

Editorial

The financial crisis brought the world economy its deepest recession since the Second World War. One may wonder how it is possible that the crisis has been able to exert such huge influence on a global scale. In Europe, first-time home-buyers are finding it increasingly difficult to obtain a mortgage. Businesses are finding it increasingly difficult to see profits as a result of reduced business activity. The automobile industry may be cited as one example. Unemployment has increased, consumer demand has fallen, and deflation may well set in. The question weighing upon everyone's mind is how this could have happened. One may also question whether we can bring the recession to a halt and prevent it from recurring. If so, what measurements should be taken? In this, the third edition of Amsterdam Law Forum, we present valuable insights in these matters.

One problem identified in this issue is that the current legal framework is inadequate to deal with the global scale of the crisis: it seems that the national regulatory bodies only regulate national markets and the international authorities have little understanding of - and do not seem to have the means to supervise - financial markets. In this respect several authors elaborate on the difficulties currently experienced in supervision and enforcement. For example, in his opinion article, Sergey Ripinsky calls into question the effectiveness of the current legal systems of international trade (WTO), investment treaties and state aid. He argues that the above mechanisms are inadequate to deal with protectionist measures taken by national governments.

It is also apparent that there is a call for reform. Erik Denters researched the possibility of a new regulatory and supervisory system under the umbrella of the World Financial Organisation. His research has contributed to understanding the possibilities of enhancing supervision by way of mandatory co-operation. Haroon Sheikh is more sceptical and introduces a focus on re-orientation, thereby carefully taking into consideration the underlying economic and societal causes of the crisis. Bob Wessels contributes to the call for legal reform by his argumentation for the need to have more rules and measures, in the form of a convention, principles and guidelines, while leaving room for national demand and policies. He makes this argument by drawing a parallel with the regulation applicable to cross-border insolvencies. Interesting in this respect is the article by Gareth Davies, who argues that the EU will have a difficult task ahead if the measures that need to be taken require more than scientific and objective rules. He foresees that a European vision is needed of economy and society in order to take on such EU leadership. He refers to our human and political judgment, which could play an important role once objective rules and measures are not sufficient. And it seems that the EU is indeed facing a difficult task if we follow Dan Awrey's analysis: in his view, the complexity of financial markets

is an important factor which makes the effectiveness of macro-prudential regulation in preventing the recurrence of crises doubtful. Moreover, he states that “we possess neither the tools to fully understand the complexity of financial markets, nor the macro-economic regulatory mechanisms to actively manage them.” Last, in addition to long-term solutions, Bernd Delahaye also advocates the importance of short-term solutions, including the temporary nationalisation of important banks and a proposal for a new short term solution that will help banks to remove the toxic assets by establishment of a system of ‘national bad banks’. His examination of the state guarantee also provides insight into the effects of short term solutions. All in all, this issue’s contributions make for interesting reading for anyone wishing to deepen his or her understanding of the turbulent times in which we live.

The discussion on the financial crisis created by the diversity in backgrounds of authors has created an interesting issue which provides a platform for legal, political and philosophical perspectives on the financial crisis. We hope this issue will contribute to the intellectual discussion on the crisis and perhaps even inspire policy-makers to create legal reform and new laws. In addition, Amsterdam Law Forum is proud to offer a platform for ongoing discussions. We therefore call for papers that react to specific articles of the authors in order to provide a discussion forum on the financial crisis.

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