



HAMBURG LECTURE SERIES ON CHINESE LAW

Ziyuan Jing

“The consequences of not subjecting legal security providers to solidary liability and appropriate responses”

Monday, 26 September 2022 – 5:00 p.m. (CEST)

The lecture will be held **in person** at the
Max Planck Institute for Comparative and International Private Law,
Mittelweg 187, 20148 Hamburg.

Please register no later than Friday, 23 September 2022 for the lecture
using this [LINK](#).

All employees and guests of the institute as well as other interested
parties are cordially invited to the lecture.

Knut Benjamin Pißler



About the speaker:

Ziyuan Jing is a PhD student at the China University of Political Science and Law (Beijing). His dissertation focuses on security interests and related rules under the PRC Civil Code 2020, including comparative analysis. He was a visiting researcher at the University of Hamburg from 2020 to 2021 and has been conducting research at the Max Planck Institute for Comparative and International Private Law since 2021. He was also a visiting researcher at UNIDROIT in June 2022. Since 2017 he has been a qualified legal professional in the People's Republic of China.

About the topic:

The People's Republic of China has adopted new Civil Code, and in 2020 it issued a new judicial interpretation on the legal rule related to security interests, coming into effect as of 1 January 2021. One of the significant changes in the new legislation is related to the reversal of previous rules such that the default position is no longer solidary liability amongst personal security providers. This means that in the absence of an express agreement, the personal security provider who is sued by the creditor and who pays off the claim will have a right of recourse against only the debtor and not against other personal security providers. The advantage of this rule is that the relevant legal relationship becomes much simpler, making it considerably easier for judges to resolve this kind of dispute and avoiding their having to rule again and again when the personal security provider finds and sues other solidary security providers whom he was not initially aware of. But the new rules may also bring some challenges and possible disadvantages. On the one hand, it seems unfair for the personal security provider who first pays off the claim; after all, only this party undertakes the debt ultimately. By contrast, a creditor has full discretion to choose who to seek payment from, and creditors might abuse this right to obtain excessive profit from security providers. This might lead to unfair competition as well. It should be observed that personal security providers still lack freedom to conclude internal contacts amongst themselves, even though the previous rule was reversed.

So how shall we properly interpret and improve this new rule? What are the practical implications? In answering these questions the talk will also present several examples that may help us better understand practical points and application perspectives.

About the Hamburg Lecture Series on Chinese Law:

The "Hamburg Lecture Series on Chinese Law" was established in 2002 as a series of guest lectures from notable legal scholars and legal practitioners, who engage in research stays at the Hamburg Institute. It aims to provide insight into legal fields under development in the People's Republic of China and which are thus attracting great international interest.