

The Conference

Dispute Resolution Agreements (DRA) are a very special kind of contract. They allow parties to make a choice on the rights (applicable law) and remedies (competent forum, including procedural rules), which govern their relationship. Party autonomy, i.e. the freedom to enter into DRA, enables international merchants to provide for legal certainty and to bargain on the 'law market' for the most efficient institutional framework for their transactions. However, where DRA are included in the fine print of standard form contracts with less sophisticated contract parties, the question of legitimacy arises. For instance, where mandatory consumer rights or constitutional rights to a remedy are waived, a higher quality of consent might be required, one that is informed, instead of a simple manifestation of assent to the transaction. However, "informed" consent has been criticized as a legal fiction.

DRA are regulated by diverse instruments on the national, supra-, and international level. Despite their similarities they are rarely discussed in a consistent fashion. The conference convenes leading scholars of private international law, international civil procedure, international arbitration, and standard form contracts from both sides of the Atlantic in an effort to develop a coherent framework.



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Registration

Places are limited. Please register no later than April 30, 2024 with your name, institution and billing address at knipper@uni-bremen.de. Registration fee is 150 €. After acceptance of your registration we will send a bill.

Conference Hotel: Hotel Classico, Am Markt 17, 28195 Bremen, info@classico-hotel.de

Conference Venue: Haus der Wissenschaft (House of Science) Sandstraße 4/5
28195 Bremen



From the Central Station
take tram 4, 5, 6, or 8 two stops to *Schüsselkorb*
From the Airport
take tram 6 to the stop *Domsheide*

Conveners
Prof. Dr. Graf-Peter Calliess &
Dr. Nicholas Mouttos

University of Bremen
Institute for Commercial Law
Universitätsallee, GW 1
D-28359 Bremen
Telephone: +49 (0)421 218-66208



Institute for
Commercial
Law

ICTDRA

Informed Consent to Dispute Resolution Agreements

Conference

Bremen, 20-21 June 2024



IHRE WIRTSCHAFTSKANZLEI

Program

Thursday, 20 June 2024

13:00 Registration and Light Lunch

13:15 Welcome Address by **Dr. Mandy Boehnke**, Vice President for International Affairs, University of Bremen

13:30 Keynote Speech

Party Autonomy: Then and Now, **Symeon C. Symeonides**, Alex L. Parks Distinguished Professor of Law, Dean Emeritus, Willamette University

14:15-15:45 Session 1: Consent, Contract, Constitution

Chair: **Rui Dias**, Professor of Law, Faculty of Law University of Coimbra

· *What is the "Meaning of Consent"?* – **Nancy Kim**, Professor of Law, Michael Paul Galvin Chair in Entrepreneurship and Applied Legal Technology, Chicago-Kent College of Law

· *Reflexive Contract Law: A Constitutional Framework* – **Graf-Peter Calliess**, Professor of Law, Dean of the Faculty of Law, University of Bremen

Coffee Break

16:00-18:00 Session 2: Standard Form Contracts and Unfair Terms

Chair: **Ralf Michaels**, Professor of Law, Director of Max Planck Institute for Comparative and International Private Law, Hamburg

· *Unfair Contract Terms Directive (93/13/EEC) and US Restatement of Consumer Contracts compared*, **Frederick Rieländer**, Professor of Law, Director at Centre of European Law and Politics, University of Bremen

· *Assent under Adhesion Contracts and the Doctrine of Unconscionability* – **Daniel D. Barnhizer**, Professor of Law & The Bradford Stone Faculty Scholar, Michigan State University

· *A Farewell to the Information Model in the Law of General Terms and Conditions?* – **Peter McColgan** (PhD), Postdoctoral Researcher, Humboldt University of Berlin

18:30 Conference Dinner: Bremer Ratskeller,

Am Markt, Bremen
Welcome Address by Senator of Justice and Constitution of Free Hanseatic City of Bremen,
Dr. Claudia Schilling

Friday, 21 June 2024

09:00-10:45 Session 3: Choice of Law

Chair: **Patrick Leyens**, Professor of Law, Institute for Commercial Law, University of Bremen

· *The Treatment of Choice of Law Clauses under the Restatement of the Law (Third), Conflict of Laws* – **Laura Little**, James G. Schmidt Professor of Law, Temple University

· *The Restatement of the Law (Third), Conflict of Laws: The State Whose Law is Selected* – **Kermit Roosevelt**, David Berger Professor for the Administration of Justice, University of Pennsylvania

· *The Treatment of Choice of Law Clauses under European Private International Law* – **Nikitas Hatzimihail**, Professor of Law, Deputy Dean of the Faculty of Education and Social Sciences, University of Cyprus

Coffee Break

11:15 – 13:00 Session 4: Choice of Jurisdiction

Chair: **Geneviève Saumier**, Peter M. Laing Q.C., Professor of Law, McGill University

· *Insufficient Notice and No Knowing Consent as Grounds for Refusal to Enforce Choice-of-Jurisdiction Clauses* – **John F. Coyle**, Reef C. Ivey II Distinguished Professor of Law and Associate Dean for Faculty Development, The University of North Carolina

· *Statutory Anti-Waiver Provisions and Their Effect on Jurisdictional Choice* – **Hannah Buxbaum**, Vice President for International Affairs, John E. Schiller Chair in Legal Ethics and Professor of Law, Maurer School of Law, Indiana University Bloomington

· *Consent to Jurisdiction under Brussels Ia and The Hague Choice of Court regime* – **Marta Pertegás Sender**, Professor of Law, Chair on Private International Law and Transnational Law, Maastricht University

Lunch Break

14:30 – 16:15 Session 5: Arbitration Agreements

Chair: **Lars Klöhn**, Professor of Law, Humboldt University of Berlin

· *Contractual Waivers of Constitutional Rights under US Law: Arbitration, Jury-Waiver, and other Clauses* – **Stephen J. Ware**, Frank Edwards Tyler Distinguished Professor of Law, The University of Kansas

· *Consent to Arbitration and Waiving Access to Justice Rights* – **Camelia Toader**, Professor of Law, Former Judge of the Court of Justice of the European Union, University of Bucharest
· *The Effectiveness of Arbitration Agreements in Germany* – **Stefan Thönissen** (PhD) Privatdozent at University of Freiburg

Coffee Break

16:45 – 17:30 Session 6: Wrap-up

Chair: **Graf-Peter Calliess**, Professor of Law, Dean of the Faculty of Law, University of Bremen

· *Towards a Coherent Regulation of Dispute Resolution Clauses?* – **Nicholas Mouttotos** (PhD) Postdoctoral Researcher, Walter Benjamin position (DFG), University of Bremen