

Harvey and Schilling on the (Consequences of an Ineffective) Choice of the CESL

Caroline Harvey, University of Oxford, and Michael Schilling, King's College London, have published a paper dealing with the (consequences of an ineffective) choice of the Common European Sales Law (CESL). The paper can be downloaded [here](#). The abstract reads as follows:

In order to opt in to the proposed Common European Sales Law, the parties must utilise the mechanism set out in the Regulation, in accordance with which they 'agree to use the CESL' and thus subject their contract to the CESL. This article examines an issue that has so far received little attention: the question of how the agreement to use CESL and the contract under CESL interact. Given the formal requirements that the agreement to use CESL is subject to, the agreement to use the CESL may easily suffer from a defect. The parties may then purport to conclude a contract governed by the CESL, but without a fully effective agreement that the CESL applies to it. In such circumstances the question arises whether that contract may still be effective under the CESL or under national law, in particular where the parties have performed their (perceived) obligations.