

German Institute for Japanese Studies (DIJ)

DIJ Business & Economics Brown Bag Lunch Seminar

Wednesday, 17 February 2016, 12:30 - 13:30



Jesco LINDNER
(Goethe University Frankfurt)

The Business Judgment Rule in Japan and its reception

In Japan and Germany the likelihood that managers face a lawsuit claiming a breach of their duty of care (German: *Sorgfaltspflichtverletzung*, Japanese: *zenkanchuuigimuihan*) significantly increased over the last two decades. The severe liability laid out by the law (depending on the jurisdiction, e.g. liability for all forms of negligence, high amounts of damages, only limited possibilities for waivers and settlements, along with the dangers arising out of hindsight bias by the judiciary and the often rather unfavorable burden of proof) finally turned into painful reality.

The US originating Business Judgment Rule (Ger.: *unternehmerisches Ermessen*, Jap.: *keieihandangensoku*) seems to be the perfect remedy as it promises to alleviate the severe liability by its safe harbor allowing the managers to take risk in favor of their companies.

At this seminar Jesco Lindner will give an overview on how courts in Japan apply the Business Judgment Rule. He will explain the different prerequisites to be met by the management by looking at several cases. Further, he attempts to explain how the Business Judgment Rule fulfills its function with regard to the alleged breach of duty of care. Since the Business Judgment Rule operates to some extent differently from the US and German counterparts he will then look on various factors that influenced the reception and development of the Business Judgment Rule in Japan (e.g. role of the judiciary, procedural system, cultural aspects).

Jesco Lindner's research focuses on corporate law as well as IP law. He currently is a doctoral candidate at Goethe University Frankfurt, Germany. After graduation from Freiburg University he underwent legal training in Düsseldorf.

Everybody is welcome to attend, but we appreciate if you register by e-mail busi.econ-studygroup@dijtokyo.org any time before the event.