

# From the Editors

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We have the pleasure to present the fifth volume of the Polish Yearbook of Law & Economics. The collection presented in this volume encompasses works from various areas of the Economic Analysis of Law, selected on the basis of a review process from papers presented by Polish scholars at recent law and economics conferences, e.g. the 31<sup>st</sup> Annual Meeting of the European Association of Law and Economics (EALE) in Aix-en-Provence in September 2014, as well as the “Economic Analysis of Law” conference organized in March 2014 at the University of Warsaw by its Faculty of Law and Administration. As the year 2015 marks the 10<sup>th</sup> Anniversary of the Polish Association of Law & Economics (PSEAP), this volume includes a presentation of the Association’s history, as well as a contribution by the Honorary Member of PSEAP – Prof. Hans-Bernd Schäfer.

The *Yearbook* opens with the occasional paper by Hans-Bernd Schäfer, a great supporter of PSEAP from the Association’s very beginning and its Honorary Member since 2013. As Poland becomes richer in law and economics scholarship, Hans-Bernd Schäfer’s article extends our knowledge on what can happen with the system of legal sanctions, when the country eventually joins the club of wealthy nations. Taking into account that Poland belongs to the European tradition of civil law systems, his notes on the development of the decriminalization process in Germany are particularly illuminating. One shall, however, not overlook the comparisons that Hans-Bernd Schäfer discusses between damages as a decision mechanism for efficient transactions versus damages as a deterrent instrument, as well as his thoughts on criminal monetary fines.

The Polish scholars’ contribution to this volume begins with an article by Jarosław Kantorowicz (Erasmus University Rotterdam) devoted to a highly

important current issue – fiscal governance. In the title of the paper the author raises the question whether some fiscal rules are designed to be broken. His empirical studies deliver a detailed analysis of factors determining the effectiveness of such rules, e.g. their formal aspects relating to coverage, legal basis, monitoring, and enforcement, as well as whether they are of national or international origin. Even though some national rules appear to be more strictly complied with than international ones, the author concludes that recent reforms in the Eurozone group should improve its fiscal position.

The next article by Mariusz Golecki (University of Łódź) concerns tort liability and optimal production of retroactive judicial precedents. The author touches upon a contentious issue of judges serving as *de facto* legislators, even in legal systems which officially deny them such a position. The argument is further extended to the debate concerning the phenomenon of rising judicial activism considered by the author “the most important source of legal change and the driving force of development of many branches of law”. The analysis is presented from the perspective of Coasean transaction cost economics. In addition, efficiency of judge-made law as well as internalization of external effects of such law are discussed in detail.

The next three contributions cover specific issues from various areas of Law and Economics, such as pay-for-delay agreements in the pharmaceutical sector analyzed by Anna Laszczyk (University of Łódź), say on pay, or the regular vote of the general meeting of shareholders on a company’s executive remuneration – by Izabela Prager (University of Warsaw and Columbia University), as well as law and economics aspects of trade unions with reference to Polish regulation – by Jacek Lewkowicz (University of Warsaw).

The volume concludes with a brief presentation of the history of the Polish Association of Law & Economics (PSEAP) written on the occasion of its 10<sup>th</sup> Anniversary by two editors of this volume who were founding members and subsequently presidents of the Association – Katarzyna Metelska-Szaniawska and Jaroslaw Bełdowski.

We leave the Reader to explore the chapters one-by-one in detail, hoping to deliver the *Polish Yearbook* for another ten years.