



# INTERNATIONAL BRIEFING

## Caro lettore,

sono lieto di trasmettere la prima edizione di quest'anno della nostra Newsletter Internazionale.

Negli ultimi mesi la diffusione del nuovo coronavirus ha influito in maniera decisiva sulle nostre vite, costringendo molti di noi a lavorare da casa, spesso con i bambini intorno a causa della chiusura di scuole e asili. L'impatto della pandemia sulla società e le imprese non ha precedenti e le conseguenze per il settore economico riguardano tanto i lavoratori, quanto i clienti, i fornitori e gli investitori. Dal punto di vista giuridico sorgono nuovi interrogativi e molti settori stanno già ripensando alla loro organizzazione e a nuove strategie.

A tale scopo invito a visitare il [nostro sito](#) che, alla sezione "Corona Information Centre", dedicata alle questioni più frequenti in tema di coronavirus, offre risposte e informazioni ordinate per aree del diritto (in inglese e tedesco).

Come di consueto, anche questa edizione contiene una serie di contributi redatti a beneficio di coloro che operano nell'ambito del commercio internazionale.

Oltre agli attuali sviluppi legislativi in tema di controllo degli investimenti esteri diretti, questo numero include, tra gli altri, un aggiornamento in materia di obblighi informativi ai fini del Registro sulla Trasparenza e le ultime novità sullo stato della Brexit.

Un altro capitolo della Newsletter è dedicato al Distressed M&A in Germania. È prevedibile, alla luce dell'attuale scenario economico, che tali operazioni torneranno a crescere nel prossimo futuro, dopo un 2019 ai minimi storici.

Da ultimo, segnalo anche il contributo in materia di cybersecurity, nonché l'approfondita analisi su sindacati e consigli di fabbrica predisposta per le aziende interessate ad espandersi nel mercato tedesco.

Nel confidare di aver fornito informazioni e spunti utili, auguro una buona lettura!

A presto,



**Matthias W. Stecher**  
M. C. J. | Coordinatore dell'Italian Desk

## Corona Information Center of BEITEN BURKHARDT

The global impact of the coronavirus on society and companies is tremendous. In the economic world, employees are just as affected as customers, suppliers or investors. Numerous legal fields and many industries are faced with new questions and challenges.

BEITEN BURKHARDT is bundling answers in its Corona Information Centre. Blog posts, flyers and other publications are continuously supplemented and updated.

[Read more](#)

## Strengthening of Investment Controls in Germany and Europe

Over the last two years, investment control rules were strengthened throughout Europe, or for the first time adopted, and a common framework for the assessment of foreign direct investments created by the European Union. The current health crisis

which leads to lower stock values of publicly traded companies and generally weakened company values, stokes fears of foreign companies buying the control of EU companies “on the cheap”.

It is against this background that Germany formally submitted amendments to the national investment control rules to its parliament, that France created a special investment fund and that the EU Commissioner for competition intimated in an interview that EU countries could build up stakes in important companies.

[Read more](#)

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## Update: Federal Ministry for Economic Affairs Presents Amendments to German Foreign Trade and Payments Ordinance with Supplements to the Health Sector

At the end of April, the German Ministry for Economic Affairs and Energy presented the draft for the 15th amendment of the Foreign Trade and Payments Ordinance, which already incorporates some of the planned amendments and provides for further modifications affecting the health sector.

[Read more](#)

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## Distressed M&A in Germany

Insolvencies in Germany were at a record low in 2019 and insolvency administrators were feeling underworked. And along came a virus that changed economic reality in a heartbeat. Whilst the German legislative has done its utmost to mitigate the economic consequences, it does not take the magical talent of the future-teller to realize: there will be numerous insolvencies in 2020 and 2021, and with that bargains for investors. Obviously, there are not only opportunities, but also risks in acquiring a company out of bankruptcy. Most, often all, risks can be eliminated by a careful examination in the run-up to the acquisition (due diligence) as well as by a careful drafting of the contract. The range of legal issues to be considered touches on a number of legal areas. In the foreground are insolvency, corporate, labour and tax law issues, in individual cases also antitrust law issues. We will highlight a few of the more general legal issues.

[Read more](#)

## Brexit – Nine months to go and uncertainties galore

The United Kingdom of Great Britain and Northern Ireland (UK) left the European Union at the end of January 2020, but will still be treated as an EU Member State until the end of this year 2020. The EU and the UK have each put forward a draft for the future relationship and each has publicly advocated different visions for the future “EU-UK partnership”.

The combative stance of some protagonists is certainly not conducive to finding an agreement on post-divorce relations. The UK Government under Boris Johnson has hardened or even reversed the UK position in a way that leaves the EU perplexed, fearing that economic rationality is being sacrificed on the altar of Brexit idolatry. The EU's insistence on a level playing field and effective judicial control does not make the negotiations easier for the UK.

[Read more](#)

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## First-time obligation of transparency for foreign companies when acquiring real estate in Germany

On 12 December 2019, the German Bundestag (Federal Parliament) passed the amendment to the German Money Laundering Act which serves to implement Directive (EU) 2018/843 of the European Parliament and Council of 20 May 2018 designed to prevent the use of the financial system for the purpose of money laundering and terrorist financing.

The main amendments relate to the extended public access to the German Transparency Register and the extension of the circle of those obliged to notify the German Transparency Register. As a result of the new regulation, foreign companies will for the first time be required to provide information on their ownership structure when they undertake to acquire real estate in Germany. The registration of the beneficial owner of the foreign company in the German Transparency Register is a mandatory requirement for a notarial recording of the asset purchase Agreement.

[Read more](#)

## Update on the German Transparency Register: Reporting obligation for GmbH & Co. KG's due to the change in practice of the German Federal Office of Administration

Since October 2017, German law requires the so-called "beneficial owner" of a GmbH or partnership to be entered in the Transparency Register. The beneficial owner under the German Money Laundering Act is any natural person who directly or indirectly controls more than 25% of the capital shares or voting rights in a Company.

For GmbH & Co. KGs (German limited partnerships with a limited liability company as general partner), as well as for UG (German Entrepreneurial Company) & Co. KGs, it has not been assumed to date that there is an obligation to report to the Transparency Register as the information provided in respect of the limited partners, most of whom are beneficial owners, has presumably been derived from the commercial Register.

Now, however, the practice of the German Federal Office of Administration ("BVA") which monitors the fulfilment of obligations in connection with the Transparency Register and punishes non-compliance with fines has changed significantly.

[Read more](#)

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## Corona vs. CSR: Does the Virus also Stop Sustainability?

In our current newsletter "Corona vs. CSR: Does the Virus also Stop Sustainability?" we give a detailed overview of current developments on the topic of sustainability in times of the coronavirus and the resulting arguments for the unbroken relevance of sustainable management.

[Read more](#)

## Cybersecurity in Germany

The regulation and promotion of cybersecurity in German law is achieved by an array of different statutes. Some of these regulate cybersecurity in relation to particular types of data, some regulate cybersecurity in particular industries or sectors, and some regulate cybersecurity in companies as part of broader compliance requirements.

[Read more](#)

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## Doing Business in Germany – Unions and Works Councils in Germany – an overview

Almost every time foreign companies are advised in the context of their market entry in Germany, the questions are asked: What is the relationship between trade unions and works councils? What are the responsibilities of trade unions and works councils? Must collective agreements be adopted? How can the election of a works council be prevented?

[Read more](#)

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## Webinar "What US companies with business in Germany, France and Italy should know about the legal environment with COVID-19"

BEITEN BURKHARDT organized a webinar on "What US companies with business in Germany, France and Italy should know about the legal environment with COVID-19" on 5 May 2020. We were happy that our colleagues from ALTANA and Nctm covered France and Italy. The focus of the webinar was on supply chain and lease agreements; short-time work/furlough work – wage relief measures and liability and fiduciary duties of general managers. You can download the presentation as well as the recording of the webinar on our Corona Information Center ([Link](#)).

## ELA

BEITEN BURKHARDT joined the Employment Law Alliance (ELA) retroactively as from 1 January 2020 and, in so doing, became its exclusive member for Germany. The ELA ([www.ela.law](http://www.ela.law)) is a worldwide alliance of law firms leading in employment law, which advises employers globally at the highest level. With more than 3,000 lawyers specialized in employment law the organisation is represented in more than 100 countries and therefore is the largest international alliance of law firms leading in employment law.

[Read more](#)

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## BEITEN BURKHARDT ranked in the top tier of best Corporate legal firms 2020 by Wirtschaftswoche

The leading German economy weekly *Wirtschaftswoche* recently ranked BEITEN BURKHARDT in the top tier of the best legal firms in the field of Corporate law for 2020. A three level procedure involving market analysis by the Handelsblatt Research Institute, a survey and recommendations of an expert jury formed the basis for this ranking.

## L'Italian Desk

L'Italian Desk è nato per rispondere alle esigenze delle società italiane interessate ad espandere la propria attività sul mercato tedesco, nonché di quelle che in Germania abbiano già avviato la propria impresa.

Viceversa, assistiamo anche imprese tedesche che intendano internazionalizzare il proprio business in Italia e quelle già attive nel Belpaese.

I nostri esperti operano a Monaco di Baviera. I membri dell'Italian Desk gestiscono le pratiche in italiano.

Ai nostri clienti italiani forniamo un'assistenza multidisciplinare, così da poter far fronte a richieste che implichino l'intervento coordinato e organizzato di differenti competenze professionali.

In particolare, prestiamo consulenza nell'ambito di operazioni societarie straordinarie, di operazioni immobiliari, nella costituzione di società e nella definizione di programmi d'investimento, nonché in ambito finanziario e fiscale.

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