REVIEWS AND ANNOTATION

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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

Martin Hobza contributed a paper titled **ICOs, Cryptoassets and MiFID II: Are Tokens Transferable Securities?** He argues, that following the recent popularity of Initial Coin Offerings (ICOs) as a form of obtaining funds in the financial market on the one hand and investment opportunity on the other, and related investor protection concerns, regulatory issues arise. The crucial question relates to the legal nature of tokens as units issued through an ICO under the EU capital markets regulatory regime. Especially, when certain categories of tokens, namely asset tokens, have similar characteristics as conventional securities. His paper thus deals with the following research question: Shall such tokens be regarded as transferable securities within the meaning of the Markets in Financial Instruments Directive II, as well as implementing national legislations? Based on the analysis of the defining characteristics of transferable securities, the paper provides the positive answer. Indeed, the asset tokens should be regarded as transferable securities within the meaning of MiFID II and treated like that at the EU level, because they generally meet the defining characteristics of this category of financial instruments. Moreover, due to the autonomous interpretation of EU law concept of a transferable security, this conclusion applies to the specific national implementing legislation as well, irrespective whether the asset tokens are considered as securities or book-entry securities under the Member State's general law.

Martin Hobza together with Aneta Vondráčková treated in their joint contribution the topic of **The New Financial Crowdfunding Regulation and Its Implications for Investment Services under MiFID II.** The new European Crowdfunding Service Providers Regulation aims at harmonizing the financial crowdfunding regulatory framework in the EU. In many respects inspired by MiFID II, it draws a distinction between crowdfunding services and investment services, but at the same time raises new questions. It seems the Regulation might have a significant impact on how the content of investment-based crowdfunding as well as individual investment services is to be interpreted. The paper aims firstly to analyse the scope of the new Regulation, with special attention to the exemptions set by the Regulation itself as well as those originating from the EU financial services regulatory architecture. Secondly, it evaluates the relationship between investment-based crowdfunding and investment services under MiFID II, namely the reception and transmission of orders and placing on no-commitment basis, in order to distinguish the respective types of activities. Attention is given particularly to the simultaneous provision of reception and transmission of orders and placing on the no-commitment basis as a conceptual characteristic of financial crowdfunding. Finally, the consequences the Regulation might have for the interpretation of scope and content of certain present investment services under MiFID II are analysed. Namely, placing on the no-commitment basis, investment advice and portfolio management are put under scrutiny.

Andreas Nanos focused in his contribution on the issue of **Roman Slavery Law: A Competent Answer of how to Deal With Strong Artificial Intelligence? Review of Robot Rights with View of Czech and German Constitutional Law and Law History**. The introductory premise of his text sounds that one basic aim of law is the correct attribution of liability. Natural or legal persons have to bear responsibility after infringing other parties' legal interests. Normally the damaging party has to compensate the damages caused by his/her deeds. In many cases the attribution of responsibility appears easy and unambiguous. Though, this only applies in cases where there is an actual person

behind the infringement. Attributing liability appears to be highly complex in cases of artificial intelligence (AI). When significant technological innovations appear, especially if these innovations manage to bring major changes in the division of labour, or even changes in society, the regulations concerning liability are often questioned. Today, law distinguishes between the holder/user, programmer, and producer. This may be sufficient for today's technology and today's development in AI. Though, these cases still manage to pose a challenge for our modern legislation. Since technology and also AI advance rapidly, this problem is not going to be any less complicated in close, but also in far future. Here it makes sense to take old legislations as "inspiration" for present and future lawmaking, in this case antic roman slave-law, as the antic romans faced similar problems and opted for partly similar solutions as modern legislations.

Xin Li wrote about how to **Protect Basic Human Rights under Climate Change Law**. Climate Change has become one of the most critical issues facing human society today. On the one hand, climate change has brought some impacts on animals and plants. On the other hand, the effect of climate change on fundamental human rights is also increasing. Climate change has brought new challenges such as climate change-induced refugees to the human rights field. And also, it has aggravated the current human rights crisis, from the right to health, the right to life and the right to food — the right to livelihood to the right to development. The adverse effects of climate change on human rights are at all levels, especially for vulnerable groups such as women and children. In his paper the author explores how to protect fundamental human rights in climate change law. First, he discusses the realities between climate change and human rights and then he focuses on how to tackle climate change in human rights law.

Jan Exner titled his paper **Sanctioning Framework of the World Anti-Doping Code 2021: A Proportionate Response to Doping?** He examines the compliance of selected sanctioning provisions of the new World Anti-Doping Code, which enters into force on 1 January 2021 ("Code 2021"), with the internationally recognized general legal principle of proportionate punishment. The he compares how Code 2021 evolved in terms of proportionate punishments compared to the World Anti-Doping Code currently in force ("Code 2015"). He argues that the new approach towards sanctioning of the ingestion, use or possession of substances of abuse as well as of anti-doping rule violations committed by protected persons and recreational athletes empowers hearing panels to issue a proportionate punishment better than Code 2015. On the other hand, he believes that the strict interpretation of the modified definition of intentional presence, use or possession of a prohibited substance or method would lead to disproportionate consequences for those athletes who knowingly use prohibited substances in competition, but without the intention to cheat. He also believes that hearing panels should apply the reintroduced concept of aggravating circumstances only to the most serious cases of doping in order to avoid disproportionate punishments. To conclude, he considers Code 2021 a step forward for the worldwide fight against doping in sport. On the other hand, he presumes that hearing panels will bear a heavy burden to apply Code 2021 so that they always ensure one its goals, to respect the rule law and the principle of proportionality.

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