Introduction

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This issue of *Erasmus Law Review (ELR)* is the third 'open issue' of the journal, consisting of articles that are submitted uninvited and without being part of a thematic issue. Since the first open issue in 2017, authors have increasingly found the journal a potential outlet for their work. This enables us to select contributions of high quality for our non-thematic issues on a regular basis.

This issue also marks the beginning of my term as editor-in-chief. I have the honour to succeed Kristin Henrard, who led this journal for five years (as a goodbye, she edited issue 3 of this volume). Kristin has made a tremendous contribution to the further development of this journal, with her energy and enthusiasm. She also stimulated, in close collaboration with the other editorial board members, further professionalisation of the management of this journal. Her influence is illustrated by the vibrant cover for the printed version of this journal that was introduced some time ago.

I would like to take the opportunity to thank her and the other editorial board members for their efforts in the past few years and also the new editors for their commitment to become part of the board. Also, many thanks to Managing Editors Demiano Akerina and Lana Said, who take on the laborious administration that is needed to keep this journal moving on. And, of course, we are grateful to all the reviewers of this journal, who made the time in their busy schedule to assist us in making proper and justified decisions about submitted manuscripts.

The current issue is again an illustration of the multidisciplinary focus of this journal. The contributions deal with a variety of subjects: the relationship between empirical legal studies and doctrinal legal research, European banking regulations, the effectiveness of financial legislation, mandatory offers and equal treatment in takeover bids, European migration law and tax instruments to stimulate ship recycling. The authors represent a mix of well-established academics and relatively young talents from various countries.

Gareth Davies reflects on the relationship between empirical legal studies and doctrinal legal research. The volume of empirical research on the law and legal practices has been growing for several years now, raising the question of how it can be related to traditional academic studies in the field. While some may see both approaches as being competitive, Davies argues that both traditions can strengthen each other yet also provide mutual challenges. Empirical and doctrinal legal research can be seen as interacting activities, and this can bring opportunities but also risks. Although empirical legal studies offer a chance for legal scholars to become more societally relevant, tailoring legal analysis to what can be empirically researched may lead to lower analytical ambitions.

Katarzyna Parchimowicz and *Ross Spence* analyse the changes in the functioning of the banking sector and the significance of recent changes in European regulations, in particular the development of a new framework (the so-called Basel IV) in the context of corona-related changes. The authors distinguish between the traditional banking sector, which is subject to stringent supervision, and the shadow banking sector. The latter consists of a complex and innovative web of entities, activities and transactions and has become increasingly important after the global financial crisis of 2007-2008. In the article, the authors elaborate on the origins and characteristics of shadow banking, explain the differences with respect to traditional banking and address how the Basel accords affect the distribution between both types of banking. The article describes the consequences of the Basel IV framework for both banking systems, making many recommendations to provide further regulation of the shadow banking sector.

The article by *Jeroen Koomans* focuses on financial legislation in a more general sense. It addresses the question of how it is possible to determine whether and to what extent financial legislation is effective. This is a difficult task because financial legislation is complex, with multiple and interdependent layers and subsets of laws, regulations and by-laws, and it has grown almost exponentially since the financial crisis of 2008. To make an effectiveness review possible, Koomans identifies three characteristics of financial legislation: the determination of what the legislative objective is, who it is aimed at and what approach is taken to achieve this objective. The value of this framework is illustrated by a case study of a new financial product approval procedure to protect consumers, the 'product approval and review policy (PARP) procedure' as implemented in the United Kingdom and the Netherlands.

Paul Nkoane analyses the mandatory offer regime for company takeovers in South Africa, in comparison with regulations and procedures in the Netherlands and the United Kingdom. In particular, the article focuses on the extent to which minorities are protected during takeovers and on the degree of equal treatment. The author signals that in the Netherlands and the United

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Kingdom, minorities must approach the court in some cases before they can enjoy the same treatment as the majority. He concludes that the procedures in these countries, compared with the South African system, appear to marginalise minorities. He argues that although in the latter system special attention is given to promote equal treatment, more can be done and suggests a number of amendments.

Gerrie Lodder analyses the use of time – or more specifically the duration of procedures and rights – as an instrument in shaping migration policies in the European Union (EU). The author describes how states can apply faster application procedures to welcome desired migrants, as well as quicker access to a form of permanent residence and protection against loss of residence. On the other hand, states can also apply more adverse periods and procedures to discourage or restrict migration. The author concludes that throughout the EU, two groups are treated more favourably in regard to time in several respects: EU citizens and economic- and knowledge-related third-country nationals. However, when it comes to the acquisition of permanent residence after a certain length of time, the welcoming policy towards economic- and knowledge-related migrants is no longer obvious.

Han Kogels and Ton Stevens analyse two financial instruments proposed by the EU that are aimed at stimulating ship recycling. The main question that is addressed in this article is whether these instruments are taxes or not and, related to this, whether unanimity voting by the EU council is required to accept them. The instruments consist of levies paid to a Ship Recycling Fund and payments (a fee and a contribution to a saving account) for a Ship Recycling Licence. In the article, the authors first explore the concept of 'tax', in general, and in Article 192(2) TFEU, in particular. They then analyse the two instruments in light of this reflection. The authors conclude that levies paid to the Ship Recycle Fund might be qualified as an 'earmarked tax' falling within the definition of a 'fiscal provision' (in the meaning of Article 192(2)TFEU), which would require unanimity voting. At the same time, they conclude that the fee covering administrative expenses of the Ship Recycle Licence should not be qualified as a fiscal provision while the contribution to blocked savings can be qualified neither as a tax nor as retribution. This means that the fee can be introduced without unanimity voting.