

## Prague Law Working Papers Series No III/2018 – New issue of Charles University in Prague Faculty of Law Research Papers

The new issue of Prague Law Faculty's open source electronic periodical offers a set of working papers on various topics. The following provides a general outline of their content. Their full versions can be downloaded free of charge from <http://www.prf.cuni.cz>

**David Merenda** devoted his paper to the **Protection of Retail Investors**. He stresses in the text that the so-called mis-selling is a serious problem disrupting trust of investors in financial markets. As behavioural research gradually exposed, mis-selling is inextricably linked to mental weakness(es) in the decision-making process that have not been sufficiently reflected in the European financial service legislation. The recent set of legislation indicates a change in the regulatory approach to financial product distribution (FPD) and introduces new legal instruments poised to cope with mental weaknesses through a more robust and elaborate investor protection regime. His paper therefore offers a critical review of the selected legislative amendments and surveys whether they improve the quality of investor protection; finally, it analyses implications of Brexit for FPD.

**Jakub Vojtěch** contributed a paper on **The EU Framework for Islamic Securitisation and Sukuk in the Times of Brexit**. The United Kingdom is an indisputable hub for Islamic Finance in Europe while English common law is widely used for securitisations, including Islamic securitisations of which products are asset-backed securities called "Sukuk". Thus, the question of whether the applicable EU law provides a platform for issuing Sukuk will become highly relevant after the United Kingdom leaves the European Union. The paper defines the notion of Sukuk and Islamic Securitisation and focuses on the relevant European Union legislation in force today and in the future. The conclusion is that under the currently effective legislation Sukuk, as securitisation products, might take the form of asset-backed securities under the Commission Regulation (EC) No 809/2004 of 29 April 2004. On the other hand, the new comprehensive framework for securitisations contained in the Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 will not be applicable to the issuance of Sukuk.

**Luboš Mazanec** focused in his paper on **Provision of central securities depository services in another EU member state in CSDR**. Central securities depositories represent important element of the financial market system of institutions. CSDs performs two very functions – they act as central notary parties as well as the settlement systems for transactions with financial instruments. This contribution analyses the aspects related to the CSD cross-border operations under the regime of CSDR. Initially, brief introduction to CSD role and to the EU regulation on CSD is provided. Furthermore, the aspects of CSD standardization within the EU and the conditions for cross-border operations are reviewed in a detail. In the next part of the contribution, aspects of issuers' freedom of issuance and issuers' migration are subject to an analysis. Finally, selected interrelations of CSD cross-border operations and the Brexit are described.

**Alla Tymofeyeva** wrote a paper titled **Indirect Obligations of Business Entities under the European Convention on Human Rights**. Her paper proffers an overview of the indirect human rights obligations of business entities under the European Convention on Human Rights. In the Introduction, the author provides definitions of the terms 'business entity' and 'indirect obligations' for the purposes of the current study. The first part of the study is focused an illumination of the responsibilities that may arise for business entities directly or indirectly concerning the European Convention. In the second part of this paper, the author describes the three main

categories of situations in the case law of the European Court of Human Rights that propose justification for potential indirect obligations of businesses. The final third part of this text presents the results of case-law analysis under the material provisions envisaging human rights beginning with Article 2 and ending with Article 14 of the Convention. The author does not deal with the rights set forth by the Protocols to the European Convention on Human Rights. The Conclusions summarise the findings of the author in respect to the indirect human rights obligations of business entities.

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