

## Prague Law Working Papers Series No I/2017 – 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>

**Alla Tymofeyeva** contributed an article titled **The Human Embryo in the Case-law of the European Court of Human Rights**. Her paper presents an analysis of the case-law of the European Court of Human Rights regarding the status of a human embryo. At the beginning, the author makes an overview of the legal documents on the subject-matter produced by intergovernmental organizations on both universal and regional levels. The overview covers also a national legislation of Australia, China, Japan, United States and most of the European states. Further the paper elaborates on the decisions and judgments of the European Court adopted for the last fifty five years. The summary of this case-law is provided in a chronological order from the oldest to the newest one. Finally, the author comments on the practice of the European Court of Human Rights with regard to the issue of the human embryo legal position. The case-law in question certifies that human embryo cannot be considered “a thing”, but at the same time it is still not “a person” for the purposes of the Article 2 of the Convention.

**Slavomíra Henčeková** tried to answer the question “**Is the Prohibition of Abuse of Law a Legal Principle?**” Her paper's thesis is developed around a whole series of sub-questions? “What is the prohibition of abuse of law? Is it a norm, legal principle, value or criterion of interpretation similar to teleological reduction? And why is it important at all to find the most suitable label for this phenomenon?” She deals with these and some other questions from the point of legal theory - not such legal theory which is isolated from real practice, but on the contrary one which reflects the decisions especially of Czech higher courts and Court of Justice of the European Union. Her paper suggests that the prohibition of abuse of law is a legal principle in Dworkin-Alexy's theory. But as it will turn out it may depend on the specific approach to law. The final question therefore will be whether we are able to find a unique label of prohibition of abuse of law even in different approaches to law and what it would mean.

**Kamol Tanchinwuttanakul** contributed a paper about **Review of Awards under Thailand's Model Bilateral Investment Treaty**. Thailand has BITs with 41 countries. Most of these BITs have an “ad hoc” policy for the settlement of disputes. Thailand is not a member of ICSID yet, and in cases where the country has an ongoing arbitration, the terms of reference of the public international law and the UNCITRAL Arbitration Rules must be applied. Thailand has also considered the possibility to amend awards under BIT because its model does not include definitive clauses regarding award reviews. Therefore, his article aims to scrutinize the review of awards under Thailand's model Bilateral Investment Treaty (BIT) in accordance with the explanation of the review of awards, the problems in Thailand's practice regarding the review of awards and the process of solving current problems, and the setting up of *de lege ferenda* for the review of awards in BIT Models.

**Jo Roels** analyzed in his paper the issue of **The Battle against Hate Speech and Freedom of Expression Online**. In his view the issue of hate speech has gained another dimension since the creation of the newest mass media: spreading of hatred online. First, the author tries to create a clear view on the problem of defining hate speech and the limitation of freedom of speech by the European Court of Human Rights combined with the reasoning of more focus on the online aspect, its characteristics and causes of generating more hate, harm and similar behavior. This leads the author to a human rights approach, including legal comparison, social angles and a focus on society as a whole. Finally, the paper assesses the need for a new impulse for battling hate speech, due to the lack of definition, framework and eye for new actors and the characteristics of the internet which are of importance for the actor and victim.

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