



KATHOLIEKE UNIVERSITEIT  
**LEUVEN**

## EATLP 10th. Annual Congress

### JOURNAL RANKING AND PEER REVIEW, REPORTING ON TAX DEVELOPMENTS

June 6th., 2009

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## I Why ranking and peer review?

- Answer: appointment, promotion and funding!
- Reputation of research and publications have always been criteria for appointment and promotion at universities and research institutes, with emphasis in Europe on doctor's degree, thèse d'agrégation, Habilitation.
- Over the last 20 years the criteria have been systematised according to the model of exact sciences.
- The same model is increasingly used in the competition for public and private funding, whereby humanities are assessed according to criteria of exact sciences.



## I Why ranking and peer review?

- Legal (including tax) journals have been existing and developing side by side with scientific journals since the dawn of Enlightenment: the Lancet (1823), Nature (1869), Dalloz (1845).
- Since WWII journals in exact sciences have systematised and quantified their criteria of quality control: publication in forum language, hierarchy of recognised and ranked journals, statistics of consultation, while law and tax journals continued a pattern that is not much different from that of the 19th. Century.
- Law and tax journals have resisted the quality control model of exact sciences, without offering valid alternative.



## II Four basic questions

- Is it correct from a scientific point of view to measure quality control of legal and tax research in the same way as research in exact sciences?
- If not, what is the difference and is there a valid way of applying quality control to publication of research in legal and tax journals?
- Is there a way to compare valid quality control in legal and tax journals with valid quality control in scientific journals?
- If not, on what basis should funding be divided between exact sciences and humanities?



### III Same measurement of quality control

- Fundamental difference in the paradigma of exact science and law.
- Scientific propositions are based on quantitative abstraction of facts and repetitive experimentation which universally validates the scientific proposition.
- Law, including tax law is based on an over-all qualitative assessment of facts, various different ways of persuasion, concluded by a formal process which validates the legal proposition.



### III Same measurement of quality control

- Because law and tax include elements of social behaviour, economics, culture and psychology, its development process is very complicated and often hard to follow and/or repeat.
- Unlike exact science which is presuming the latest advancements, law and tax have to take into account the coexistence of various stages of legal development.
- The consequence is that legal and tax developments are often difficult to compare in place and time and cannot be repeated in the sense of a scientific experiment, e.g. legal propositions often do not have a universal validity.



### III Same measurement of quality control

#### Consequences for reporting on research

- No universal forum, no universal forum language for law and tax.
- No universal comparability of results.
- Quality lies in the relevance of the over-all, assessment to the factual situation (separating essential from accessory elements) and in the quality and adequacy of the arguments used in the persuasion process.
- **Conclusion: no comparability between law and tax and exact science.**



### IV Quality control in law and tax

#### Elements of quality control in law and tax

- Since quality of a non-quantitative assessment of the over-all situation and quality and adequacy of the arguments are essential, quality should be judged on this basis. This is a qualitative process requiring **experience.**



## IV Quality control in law and tax

### What about economics in taxation?

- Economics (macro, micro, accounting) are part of the over-all assessment of facts and may contain persuasive arguments of a quantitative nature, which should be given weight, but which are not determinative. Assumptions, calculations and models should be correct in accordance with paradigm of social sciences.
- Tax is multi-disciplinary (law and economics). Economic publications are already integrated in the pure science assessment system and difficult to integrate in a legal classification system. Do we need specific system for tax (including economics), excluding the consultation variable?



## IV Quality control in law and tax

### What about professional literature in law and taxation?

- An important part of publications is focused on problems arising out of legal practice. Law offices and courts fulfill **in a certain way** the roles of hospitals and laboratories, where the problems and pathologies of the routine application of accepted legal and scientific propositions come to the surface.
- Distinction should be made between (1) routine implementation and (2) discussion of the problems raised by application of accepted legal propositions. The latter is part of the legal and fiscal scientific discourse.



## IV Quality control in law and tax

### Organisation for quality control

- Correctness of the forum in which the subject is treated: per tax discipline, per country or per region: no tax reform in China in notarial journal, however: EU tax law in China.
- Check articles, not journals, through **experienced reviewers** (double check with editorial board).
- Decisive criteria: quality of over-all assessment, quality and relevance of arguments, novelty and adequacy of theory, exclude “ballast” of known facts and literature and purely routine implementation.
- **Conclusion: yes, valid quality control is possible.**



## V Comparability of quality control

- In the absence of one single universal forum publications in different fora are difficult to compare. Within the same forum comparison is possible.
- Because the criteria for judging quality are based on qualitative judgements which are based on experience, only comparison in general categories is possible.
- Because of the absence of universal fora universal comparison and hence universal ranking of journals on an objective basis is excluded.
- Quality control on the basis of peer review of individual articles is possible and comparability of these individual reviews within the same forum is also feasible.



## V Comparability of quality control

- In the area of international regional and comparative taxation a common universal forum and forum language are developing, but the publications in this area are therefore not of a higher quality than leading publications in national fora and other languages.
- It cannot be excluded that one generation from now we may have found an approximate way to compare publications in different law and tax fora on the basis of criteria like the over-all assessment, the persuasive character of arguments and the novelty and adequacy of the theory.
- In entering this road we should be aware that we are entering of **area scientific power play**, which is the anti-thesis of scientific objectivity.



## V Comparability of quality control

### **Conclusions:**

- (1) Right now international ranking of legal and tax journals does not reflect the quality of these journals in an objective way.
- (2) Peer review by experienced experts permits a limited and objective comparison within the same forum.
- (3) That comparison can be used for appointments and promotion.
- (4) Legal and tax journals that establish a tradition of objective and experienced peer review may in a generation fit into an **approximate** global ranking order.
- (4) **Comparative ranking of law, tax and science is unscientific.**



## VI How to fund exact and legal science?

- Because the scientific production of exact sciences and law and tax cannot be compared in an objective way, it would be unscientific and contrary to objectivity to fund activities on the basis of scientific publication output.
- **Are there better criteria than publication output?**

Suggestions?