

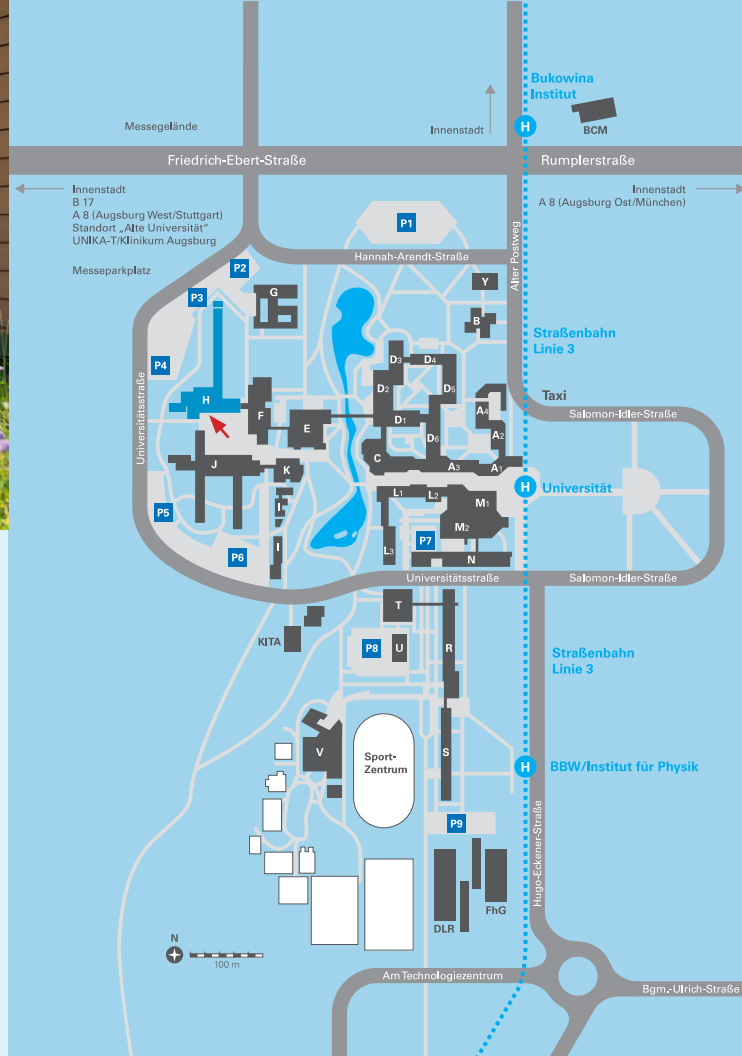


The conference, organized by Professor Tobias Lutzi, aims to critically discuss whether and to what extent the German courts' strict refusal to recognize foreign punitive damage awards is still tenable in light of developments both in legal systems that award punitive damages and in legal systems that do not (but may still recognize such awards).

Online-Registration

Please register at:

www.uni-augsburg.de/de/fakultaet/jura/punitive-damages



Faculty of Law



Who's Afraid of Punitive Damages?



Venue

Faculty of Law, University of Augsburg
Room 2001
Universitätsstraße 24, 86159 Augsburg

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Augsburg, 8 and 9 March 2024

Supported by:

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Who's Afraid of Punitive Damages?

8 and 9 March 2024

Faculty of Law, University of Augsburg
Room 2001

- Friday, 8 March 2024 -

Welcome and Introduction 2:00 pm

Prof Tobias Lutz, University of Augsburg, Germany

I. Afraid of What? 2:30 pm

"[Punitive damages] serve up to four main functions: The offender shall be punished for their rough behaviour, not least to render private acts of revenge unnecessary. The offender and the general public shall be deterred from future socially harmful behaviour, insofar as merely compensatory damages do not provide sufficient incentives. The injured party shall be rewarded for enforcing the law – so as to strengthen the legal system in general. Finally, the injured party shall receive a supplement to a perceived inadequate remedy for the damage."

"Punitive damages imposed at the discretion of the court and without a fixed relation to the damage suffered, which can be extraordinarily high, have led in the US to a rapid increase in the overall economic burden of damages up to the limit of what is a calculable and insurable risk."

(German Federal Court, BGHZ 118, 312, paras 66 and 91)

Compensation, Punishment, and the Idea of Private Law

Prof Lukas Rademacher, University of Kiel, Germany

Punitive Damages and Insurance

Prof Jan Lüttringhaus, University of Hanover, Germany

Discussant:

Prof Phillip Hellwege, University of Augsburg, Germany

II. Why to be Afraid?

The Exorbitant Nature of Punitive Damages 4:30 pm

„From a German perspective, the [aforementioned] considerations alien to private law and the absence of sufficiently specific and reliable limits would be likely to blow up all domestic liability standards in case of recognition and enforcement."

(German Federal Court, BGHZ 118, 312, para 92)

"[T]he Constitution imposes certain limits, in respect both to procedures for awarding punitive damages and to amounts forbidden as 'grossly excessive.'"

(US Supreme Court, Philip Morris USA v Williams, 549 US 346 (2007) (Breyer JJ))

Who's afraid of punitive damages for product liability?

Prof Catherine Sharkey, New York University, US

Punitive Damages in English Law

Prof Rachael Mulheron, Queen Mary University London, UK

Discussant:

Dr Eleni Katsampouka, University of Cambridge, UK

- Saturday, 9 March 2024 -

III. When to be Afraid?

The Public Policy Exception 9:00 am

"It is manifestly incompatible with essential principles of German law to enforce lump-sum punitive damages of a not inconsiderable amount in Germany. [...]"

From the point of view of this court, it seems unacceptable to order a substantial monetary payment in a civil judgement that does not serve to compensate for damages [...]"

(German Federal Court, BGHZ 118, 312, paras 87–89)

Punitive Damages and Public Policy

Prof Cedric Van Leenhove, University of Ghent, Belgium

The Public Policy Exception in the 2019 Hague Judgments Convention

Prof Marko Jovanović, University of Belgrade, Serbia

Discussant:

Prof Leonhard Hübner, University of Augsburg, Germany

IV. Who is (Still) Afraid?

11:00 am

Panel 1: Still Afraid

"A foreign judgment for punitive damages of a not inconsiderable amount awarded as a lump sum that exceeds the compensation for material and immaterial damages suffered, can usually not be declared enforceable in Germany at all."

(German Federal Court, BGHZ 118, 312, para 93)

Netherlands

Prof André Janssen, Radboud University, Netherlands

Japan

Prof Beligh Elbalti, University of Osaka, Japan

Germany

Dr Johannes Ungerer, University of Oxford, UK

Discussant:

Prof Wolfgang Wurmnest, University of Hamburg, Germany (TBC)

Lunch Break

Panel 2: No Longer Afraid

"[P]unitive damages cannot be considered as a concept that is (completely) counter to public policy."

(Spanish Tribunal Supremo, 13 Nov 2001, No 1803/2001, translated by Jablonski, in Journal of Law & Comm 24 (2005), 231, 242)

Spain

Prof Marta Requejo Isidro, CJEU Luxembourg / Universidade de Santiago de Compostela, Spain

Italy

Dr Caterina Benini, Università Cattolica del Sacro Cuore, Italy

South Korea

Dr Min Kyung Kim, Incheon District Court, South Korea

Discussant:

Dr Eleni Katsampouka, University of Cambridge, UK

Conclusion

3:00 pm

Prof Tobias Lutz, University of Augsburg, Germany