

Behavioural Law and Economics

The 3rd Law and Economics Conference was held in April at the Law Faculty of the University of Lucerne. The event, organized in partnership with Notre Dame Law School, focused on «Behavioural Law and Economics – American and European Perspectives».

■ JULIA WETZEL

The main focus of the conference lay on talks addressing European legal questions presented by eminent European legal scholars. They were complemented by insights from distinguished scholars from the United States in order to foster the dialogue between the two different legal cultures. The thematic scope of this conference from April 11 to 12 spanned the theoretical as well as the practical developments of Behavioural Law and Economics.

Prof. em. Dr. Paul Richli, President of the University of Lucerne, welcomed the participants, highlighting the significance of trans-disciplinary research in the field of Law and Economics while Prof. Dr. Sebastian Heselhaus, Vice Dean of the Faculty of Law, was delighted to see the dialogue between the two disciplines, law and economics respectively, evolve on an international scale. In his opening remarks the organizer of the conference, Prof. Dr. Klaus Mathis, presented his vision of Law and Economics in a European context and introduced the new academic book series «Economic Analysis of Law in European Legal Scholarship», edited by Prof. Mathis, published by Springer.

The next generation of Behavioural Law and Economics

The first panel began with a presentation by Prof. Dr. Avishalom Tor, Director of the Research Program on Law and Market Behavior at Notre Dame Law School, who elaborated on the next generation of Behavioural Law and Economics. Prof. Dr. Kai Purnhagen's talk on EU Internal Social Market Economy and behavioural research followed. He argued that imposing US solutions on European problems would lead to «legitimacy market failure» and that this failure could only be successfully cured by insights stemming from behavioural research. Prof. Dr. Rolf Weber and MLaw Rainer Baisch discussed how findings of Behavioural Finance have influenced the traditional understanding of the processes that allow the financial markets to function properly. Dr. Geneviève Helleringer closed the first panel with her talk on when investment behaviour reveals the ambiguity of disclosure requirements of investment funds.

After lunch, the participants came together for Prof. Dr. Jeffrey J. Rachlinski's talk on how emotions and judicial decision-making were interlinked and what this meant for researchers and practitioners. Teaching at Cornell University Law School, Rachlinski is a preeminent scholar in this field of research. Prof. Dr. Günter Bierbrauer's and Dr. Edgar Klinger's presentation focused on the same research area, namely on how the perception of litigants changes with their respective roles in civil procedure. Lastly, Dr. Mark Schweizer discussed the intuitive rejection of the «balance of probabilities» standard being the result of loss aversion, omission bias and status quo bias, which combined make a higher standard of proof seem appealing in civil law jurisdictions.



Talked about emotions and judicial decision-making:
Prof. Jeffrey J. Rachlinski. (photo: Ariel David Steffen)

Limits of consumer choice

The afternoon panel began with a presentation by MPhil Johanna Stark and Dr. Martin Engel. The talk was on the limits of consumer choice in the realm of ticking boxes and pushing boxes in internet purchases. Prof. Dr. Anne-Lise Sibony then analyzed the «EU unfair commercial practices directive» and demonstrated how the directive could benefit from behavioural insights. As a highlight to close the day, Prof. Dr. Thomas Ulen from the University of Illinois's College of Law joined the participants via video conference from the USA to talk about «European and American Perspectives on Behavioral Law and Economics».

The second conference day began with a presentation by Prof. Dr. Andreas Heinemann and Dr. Mariusz J. Golecki. While Prof. Heinemann illustrated the impact of Behavioural Law and Economics on competition law from a practical perspective, Dr. Golecki closed the conference with his talk on the liability of libel from the viewpoint of Law and Economics. After two thoroughly enjoyable conference days with thought-provoking talks and passionate discussions, the participants enjoyed the beautiful scenery and fine food aboard one of Lucerne's spectacular cruise ships.

The European Law and Economics community has steadily been growing in the past years, and the yearly Law and Economics Conference organized by the Law Faculty of the University of Lucerne has successfully become a guiding star in the vast sky of Law and Economics.

Julia Wetzel is scientific assistant to Prof. Dr. Klaus Mathis.