the generous support, and is confident that SCOTLIN will continue to grow and thrive in the years to come.

Also recently completed is the IMPETUS (**Intelligent Management of Processes, Ethics and Technology for Urban Safety**) funded by the European Commission (€7.9M) and led by Joe Gorman (SINTEF). Guido contributed as Smart City Expert.

# **Publications**

## *Books*

Professor Paul Beaumont is the **Series Editor** for **Hart Studies in Private International Law**. In the 34th Volume in the Series, Alexander D J Critchley, ***The Application of Foreign Law in the British and German Courts***, Professor Beaumont, in the Series Editor’s Preface, supports the call by the author for an examination by the Law Commissions in the UK into how the law can be reformed in the different legal systems of the UK to improve the way in which foreign law is proved and applied in the courts in the UK. He adds some flesh to the bones about how such a law reform project should be conducted and then legislated for by the UK Parliament and devolved legislatures.

## *Journal articles*

Dr Tracy Kirk and Professor Raymond Arthur (Northumbria) had their paper on **children being utilised as spies** published in Youth Justice online: Arthur, R., & Kirk, T. (2023). Children as Covert Human Intelligence Sources: Spies First, Children Second. [Youth Justice](https://doi.org/10.1177/14732254231154160)

*The Covert Human Intelligence Sources (Criminal Conduct) Act 2021 empowers the police, and other authorities, throughout the United Kingdom to use children as Covert Human Intelligence Sources (CHIS) and to authorise these children to engage in criminality, with no criminal liability, in return for information. In this article, we analyse the risk of severe physical and emotional harm that children face when acting as a CHIS and engaging in criminal behaviour to preserve their cover. This practice of using a child as a CHIS and encouraging children to engage in criminal conduct also runs counter to the Youth Justice Board for England and Wales’ ‘Child First’ vision of a youth justice system that respects children rights and operates in children’s best interests. Throughout the article we argue that, despite the existing safeguards, the emphasis should be on helping children to escape a criminal lifestyle, rather than entrenching them further in a life of criminality by encouraging them to act as a CHIS.*

Dr David McArdle’s new paper, ‘**Your Body is a Battleground. Pregnancy Discrimination and College Sports After fifty Years of Title IX**’ has been published in the [Journal of Legal Aspects of Sport](https://journals.iupui.edu/index.php/jlas).

*Co-authored with Dr Sylvia de Mars of Newcastle University Law School, this paper offers a systematic content analysis of US universities’ pregnancy statements as contained in their online student-athlete handbooks (OSAH). They note that fewer than one-third of major athletic institutions (the ‘Division I FBS’ Schools) have a pregnancy statement in their OSAHs, and hardly any of those reflected the college sports regulator’s model policy. The authors contend that institutions have made a deliberate policy choice to either not address their legal obligations to pregnant student-athletes at all, or to do it in a way that downplays their obligations – a choice that that was in part facilitated by the Supreme Court’s decision in Gebser v Lago Vista Independent School District 524 US 274 (1998) which ‘rewards’ employers for not knowing about discrimination by members of their workforce. The issue of pregnancy discrimination thus reflects a recurring feature within college sports: a three-way struggle between legal norms, a regulator with extensive but still limited powers, and member institutions with varying degrees of influence. On this occasion, the struggle has resulted in the colleges exercising disproportionate power over those other stakeholders, to the detriment of the student-athletes themselves.*

Thomas Muinzer, Kirsten Jenkins, Darren McCauley, Gavin McLeod Little, ‘**Energy justice beyond borders? Exploring the impact of Brexit on Ireland’s all-island energy market**’, December 2022, *The Electricity Journal* 35(10):107218

*Northern Ireland is part of the United Kingdom, which has left the European Union under the terms of Brexit. The Republic of Ireland is an EU Member State that has remained within the EU. The island of Ireland operates an all-island energy market, and the impact of Brexit on these complex transboundary energy arrangements has been largely overlooked. This study analyses and assesses the significance of Brexit for Ireland’s all-island energy market so that the complexities underlying these transboundary circumstances, and the Brexit-related factors acting on them, can be better understood. An energy justice framework is employed that emphasises the consideration of potential distributional, recognitional and procedural injustices in this setting, and that assists in drawing out potentially negative impacts of Brexit on the all-island energy market.*

Dr Geoff Wood published a new article **'The Issue of Local Content in Offshore Renewables: Aspirational, Legally-Binding or Missing the Mark? A Comparative Analysis of the UK and Poland**' with Daniel Gilbert (Centre for Energy, Petroleum and Mineral Law and Policy, University of Dundee) in the journal [Global Energy Law and Sustainability](https://www.euppublishing.com/doi/abs/10.3366/gels.2022.0069).

*The article looks at the evolution of local content law and policy in the context of offshore wind via a comparison of the UK post-Brexit and Poland as an EU Member State.*

L Dodd, "**Feudal Law and the Unionist Writings of Thomas Craig**", *The Scottish Historical Review*, Volume 102, 1: No. 258: April 2023, 34–66

*Amidst the flood of unionist literature that followed the accession of James VI to the throne of England, Thomas Craig’s* De unione regnorum Britanniae *stands out as the largest, at around 95,000 words, and the most sophisticated in terms of its argumentation. This article examines Craig’s argumentation in detail and shows that he understood British history as a repeating cycle of internecine conflicts between the peoples of Britain followed by invasion and conquest by continental powers. For Craig, the existential threat to Britain was Spain, the dominant Catholic power of the day. While negotiations for an end to the long war between England and Spain were contemporaneous with union negotiations, the* De unione *can still be seen as a warning about the ongoing dangers of disunity among British Protestants. It is shown that Craig’s solution to the lingering historical antagonism between England Scotland and the unwillingness on either side to compromise their fundamental national identity lay in an idealised version of the feudal-legal relationship as the foundation for the union.*

## *Chapters*

**Elizabeth Brandon contributed a chapter on “**The Regulatory Aspects of Managing Contamination from Oil and Gas Facilities during the Offshore Decommissioning Process**” to T. Soliman Hunter and M. Taylor (eds.), [*Research Handbook of Oil and Gas Law*](https://www.e-elgar.com/shop/gbp/research-handbook-on-oil-and-gas-law-9781788978217.html) (Edward Elgar, 2023)

*The book chapter considers the specific problem of managing contamination caused by offshore oil and gas facilities, at the decommissioning stage. With many offshore facilities in mature fields reaching the end of their productive capacity, the legacy of past contamination poses complex challenges to regulators and operators. New contamination may also be triggered by the decommissioning activities themselves, requiring an adept response to minimise harm to human health and the marine environment. The scope of the problem is summarised in the chapter, as are the common sources and impacts of offshore contamination and associated regulatory challenges. A review is then undertaken of relevant international and regional regulatory frameworks, followed by an example of a national approach to decommissioning taken by a country with a mature offshore industry, the United Kingdom.*

## *General readership magazines*

Guido Noto La Diega, ‘Internet aperto o eccessi proprietari? Brevi note a margine della recente Giurisprudenza inglese e scozzese in tema di linking e comunicazione al pubblico ([*Diritto Mercato Tecnologia*](https://www.dimt.it/la-rivista/internet-aperto-o-eccessi-proprietari-brevi-note-a-margine-della-recente-giurisprudenza-inglese-e-scozzese-in-tema-di-linking-e-comunicazione-al-pubblico/), 5 March 2023) [*peer reviewed*]

*This is a comment on some recent cases on the legality of* ***linking to copyright-protected content*** *in England and Scotland.*

# **Research environment**

The Dean of Research Engagement and Performance, Professor Rachel Norman, is setting up a **Research Culture Champions** team. As part of the Institutional Research culture work, and building on the Research culture awards, this will be a safe and open space to discuss ideas and issues, and to advocate for good research culture, and share best practice. There will be initially a small number of Champions (from different faculties and career stages), and we are delighted to report that Professor Rowan Cruft and Dr Guido Noto La Diega are two of them. All those interested in work of this Group (academic and professionals services) can join a newly set-up Microsoft [Teams channel](https://www.eventbrite.com/e/billets-drails-workshop-guido-noto-la-diega-book-presentation-461764208177), to be make it easier for everybody to give their contribution in all things research culture.

# **Employability news and teaching excellence**

The Law School was delighted recently to receive the **formal letter of reaccreditation of the LLB degree** by the **Law Society of Scotland**. This reaccreditation lasts until the next quinquennial teaching and learning review of Law at the University of Stirling. A huge thanks to all those who helped prepare Law for its quinquennial teaching and learning review in 2022, notably the LLB Programme Director, Dr Jayne Holliday.

# **Esteem, network, and citizenship**

Dr Leslie Dodd has accepted an invitation to become a **reviewer of grant applications** at the **Polish National Science Centre** (Narodowe Centrum Nauki) for projects relating to Roman law and European legal history.

Dr Carole Dalgleish and Dr Tracy Kirk were nominated in the Stirling Student Union's **Inspirational Women's Awards** in the Women Staff Member categories. Those who nominated Carole praised her for being ‘*inspirational, amazing lecturer, professional, kind and emphatic* […] *She is a great lecturer, very inspiring and knowledgeable*.’ Tracy was nominated for *'going above and beyond for students'* and showcasing her *'passion and enthusiasm for teaching and research*'. Well done to our amazing women!

Dr Guido Noto La Diega was asked to join the Editorial Board of Ukraine-based open access peer reviewed journal *Law and Innovation Society*, under the auspices of the **National Academy of Legal Sciences of Ukraine**. The journal encourages research about current issues in legal science, proposals for improving national legislation, research on the development of financial and banking systems in Ukraine and the world, and research in economics and business management.

# **Dissemination and media presence**

Continuing his stateside theme, Dr Dave McArdle recently attended the **Sport and Recreation Lawyers’ Annual Conference in Las Vegas**. His paper, ‘**Sports Tribunals and Fair Hearings**: Some Lessons from Strasbourg’ discussed a 2020 decision of the European Court of Human Rights (ECtHR), *Ali Riza and Others v Turkey*, application 30226/10. The second recent ECtHR case to consider the relationship between sports disciplinary tribunals and the Article 6 right to a fair hearing, Ali Riza focusses predominantly on the independence and impartiality of domestic tribunal members, and the legal significance of the difference between mandatory and compulsory arbitration for Article 6 purposes. The paper analyses the key features of the case and makes informed recommendations for domestic governing bodies – noting especially the importance of maintaining a clear split between the quasi-judicial elements and the other parts of the governance structure (for example, by not having the member clubs decide on the composition and membership of a sport’s disciplinary organs).



Figure 1. Photo of Dave and Stirling Law alum Dr Sarah Carrick (LLB 2014, PhD 2019) engaging in Sunday daytime drinking prior to the Las Vegas marathon, which neither of them did

Dr Elizabeth Brandon presented a paper on “**The Use and Adaptation of Foreign Laws for World Heritage Sites in Selected Asian Countries**” at the **Asian Law Schools Association–Hong Kong Centre for Commercial & Maritime Law Joint Conference** on ‘Transplantation of Foreign Law and the Creation of Unique Legal Solutions in Asian Legal Systems’ on 13 January 2023 (online). Abstract: The paper considered the legal frameworks for protecting World Heritage sites in a selection of Asian countries, in terms of their origins in foreign jurisdictions and their adaptability to ‘local’ conditions. It examined the factors influencing the legal transplantation and implementation processes, and the degree to which they ultimately result in a distinctively local approach to protecting sites listed under the World Heritage Convention. The value choices represented by each country’s legal approach to World Heritage protection, together with any significant tensions between local and foreign norms, were identified and explored. Conclusions were then drawn regarding the manner in which foreign laws on World Heritage have been adapted for use in the selected Asian countries.

Dr Geoff Wood has been invited to give a guest lecture on the **impact of renewable and low carbon energy on environmental, social and political legal and non-legal targets** for the Society and Environment course at Saint Louis University in Brussels.

Dr Domenico Carolei has given a virtual guest lecture about ‘**The exercise of extraterritorial jurisdiction to prosecute NGO workers for misconducts perpetrated overseas**’ The Graduate School of Law National Institute of Development Administration (Bangkok, Thailand), 9 December 2022.

After the official launch of the **book *Internet of Things and the Law: Legal Strategies for Consumer-Centric Smart Technologies***(Routledge 2022) organised by [The Royal Society of Arts](https://www.thersa.org/events/fellowship/2022/12/the-internet-of-things-and-the-law) and hosted by the Faculty of Advocates (and appeared in the news e.g. [*The Edinburgh Reporter*](https://theedinburghreporter.co.uk/2022/11/whats-on-in-edinburgh-in-december-2/)), Associate Professor Guido Noto La Diegahas embarked in a (mostly virtual, rather underwhelmingly) **world tour** including Turin, Brussels, Florence, Sydney, and London.

Click below to watch the video of the Australian launch, organised by UNSW Allens Hub for Technology, Law and Innovation & IEEE Society for Social Implications in Technology, Australia Chapter.



Guido has also been interviewed by Isheta Boruah for **Indian podcast “*In conversation with IPRs & Competition Law*”**. This weekly talk show is widely listened to in more than 47 countries by IP attorneys, antitrust lawyers, students and legal professionals. It is available on [Spotify](https://open.spotify.com/episode/29pasxV3AarZtUVSNiaAsa?si=c279d232874b4073), [Google Podcasts](https://podcasts.google.com/feed/aHR0cHM6Ly9hbmNob3IuZm0vcy8xODEyMTQzMC9wb2RjYXN0L3Jzcw/episode/ZDVjMzE2ODYtNTlhNC00NjE3LTk5MGEtZDc2YjY2YTE5MmNm?sa=X&ved=0CAUQkfYCahcKEwjw5bHw76P9AhUAAAAAHQAAAAAQAQ), [Apple Podcasts](https://podcasts.apple.com/us/podcast/ep-41-internet-of-things-and-law-book-discussion/id1643501313?i=1000600396532), [Castbox](https://castbox.fm/episode/Ep-41%3A-Internet-of-Things-and-Law%3A-Book-discussion-with-respect-to-Intellectual-Property-Rights-id5081632-id572511255?utm_source=website&utm_medium=dlink&utm_campaign=web_share&utm_content=Ep%2041%3A%20Internet%20of%20Things%20and%20Law%3A%20Book%20discussion%20with%20respect%20to%20Intellectual%20Property%20Rights-CastBox_FM), and the [Anchor](https://anchor.fm/aditya-trivedi9/episodes/Ep-41-Internet-of-Things-and-Law-Book-discussion-with-respect-to-Intellectual-Property-Rights-e1v6ob5) app, and it is publicised on [Instagram](https://www.instagram.com/p/Coz0kbxgoAK/) and [LinkedIn](https://www.linkedin.com/company/in-conversation-with-ipr-and-competition-law).

Those wanting to practice their Italian can read [here](https://www.dimt.it/news/intervista-al-prof-guido-noto-la-diega-sul-recente-libro-internet-of-things-and-the-law-legal-strategies-for-consumer-centric-smart-technologies/) the **interview** Guido has given to Valeria Montani for the **magazine** *Diritto Mercato Tecnologia*.

Guido visited the University of Aberdeen not once but twice:

* Remotely, in January 2023, to present the **European Ethical Guidelines on AI and Data in Education and Training** at the *Erasmus+ Brunch Roundtable on Digitalization in Legal Education & Legal Profession*
* In person, in March, to welcome the delegates of the **2nd Annual Conference of the Scottish Law and Innovation Network**, chair SCOTLIN’s AGM, and present the book chapter ‘Ending Smart Data Enclosures: The European Approach to the Regulation of the Internet of Things between Access and Intellectual Property’

Finally, in March Guido met virtually the students of the University Diploma on Artificial Intelligence and Intellectual Property of the Centre for International Intellectual Property Studies (University of Strasbourg) to present the paper ‘**The regulation of smart data flow in the EU**’.

# **Internationalisation**

Dr Benjamin Clubbs Coldron has spent **a month at Universität Osnabrück** – partner in the AHRC-DFG project “From Smart Technologies to Smart Consumer Law” – where he offered his expertise in research methods to the German partners. In particular, he provided guidance on the empirical epistemologies, methodologies and practices. Thanks to Ben’s stewardship, the researchers conducted a practice focus group which built confidence in the methods and hopefully will allow the German partners to conduct a successful focus group on wearables in the next few weeks.



Figure 2. Our Ben with Tabea Stolte, Osnabrück-based PhD student funded by the AHRC-DFG grant "From Smart Technologies to Smart Consumer Laws"

# **Events organised**

The 6th annual **ACM Fairness Accountability Transparency Conference** (FAccT2023) will be held in Hyatt Regency McCormick Place in Chicago on Monday 12th-Thursday 15th June 2023. The conference brings together researchers and practitioners interested in fairness, accountability, and transparency in socio-technical systems. The [registration link](https://facctconference.org/2023/) is about to go live. As Area Chair for Law, Dr Guido Noto La Diega is happy answer any queries prospective attendees and speakers may have.

# **Upwards and onwards**

The Law School thanks **Professor Simon Marsden** for his service and leadership. In March 2023 he is returning to Australia to take up a Chair in Law at Southern Cross University. Simon made an excellent contribution to the School as the Programme Director for the LLM in International Energy and Environmental Law and in his publications, several of which were selected for REF 2021, including the following double-weighted monograph: *Environmental Regimes in Asian Subregions China and the Third Pole* (Edward Elgar Publishing, 2017).

# **Get in touch**

If you would like to contribute or suggest anything for future bulletins, please get in touch with Guido.