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978-0-521-19053-4 - Unconscionability in European Private Financial Transactions:
Protecting the Vulnerable

Edited by Mel Kenny, James Devenney and Lorna Fox O'Mahony

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UNCONSCIONABILITY IN EUROPEAN PRIVATE FINANCIAL TRANSACTIONS

Protecting the Vulnerable

Given the unprecedented recent turmoil on financial markets, we now face radically challenged, 'post-Lehman' assumptions on protecting the vulnerable in financial transactions. This collection of essays explores conceptions of, and responses to, unconscionability and similar notions across Europe with specific reference to financial transactions. It presents a detailed analysis of concepts of unconscionability in Europe against a backdrop of Commission initiatives aimed, variously, at securing a single market in financial services, producing greater coherence in EC consumer protection law and consolidating European private law. This analysis illustrates, for example, that concepts of unconscionability depend on context and can be shaped by a variety of factors. It also illustrates that jurisdictions may choose to respond to questions of unconscionability through a variety of legal instruments located in different branches of the law rather than through a single doctrine. Thus this collection illuminates many of the obstacles facing harmonisation in this area.

MEL KENNY is Reader in Commercial Law at the University of Leicester.

JAMES DEVENNEY is Deputy Head of Durham Law School and Director of the Durham University Institute of Commercial and Corporate Law.

LORNA FOX O'MAHONY is Professor of Law at the University of Durham.

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CRISTINA AMATO

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CONTRIBUTORS

CRISTINA AMATO

Professor of Law, Faculty of Law, University of Brescia

IMMACULADA BARRAL-VIÑALS

Professor of Law, Faculty of Law, University of Barcelona

DAVID CAPPER

Reader in Law, Queen's University, Belfast

PETER CARTWRIGHT

Professor of Consumer Protection Law, School of Law, University of Nottingham

OLHA O. CHEREDNYCHENKO

Senior Lecturer in Private Law, Centre for Law and Governance, Faculty of Law, VU University of Amsterdam

AURELIA COLOMBI CIACCHI

Reader in Law, Centre for European Law and Politics, University of Bremen

JAMES DEVENNEY

Deputy Head Durham Law School and Director of the Durham University Institute of Commercial and Corporate Law

KAREN FAIRWEATHER

Graduate Teaching Assistant, Durham Law School

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CONTRIBUTORS

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MAGDALENA HABDAS

Lecturer in Law, Faculty of Law and Administration, Department of Civil
and Private International Law, University of Silesia, Katowice

AXEL HALFMEIER

Professor of German and International Private and Economic Law,
Frankfurt School of Finance and Management

STANISLAW KALUS

Professor of Law, Faculty of Law and Administration, Department of
Civil and Private International Law, University of Silesia, Katowice

MEL KENNY

Reader in Commercial Law, University of Leicester

SARAH NIELD

Reader, School of Law, University of Southampton

LORNA FOX O'MAHONY

Professor of Law, Durham Law School

PETER ROTT

Associate Professor in European Private Law, University of Copenhagen

SÉVERINE SAINTIER

Senior Lecturer, School of Law, University of Sheffield

ANDRIUS SMALIUKAS

Associate Professor, Faculty of Law, Vilnius University; Attorney at Law:
Varul, Vilgerts, Smaliukas (Vilnius)

WARREN SWAIN

Lecturer in Law, Durham Law School

EMMANUEL VOYIAKIS

Lecturer in Law, Brunel Law School; Barrister (Greece)

STEPHEN WADDAMS

Goodman Schipper Chair, Faculty of Law, University of Toronto

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CONTRIBUTORS

JOHN WIGHTMAN

Senior Lecturer, Kent Law School

CHRIS WILLETT

Professor of Consumer Law, Leicester de Montfort Law School

TONI WILLIAMS

Professor of Law, Kent Law School

QI ZHOU

Lecturer in Law, University of Sheffield