



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



Rosalie Van Dael Claims yCMI Essay Prize

Lowndes Jordan associate Rosalie Van Dael has been named the 2022 winner of the Comité Maritime International (CMI) Young Persons' Essay Prize for original unpublished writing in the field of maritime law.



Rosalie Van Dael

Ms Van Dael said she was honoured to be bestowed with the award for her paper, titled “Relief in Cross-Border Insolvency and Maritime Law”.

“This recognition is very meaningful as my decision to partake was a personal challenge to learn more about an unfamiliar area of maritime law, inspired by my interest in academic research,” said Ms Van Dael.

“During the process of writing my yCMI essay I explored a series of topics to acquaint myself with the work of the CMI and issues facing the maritime law community. Ultimately, I settled on a topic that would develop my practical understanding of maritime law within a recognisable legal context.

“I read extensively in preparation for this essay and upon reflection this had foreseeable advantages and disadvantages. The research process was a substantial learning experience but had the potential to become somewhat befuddling.”

Ms Van Dael described being led down “varying research paths” as she read through maritime law textbooks and the United Nations Commission on International Trade Law (UNCITRAL) material on the “Model Law” – such as the “Judicial Perspective and the Guide to Enactment and Interpretation” – or conducted a search through the Case Law on UNCITRAL Texts (CLOUT).

“I soon began to identify recurring principles and appreciate concepts such as maritime liens and statutory rights *in rem*. I was particularly interested in the international reality of maritime law.

“I was then curious to review the judicial rationale of other commonwealth jurisdictions confronted with the discord between cross-border insolvency and maritime law in comparison to New Zealand. After educating myself on the general elements of the Model Law, I settled on a basic essay structure which was of immense assistance in streamlining the writing process, albeit changes were made where appropriate or to accommodate new ideas.”

Ms Van Dael said the research journey had also allowed her to explore “uncharted waters”.

“I signed up for a library card to use the New Zealand Law Society Library, located in the Auckland High Court, and studied the UNCITRAL website. I am pleased to have done so, as ensuring access to relevant material was vital for my research.

“Reviewing the case law in this area was a mentionable highlight of the essay process. The cases were often a reminder that issues of cross-border insolvency in a maritime context do not exist in vacuum and the majority of cases considered questions of relief in conjunction with others.

“In this sense, I have learnt about maritime law issues and concepts beyond the scope of the principle of relief in the Model Law.”

Ms Van Dael expressed appreciation to MLAANZ and McElroys senior associate Stacey Fraser in particular for support in ensuring the essay application was delivered within deadline.

“I look forward to exploring maritime law further.”



Stacey Fraser, Rosalie Van Dael and Hamish Fletcher

Essay Summary

yCMI Essay Prize 2022-winning essay “[Relief in Cross-Border Insolvency and Maritime Law](#)” examines the interaction between maritime law practices and concepts and the United Nations Committee on International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency adopted by UNCITRAL in 1997.

Specifically, the Model Law focuses on four principles and this essay addresses the third principle – that of relief – explained author, Lowndes Jordan associate Rosalie Van Dael.

“The essay progresses through the three defined situations of relief – interim relief, automatic relief and additional discretionary relief – in concert with the UNCITRAL published works on the Model Law, such as the ‘Guide to Enactment and Interpretation and the Judicial Perspective’, and maritime cases from common law jurisdictions,” said Ms Van Dael.

“The Model Law interacts with a series of additional principles including comity, uniformity, and the dialogue between territoriality, universality and modified universalism, which further couch this essay within its appropriate conceptual environment.”

December 2022

