



From left to right: Hildegard Schneider, Katja Lubina, Anja Wiesbrock

Three talented and home-grown legal scientists

‘Let’s bring in the best and the brightest’

By Loek Kusiak

A university that wants to compete with the best needs to have a keen eye for outstanding students. Add to that extra supervision and a dash of confidence, and you get research that reveals new insights. Someone who understands the art of talent scouting like no other is Hildegard Schneider, Professor of European Migration Law. Three German PhD candidates graduated recently, partly under her supervision. Read on for the value of the home-grown student and the rewards of enthusiasm.

Aside from their German heritage, Ida Wendt (1973), Katja Lubina (1977) and Anja Wiesbrock (1983) have another thing in common. The (also German) UM Professor Hildegard Schneider, was one of the supervisors in attendance when they each defended their dissertations in late 2009. “What I find remarkable about these three women”, says Schneider, “is that they are incredibly smart, are good writers and they don’t shy away from a complex subject with a topical or politically charged perspective.”

Another notable similarity is that the topics of their PhD defences were the same as those of their master’s theses. Schneider’s guidance was also evident here, with her determination to persuade talented students to immerse themselves in a comprehensive honours programme. “If students tackle their master’s thesis, which is just a small piece of work, in a skilled and original manner,” says Schneider, “then the same topic would make an excellent basis for a PhD dissertation.”

“The notion that top students will find their way to the university belongs to the past, thanks to the introduction of a talent scouting programme”, adds Schneider. “We make an effort to turn a 5 into a 6, but

students with an 8 or 9 we let slip away. That’s strange. It’s really these students we should be proud of in the long run. When we started this scouting programme, I’ve said: Let’s bring in the best and the brightest within two years. And I prefer to scout our own students, instead of advertising for PhD candidates.”

Thesis Prize

Katja Lubina studied both Law and Arts & Social Sciences in Maastricht. She confirmed her curiosity in the symbiosis between culture and law. “If, starting with the ancient Greeks, you span the centuries for the history of the human body and you also begin to understand the transition from corporeal punishment to imprisonment.” She graduated with a cum laude law degree. For Hildegard Schneider, Lubina stood out during her Law and Art elective course with the “sharp way in which she formulated and discussed her thoughts”. In her thesis, Lubina discussed the legal battle around the restitution of art that the Nazis stole from museums and private collections during the war. The faculty rewarded her for her work in 2002 with the Thesis Prize.

“I had another subject in mind for quite a while but Hildegard inspired me to continue with this topic for my doctoral research”, says Lubina.

“In this regard, the spirit of the times and the social interest in the subject was already present.” There was an ongoing debate about the restitution to the Goudstikker heirs of an enormous collection of paintings in the possession of the Rijksmuseum, the Bonnefantenmuseum and others. Lubina conducted her research at the Art Loss Register in London, where she investigated how the claims filed by owners of stolen art were handled. Her dissertation offers a reflection on the laws and practices in the Netherlands, England and France on the restitution of cultural artifacts from museum collections. In addition to Nazi art theft, Katja Lubina also covers the handling of human remains, like the restitution of the head of King Badu Bonsu II to Ghana which had been chopped off in 1883 by Dutch slave traders and preserved.

Double compensation

While researching these art claims, Lubina, working as a UM lecturer, identified certain policy inconsistencies. “On the one hand, the owners were financially compensated for the present-day value of their paintings stolen after the war. But, if one or more paintings were to suddenly resurface, or turn out to have been hanging in a museum somewhere for years, should they still be given back? >>

Even if financial compensation has been granted? Does it fulfil a sense of justice if there is double compensation for the owners? It's regrettable that paintings are disappearing in this way from public collections. It would be better to keep them on display, and include a brief explanation of their history. The real winners in this tragedy are the lawyers and auction houses. They're paid from the yield of these resurfaced paintings which the heirs, often after much debate, end up selling to wealthy private collectors."

Were the cultural artefacts from our colonial past lawfully obtained? Schneider predicts that this will be a hot topic in the near future. "The value of a course like Law and Art, which Maastricht University offers as the only English-language course of its kind in the Netherlands, will only increase because of this. It also attracts a surprising number of international students."

Migration

Another elective course that started with tentative baby steps and has since grown into a full-fledged discipline is European Migration Law and Citizenship. Anja Wiesbrock, originally from Hamburg, wrote a paper in her second year of European Studies on the application of EU guidelines in family reunification. "That paper was of such an exceptionally high standard, so well written," says Schneider, "that I decided to continue following Anja's progress." Wiesbrock proved her extraordinary talent by graduating with a cum laude bachelor's and master's degree in only two years. Her master's thesis covered the extent to which anti-discrimination

criteria conflict with integration measures. "I wrote my thesis partly with my eye on a PhD", says Wiesbrock. "Hildegard encouraged me. She's very close to her students, which helps build your confidence. 'Go for it', she kept saying."

Wiesbrock finished her entire dissertation in the first year of her four-year PhD programme. She had always wanted to work at a topic that was "very current and had political connotations". The subject was 'Migration in Europe, ten years after Tampere'. The European Council had laid the foundation for a common immigration policy for the fair treatment of third-world citizens in Tampere in 1999. At the end of 2009, Stockholm will adopt a new policy programme. In her dissertation, Wiesbrock reviews the implementation of five European guidelines in the fields of legal migration, the implementation of certain measures and the national legislation in five member states. She offers a critical evaluation of these based on EU legal statutes, international human rights treaties and the Tampere objective of fair treatment. "These are legal immigrants, like family members, students, scientists, highly skilled workers and long-term foreign residents who want to obtain the citizenship of their 'new' country", Wiesbrock says. She researched the immigration requirements in the Netherlands, Denmark, Germany, Sweden and England.

Minimum wage

In some countries, the implementation of guidelines stands in direct conflict with the principles of European law and human rights. Sweden

is the most liberal in terms of economic migration. There, a contract with your employer is enough. Denmark, while not associated with the five guidelines but whose national legislation Wiesbrock nevertheless researched, is the most restrictive country, especially in terms of family reunification.

"The Netherlands, for example, requires a 'stable, regular income' in its directive on family reunification, which translates into an income requirement of 120% of the legal minimum wage." This is a questionable condition, according to Wiesbrock, because if 100% of the minimum wage is high enough for Dutch nationals, why should immigrants be required to earn 20% more? Wiesbrock hopes that her dissertation will contribute to the discussion on "the view to make equal treatment a central focus of new legislation fairly." This is important, she feels, because "migration is in the interests of the EU itself. An ageing workforce means we are increasingly reliant on foreign workers from outside of the EU to keep things running."

Moot court

Ida Wendt, another gifted German doctoral graduate, was a PhD candidate at the Maastricht Faculty of Law from 2002 to 2006. She is a lecture in European Law at the Erasmus University in Rotterdam since 2007. In her dissertation, Wendt examines the tension between European competition law and the laws that govern the liberal professions. She decided on this topic – encouraged to do so by Hildegard Schneider – as a law student while taking part in a moot court competition on European Law.

Ida Wendt



Out of 80 competing faculties, Wendt and her three fellow competitors won the competition brilliantly, in front of a panel of judges from the European Court. Wendt began her dissertation years later (delayed by several interruptions). She drew on the 'energy' of what she calls the 'Socratic guidance' of her co-supervisor, Professor Wouter Devroe from Leuven. "He taught me to have the courage to formulate my own opinion about what I encountered in my research."

Reassessment

The concept of competition is synonymous with rivalry, open markets and the free practice of professions. This is what the EU hopes to promote. But in practice there are many barriers that need to be torn down. Wendt mentions lawyers, pharmacists, doctors and architects, all as examples of professions that govern themselves with restrictive regulations. "They're creating a domain monopoly," Wendt explains, "with the argument that it would serve a public or ethical interest. Economic considerations don't play a role.

In Germany, a certified lawyer is the only person allowed to dispense legal advice. We would consider this ridiculous in the Netherlands. But in the Netherlands, it's illegal for a lawyer to work in close cooperation with an accountant to safeguard the lawyer's independence." According to Wendt, the fact that the general interest and economic interest may parallel one another is taken too lightly. "These two things don't necessarily need to conflict. But this is rarely examined, which thereby suppresses the right to economic

competition. That's the reason why experiments with 'no cure, no pay' by lawyers never even got off the ground in the Netherlands. My research can contribute to a critical reassessment of the rules and regulations pertaining to the professions, and a general 'dusting off' of traditional beliefs."

For more information, contact k.lubina@maastrichtuniversity.nl, anja.wiesbrock@maastrichtuniversity.nl, i.wendt@frg.eur.nl and h.schneider@maastrichtuniversity.nl

Special distinction for the dissertation of Mariolina Eliantonio

Mariolina Eliantonio's dissertation, 'Europeanisation of Administrative Justice? The influence of the ECJ's case law in Italy, Germany and England' (Europe Law Publishing) received special distinction from the European Group of Public Law Thesis Prize 2009.

Eliantonio graduated from the Faculty of Law in 2008. Her thesis reports the result of an investigation as to whether the national administrative courts of Italy, Germany and England have correctly applied the standards of protection set out in the case law of the European Court of Justice.

