

## REVIEWS AND ANNOTATIONS

### Prague Law Working Papers Series No II/2020 – 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>

**Václav Šmejkal** called his contribution **Impact of the COVID-19 pandemic on European Antitrust. Mere adaptations or real changes?** He argues that the European Commission and the competition authorities of the EU member states responded to the coronavirus crisis with assurances about sufficient flexibility of their instruments. They enabled temporary cooperation between competitors to ensure the supply of essential medical products and services. At the same time, they warned against any misuse of the crisis for overpricing or other monopolistic practices. However, the crisis has also intensified long-term pressures for a fundamental adaptation of European competition rules. The first challenge is represented by Chinese state-backed enterprises as potential acquirers of weakened European competitors. The second source of pressure is the increasingly dominant role of global online platforms. Their role as an irreplaceable infrastructure for management, communication, counselling and distance learning was reinforced in the coronavirus crisis. The Commission and other experts are already discussing appropriate responses. The paper maps the discussion on possible EU responses to these challenges and tries to show the strengths and weaknesses of the proposed solutions and on this basis to estimate the future development of EU antitrust in the post-coronavirus period.

**Andreas Nanos** contributed a paper titled: **Liability of Online Service Providers After the Latest Changes in EU Law: Paradigm Change of Liability?** Since 5th of March 2019, the European Union is facing a new directive on Copyright in the Digital Single market. The new Directive EU 2019/790 comes with significant changes in terms of European copyright law. Especially the new rules governing the liability of internet service providers (ISPs) are in the scope of the new directive. Article 17 of the directive, governing the newly created scheme of liability and licencing, could mean a paradigm change in copyright law. Rightsholders shall get a stronger position in terms of participation for the profits gained by ISPs using their copyrighted content. This new directive brings up many questions about liability of ISPs, as many aspects are left unclear. Even though the new directive clearly forbids the use of any monitoring technology, ISPs have to take every effort to block copyright infringing materials uploaded by the users. Still, ISPs did not get a hint of any possible alternatives to the so called "upload-filters". This new scheme of liability for ISPs means much stricter regulations, as now ISPs are liable for the deeds of their users as well. The new directive is strongly discussed and criticised by scholars, ISPs and especially by the public. It is feared that there is no alternative for the upload filter, which could lead to a deep cut into the freedom of speech.

**Marie Brousek** wrote about **The Concept of Reasonable Accommodation in the Context of Anti-Discrimination Policy and its Effect on the Protection of the Rights of Persons with Disability.** Her paper analyses and compares the concept of reasonable accommodation under the UN Convention on the Rights of Persons with Disabilities and the EU Employment Equality Directive including related case-law. It first addresses how equality and anti-discrimination policies in regard to persons with disabilities are dealt with in the wider context of international human rights law and under the relevant UN treaties. After identifying the European approach in addressing disability equality and non-discrimination, the paper considers to what extent the concept of disability and the scope of discrimination under the UN-Convention and the EU legal framework are coherent. Defined as a form of discrimination under the Convention but not in the Directive, the paper evaluates in which

aspect the concept of reasonable accommodation under the Directive is compatible with the Convention and it also identifies the areas where compatibility appears to be lacking. The paper also points out the consequences at the European level of an incompletely implemented concept of reasonable accommodation in the meaning of the UN-Convention and proposes approaches to assure that EU-law is in line with the Convention.

**Marvin Tador** asks in the title of his contribution a provocative question: **Is the United States Attacking Haiti?** He admits that an attack often conjures up images of a bloodstained battlefield or nowadays, hacking and cyber espionage. His paper pierces through the unadventurous notion of an armed attack and ponders whether the ‘barrage’ of U.S.-subsidized rice into Haiti have eviscerated Haiti’s capacity to meet its own domestic rice production demands and if it violates the Agreement on Subsidies and Countervailing Measures. Then it conducts a deep dive into the meaning of a subsidy in order to parse out the granular details and scrutinizes the U.S.’s ‘farm safety net’ moreover and alludes to multiple pictographs illustrating the United States’ byzantine agricultural programs. Further the paper examines the socio-political and economic effects of U.S.-subsidized rice exports into Haiti and queries whether U.S. measures have coerced Haiti into an unsustainable fiscal position. It explores why Haiti slashed its tariffs down from fifty percent to three percent in the 1990s because of demands by the IMF, international community and the United States. Albeit, the United States has propped up its farmers with subsidies since the Great Depression. It also remarks that Haiti’s politics are guided by its pocketbook and, in this case, the U.S. has likely whittled away at Haiti’s ability to replenish its pocketbook.

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