From the Editors

On January 30 2015 the *Third REALaw Research Forum* will be held in Utrecht. The central theme of the conference is *Judicial Coherence in the European Union*. It will focus on the particular role which is played by both the Court of Justice of the European Union (CJEU) and the national courts in relation to the coherence of law in the Union. Possible topics which can be addressed are for instance the (empirical) functioning of the preliminary reference procedure, the everyday use by the courts of the doctrines of direct effect, consistent interpretation and state liability, the current and future cooperation between the CJEU and the European Court of Human Rights and the developing horizontal interaction between the national courts of different Member States when deciding on similar matters regarding the interpretation of Union law. In this issue you can find more details on the conference and a call for papers. We hope that many readers will participate in the conference.

All articles and case note analyses in this issue concern judicial coherence and may provide inspiration for a contribution to the conference. In *(Re)search and Discover: Shared Judicial Authority in the European Union Legal Order*, Herman van Harten explores the relationship and interaction between the national courts and the CJEU. According to Van Harten, this relationship is not a hierarchical one, in which the CJEU always has the final say, but rather can be characterised as one of shared judicial authority. Therefore the so-called national European case law, i.e. the judgments issued by national courts regarding EU law, also enjoy authority, not only in the Member State concerned, but also in other Member States. In this respect he refers, inter alia, to the growing horizontal interaction between the supreme courts of the Member States.

Anna Gerbrandy, *The Dual Identity of National Judges in the EU and the Implausibility of Uniform and Effective Application of European Law throughout the European Union*, applies the social science-concept of 'collective identity' to the legal reality of national judges in the EU. According to Gerbrandy, national judges have a dual collective identity, because they are under the obligation to provide a uniform application and full effectiveness of European law (European identity), while at the same time being judges in their national jurisdictions (national identity). This dual identity is both nested – the European identity is contingent upon the judge being a national judge – as well as having elements of a cross-cutting identity in that there may be conflicts between the different identities. Therefore the duality explains why full effectiveness and uniform application of EU law is implausible.

Both case note analyses focus on the principle of the rights of the defence. In *Expulsion of EU Citizens on the Bases of Secret Information: Article 47 of the EU Charter of Fundamental Rights Requires Disclosure of the Essence of the Case*, Marcelle Reneman discusses the judgment of the CJEU in the case *ZZ versus Secretary of State for the Home Department* (Case C-300/11). In *ZZ* the Court has held that the Article 47 CFR principle of fair trail requires that the essence of the grounds of a decision to restrict an EU citizen's right to free movement on

national security ground must be disclosed. In her opinion the judgment also potentially applies to other fields of Union law, such as migration cases involving third country nationals. Furthermore, she examines how the judgment relates to the ECrtHR's case law.

Finally, the case of *M.G. and N.R.* (Case C-383/13 PPU) is commented on by Ton Duijkersloot, in his analysis *Consequences of the Violation by Administrative Authorities of the Right to be heard under EU Law*. In this case the CJEU has declared that a violation of the right to be heard should only result in rendering the decision unlawful (and to annulment of the decision) if this infringement actually deprived the party relying thereon of the possibility of a better defence argument, to the extent that the outcome of the administrative procedure could have been different. In doing so, the Court favours a balanced approach regarding the consequences of violations of the right to be heard. Furthermore, Duijkersloot argues that the decision fits within a broader development of the Court's case law, which can be described as a growing Europeanisation of general principles.

The editors, Groningen, Luxemburg & Utrecht