

On Punitive Damages (Book)

Punitive damages have been the topic of much discussion, both by Civil Law and Private International Law scholars. In December 2014 this monograph on them by L. Meurkens will be available, also to be bought on line .

Lotte Meurkens (30 August 1982) is a private law teacher and researcher at Maastricht University in the Netherlands. She wrote this dissertation on punitive damages under supervision of professor Hartlief and professor Van Maanen, and is co-editor of 'The Power of Punitive Damages – Is Europe Missing Out?' (Antwerp: Intersentia, 2012).

Abstract:

The punitive damages doctrine, traditionally a common law doctrine that originates in England and the United States, is customary in common law countries but until now it is alien to continental European legal systems. Policymakers and legal scholars in Europe, however, increasingly exchange ideas about the potential advantages of the civil sanction. The European attention for punitive damages primarily results from changing policy views, to be precise the increased interest in private enforcement of several legal fields, on both the European Union and national level, and in introducing more powerful civil sanctions to improve the enforcement of tort law standards and to deal with situations of serious wrongdoing. However, despite this development, the introduction of punitive damages in continental Europe does not seem to be a workable proposal at this point in time. The idea simply encounters too much resistance, which is not only caused by a number of obstacles that are intrinsic to the civil law tradition but also by an incorrect perception of the American reality of punitive damages. The main objective of this book is to increase the understanding of the civil sanction as such, because only a correct knowledge of the facts relating

to the sanction can create the possibility to participate in the European punitive damages debate in a fair manner. This book is helpful for academics, policymakers and legislators who are developing ideas concerning private enforcement and more powerful civil sanctions. Moreover, this book is of use for victims, insurers, personal injury lawyers, and judges who are confronted with serious wrongdoing that may justify punitive damages. The American experience with punitive damages results in some important lessons and caveats that should be kept in mind by participants in the European debate, as well as a number of recommendations on the possible use of this civil remedy in continental Europe.