

Abstracts

TANAKA Wataru, Revisiting Merits of Specific Performance: An Economic Analysis of Remedies for Breach of Contracts

This article examines legal remedies for breach of contracts from an economic perspective, placing special emphasis on specific performance compared with damages of expectation interests. Specific performance is likely to have an advantage over damages if (a) it is difficult for courts to assess damages and (b) contract parties can easily renegotiate with each other. Also an important factor for evaluating legal remedies is the reason why breach occurs. Specific performance is more likely to be efficient when a party wants to breach a contract in order to pursue an opportunity to make more profit than to avoid high cost of performance. This article also analyzes Japanese law which, contrary to Anglo-Saxon law, generally allows specific performance as a remedy for breach of contracts.

NAKAMURA Tamio, SASAKI Dan, European Single Market and EU Law on Labour Relations: a dialogue between a lawyer and an economist on *Viking* case

The paper focuses on the disparity between the economic objective of single labour market at European level and the legal reality of little harmonised labour relations regulation at European and national levels. Taking *Viking* case as a typical recent example, the paper first analyses some legal difficulties in applying the previous case-law on free movement of workers and companies that the European Court of Justice (ECJ) had established during the 1980s in a dispute between individual and the state (public law context) to a dispute between individuals (private law context). This is followed by a more general economic analysis on the current EU labour market regulation. The economic analysis in turn leads to another reflection on a possible direction of ECJ case-law development that would promote both the economic objective of single labour market and the political and legal objective of better protection of workers' rights under Lisbon Treaty.

MIYAZAWA, Shinjiro, "An Economic Analysis on State Liability: Government Compensation and Claim against Public Servants"

I investigate the optimal rules of government compensation to citizens and claim

against public servants (state liability system) in a circumstance where the precaution of citizens has a positive external effect. In this circumstance, when systems cannot require citizens to make any levels of precaution more than their due care for the avoidance of the accident, the second best can be achieved under any state liability systems such that the public servant is liable only when he/she is grossly negligent and that the citizen is liable when he/she is negligent and the public servant is not grossly negligent. This result can rationalize the system in Japan. Since the government does not claim the compensation in equilibrium, the fact that governments rarely claim the compensations could imply the system works effectively.

ZASU Yoshinobu, Why the third party should be bona fides in Article 94 of the Japanese Civil Code?

The present paper examines the effect of the third party protection in Article 94-2 of the Japanese Civil Code on incentives of the related parties. We study the provision on third party protection as incentive device for the related parties rather than as protection of the third party. We present the conditions for the protection of the bona fides party and show that the drafters can be risk averse. Additionally, we consider that a precedent as an application of Article 94-2, where the legal protection requires a bona fides and negligent party, is consistent with our analysis.

CATO Susumu, The Compensation Mechanism and its Stability

This paper examines the compensation mechanism proposed by Varian (American Economic Review 84, 1278-1293, 1994). I first explain a fundamental property of the compensation mechanism, and then provide a sufficient condition for the Cournot stability.

HANADA Shin-ichi, Importance of the policy response appropriates the industry life cycle: Case from Public Bath Industry

This paper argues that the government should synchronize its policy with the industry life cycle. To support this argument, I focus on the Public Bath industry (*Sento* in Japanese) data to evaluate the impact of distance regulation at the decline stage of industry life cycle. I use the Logit model to calculate how the number of competitors and area demand affect the exit probability. From estimation results, I find that the effect of competitors is smaller than that of area demand. These results suggest that in the *Sento*

industry, distance regulation may inhibit the concentration of firms in high demand area and decrease industry size.

OGAWA Ryo, Value of Bicameralism in a Repeated Voting Model

This paper investigates the role of bicameral system in alternatively elected two-chamber legislature model. In the model, the chamber elected in the previous period is given the power to veto the decision by the chamber elected in the current period. It is shown that the bicameralism is more likely to be beneficial when (i) the desirable policy is less likely to move, or (ii) the non-desirable policy is more likely to attain majority in current election.