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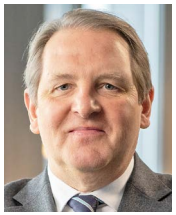

Prof Dr
Thomas Wegerich
Editor
LaborLawMagazine

Dear Readers,

The Whistleblower Protection Act has a long legislative history in Germany. Now the new law is coming. It is therefore high time for companies and consultants to get ready. Dr. Hagen Koeckeritz and Dr. Soeren Hennies know what you need to do.

Another important piece of legislation is the German Act on the Notification of Conditions Governing an Employment Relationship (Nachweisgesetz – NachwG). It entails a lot of bureaucracy for employers. Dr. Eric Schmid and Peter Weck have compiled a list of what companies and their consultants will have to deal with.

Finally: In our popular "Top 5" section, Sebastian Mohr, member of our Advisory Board, shows you which employment law topics are currently at the top of his agenda. The keywords are: Cross-border mobile working, inflation, working hours, disrupted supply chains and sustainability. – A must-read for all who need to be aware of what lies ahead.

Sincerely yours,

Thomas Wegerich

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Exceeding in parts, falling short in others

Whistleblower Protection Act: What can employers expect?

By Dr. Hagen Koeckeritz, LL.M. oec.int. and Dr. Soeren E. Hennies

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The new draft Hinweisgeberschutzgesetz (HinSchG) is noticeably company-friendly. This applies in particular to the introduction of the possibility of setting up an internal reporting office as a "third party" at another group company, which would then be responsible for several independent companies in the group.

Dr. Hagen Koeckeritz, LL.M. oec. int.
Mayer Brown, Frankfurt/M.
Lawyer, Partner

hkoeckeritz@mayerbrown.com
www.mayerbrown.com

Dr. Soeren E. Hennies
Mayer Brown, Frankfurt/M.
Lawyer, Associate

shennies@mayerbrown.com
www.mayerbrown.com

Introduction

At the European level, Directive (EU) 2019/1937 (the "Directive") requires Member States to implement transformation and protection laws for so-called "whistleblowers" at the national level. The previous government of the Federal Republic of Germany submitted a draft at the end of 2020, which ultimately failed due to differences of opinion within the coalition at the time. However, the Directive had to be implemented by December 17, 2021, which is why the European Commission initiated infringement proceedings against Germany, among others, in January/February of this year.

On April 13, 2022, the new Federal Minister of Justice, Marco Buschmann (Liberal Democratic Party), presented a new draft bill on the Whistleblower Protection Act (Hinweisgeberschutzgesetz - HinSchG). It is expected that the draft bill will pass the legislative process in June and that the new law will enter into force at some point during the fall of 2022. In the following, the content of the draft is examined in more detail, and the draft provisions are high-

lighted in terms of advantages and disadvantages for practice.

Inconsistent scope of application

On the one hand, the scope of application of the new draft HinSchG exceeds the requirements of the Directive; on the other hand, the draft falls short in certain parts.

The personal scope of application is very broad. All whistleblowers from the private and the entire public sector fall within the scope of the draft HinSchG.

As far as the obligation to establish an internal reporting office is concerned, the draft proposal in 2022 has remained unchanged from the requirements of the Directive. (Subsidiary) companies with more than 50 employees must therefore set up an internal reporting office. For companies with between 50 and 249 employees, a grace period for establishment will apply until December, 17 2023. If companies have fewer than 50 employees, the voluntary establishment of an internal reporting office shall only be considered. In such a case, there is no obligation to do so. Some companies in the financial services sector (e.g., financial institutions) are required to establish internal reporting offices regardless of their number of employees.

With regard to the substantive scope of application, the new draft deviates from the draft presented in 2020. On the one hand, the new draft restricts the substantive scope of application. Whereas previously "all violations of regulations subject to criminal penalties and fines" were covered, the imposition of fines is now limited. Now, only those violations are included where the violated regulations serve to protect life, limb, health or the rights of employees or representative bodies. On the other hand, the scope of application greatly exceeds what is required by the Directive. The latter limited its reporting obligations and the protection of whistleblowers to violations of European regulations. However, the draft HinSchG provides for listed areas of law (e.g. public procurement or environmental law) above all that violations of German regulations are also to be reported equally and that whistleblowers are to be protected accordingly.

Changes to the responsible reporting office

Under the draft of the former black-red coalition, the Federal Data Protection Commissioner (Bundesdatenschutzbeauftragter) was to be responsible for external reports on compliance cases. The new draft from 2022 stipulates that the Federal Ministry of Justice itself should now act as the external reporting office.

Since 2021, the European Commission has been opposed to companies solely setting up central reporting offices at group level, which would then be responsible for all group companies with more than 249 employees. Instead, the Commission has been calling for separate reporting offices for each subsidiary. The 2022 draft takes a different approach and now stipulates that the central reporting offices should remain in place within the group, but be set up as "third parties", which should also be responsible for other group companies. In addition, the limitation to affiliates with at least 249 employees has been omitted. Instead, the draft now defines subsidiaries affiliated with companies as "third parties" within the meaning of art. 8 para. 5 sentence 1 of the Directive, which can also undertake the reporting office for affiliated companies "on their behalf".

> "Companies with more than 50 employees must set up an internal reporting office. For companies with between 50 and 249 employees, a grace period for establishment will apply until December, 17 2023. If companies have fewer than 50 employees, the voluntary establishment of an internal reporting office shall only be considered."

Companies are subject to the principle of equivalence between internal and external reporting bodies (Sec. 19 of the draft HinSchG), according to which the employee is free to choose the body to which he or she wishes to report the possible violation. The new draft thus relativizes the previous tendency of the Federal Labor Court to recognize the obligation on the part of employees to first visit the company's internal office. The draft has not taken this explicit decision into account at any point. Likewise, the Directive required the establishment of an internal reporting office with the purpose of being a first point of contact for employees. It was the intention that primarily a report should be made to an internal reporting office and that the whistle-

blower, in the event that his or her report is not followed up, should subsequently consult an external reporting office as well. Although reporting to an external office should be possible without restrictions or hindrances, it should be the last step. On the one hand, it should be possible for employees to report internal violations of regulations without reprisals, and on the other hand, it should be possible for employers to clarify and, if necessary, solve any problems internally with the available resources before they leak out. This mindset and purpose are missing from the new draft bill. Critics of this equalization argue that a valid clarification of the suspicion could have been prioritized with internal knowledge and internal resources without involving the Federal Ministry of Justice as an external body. Since the draft HinSchG does not require any mandatory truthfulness as long as the whistleblower is in good faith, this would not sufficiently strengthen the purpose of the law and the Directive to protect all parties involved in possible compliance cases.

Rather, the current draft of the HinSchG (HinschG-E) protects whistleblowers in the event of negligence of their disclosures, with the consequence that no legal certainty remains for companies. Critics therefore consider the protective purpose of the draft HinSchG-E to be overstretched in favor of the whistleblower.

It is partially possible to share existing resources among group companies, such as for the receipt of reports or for measures on follow-up investigations. For example, companies with up to 249 employees can share resources, while companies with 250 or more employees need their own reporting and investigation bodies. In this regard, the EU Commission has been very strict since 2021. However, the whistleblower himself does not learn anything about shared resources among the companies.

Internal reporting channels can even be operated by external third parties (e.g. a parent company, see page 85 of the draft HinSchG). However, the original responsibility always remains with the company and is never transferred to third parties.

According to the new draft HinSchG, the external reporting office, which is now to be located at the Federal Ministry of Justice instead of at the Federal Data Protection Commissioner, must be detached from the other ministry apparatus. The welcomed purpose of this organizational separation is to simplify access for whistleblowers without having to clarify questions of competence beforehand. However, except where specifically determined by law, there is no right to anonymity at the external reporting office.

Protection of the whistleblower

The most important provisions of the new draft HinSchG revolve around the protection of whistleblowers themselves, which up to now is regulated only inconsistently in Germany. Whistleblowers in companies must not be subjected to reprisals or disadvantages as a result of their reports, and threats or attempts to do so are also prohibited. This includes, for example, refusal of training or promotion, or unfavorable transfers, warnings and bullying.

In order to strengthen the position of whistleblowers and to ensure that the prohibitions of disadvantages and discrimination are not just toothless tigers, Section 36 para. 2 of the draft HinSchG contains a reversal of the burden of proof, providing great benefits for whistleblowers. The whistleblower must prove that he or she has experienced a disadvantage. However, companies must then demonstrate and, if necessary, prove that the personnel measures in question are not related to reports of possible breaches of European or national regulations. Nevertheless, companies are not entirely without protection. The obligation to pay damages exists on both sides, should on the one hand the whistleblowers experience disadvantages due to their reports, or on the other hand the companies are wrongly reported due to false information. All viable reports therefore require actual evidence, while vague assumptions are not sufficient.

In all cases, the identities of the whistleblower and of third parties involved are to be protected. However, anonymity is not granted in order to protect against false suspicions. In this respect, NGOs and experts have already criticized the old draft in 2020 for not deriving from the Directive the obligation for companies to accept anonymous tips. The failure to use the explicit exemption in the Directive was based on the assumption that this would lead to denunciations. However, the critics have stated that it is precisely the anonymity of tips that protects the whistleblowers as much as possible and that studies on this argument could not prove an increased willingness to denounce.

Consequences for reported breaches

The catalog under Section 40 of the draft HinSchG contains sanctions to protect the whistleblower as well as the reporting process. A fine of up to €100,000 may be imposed if a report is obstructed or the whistleblower is subjected to reprisals. The attempt to carry out reprisals or the intentional or negligent violation of the confidentiality of the identity of the whistleblower and of persons concerned is also punishable. Other violations, such as failure to establish internal reporting offices, are punishable by fines of up to €20,000. Due to the reference in Section 40 of the draft HinSchG to section 30 para. 2 sentence 3 German Law on Regulatory Offences (Ordnungswidrigkeitengesetz – OwiG), the fine can amount to up to €1 million for companies due to the tenfold increase.

Thus, the fines are essentially unchanged compared to the old draft from 2020. Criticism nevertheless expresses that according to the very broad regulations almost everything can be punished with very sensitive fines resulting in the fact that the protective purpose of the HinSchG is strongly exhausted and is not always attained by the sanctions.

This is also reflected in the fact that companies are justifiably placed in a weaker position compared to whistleblowers due to the aforementioned reversal of the burden of proof. On the other hand, the draft HinSchG does not change the standard of liability for negligent or deliberate misinformation by whistleblowers themselves. The Directive may have been ill-conceived in this regard, because the leverage for gross negligence and intentional misinformation alone seems unnecessarily generous, considering the possible personal and corporate consequences if whistleblowers do not have to fear any consequences for their negligent expression of suspicions of violations of regulations so long as the level of gross negligence is not reached). This is despite the fact that the protective purpose of the Directive extends to all parties involved, not just whistleblowers.

Comment

Due to the considerable threat of high fines, companies should assess whether they already meet the requirements of the new HinSchG before it enters into force, in particular regarding the establishment of an internal reporting channel. Especially the extension of the scope of application to also include violations of national regulations holds the potential for frequent whistleblowing levies. If the reporting channels are not fully developed, companies risk attracting the unnecessary attention of the regulatory authorities.

The responsibilities of the internal and external fine channels are clearly regulated, much to the advantage of day-to-day practice. Both the documentation and the handling of confidentiality of personal data should nevertheless be taken seriously and be ensured.

To the advantage of companies, the draft HinSchG does not contain an obligation to accept anonymous reports. Even if the confidentiality of the identity of the whistleblower is strictly protected, there will be an inhibition threshold in the future to actually submit reports to the company. In the end, however, it makes no difference whether anonymous or identifiable reports are submitted, as the known identity must remain strictly confidential and is subject to severe fines. Therefore, companies are required to decide for themselves whether they want to give their employees the opportunity to make anonymous reports.

Overall, the new draft HinSchG is noticeably company-friendly. This applies in particular to the introduction of the possibility of setting up an internal reporting office as a "third party" at another group company, which would then be responsible for several independent companies in the group. Although the original responsibility remains with the subsidiaries even if the parent company's central reporting office takes over the processing of reports for them, this is primarily of administrative advantage for the companies. The argument in favor of internal reporting offices, namely that (subsidiary) companies should first be able to use internal instruments and internal knowledge to follow up on tips before they reach external reporting offices, fades if it is then possible for companies to have internal reporting offices in other group companies. From the perspective of the whistleblower, the reporting office will presumably still be outsourced and thus appear external.

This definition of central reporting channels as "third parties" is an interpretation which the European Commission has not previously specified or shared. It remains to be seen whether the new draft for national design is in accordance with European law and does not end up before the European Court of Justice. ←

Adjusting HR practices without delay

The new Nachweisgesetz leads to a great deal of work for employers

By Dr. Erik Schmid and Peter Weck

On June 23, 2022 the German Bundestag adopted a package of amendments to implement the EU Working Conditions Directive. The seemingly mundane amendments to the German Act on the Notification of Conditions Governing an Employment Relationship (Nachweisgesetz - NachwG) and other laws significantly extend the employer's obligation to provide (prospective) employees with information about key aspects of the employment relationship. The package establishes minimum working conditions concerning the maximum duration of any probationary period, parallel employment, minimum predictability of work, requests for transition to a different form of employment, as well as mandatory training. Crucially, while the Act previously played an insignificant role, fines may now be imposed for failure to comply.

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From August 1, 2022, violations of the Nachweisgesetz (NachwG) will be penalized. Violating the obligation to record the essential contract terms in writing or failure to comply with the time periods is an administrative offence which may result in a fine of up to €2,000.

The changes to the NachwG

The key changes to the NachwG apply from August 1, 2022. Employers must now provide (prospective) employees with information on the following topics in the employment contract or a separate (signed) document:

- The end date, if agreed, for any fixed-term employment relationships;
- In the case of remote work, the agreement must specify that employees are free to choose their place of work;
- The duration of any agreed probationary period;
- The components and amount of remuneration (basic remuneration, any premiums, special payments, allowances, bonuses etc.), listed separately;
- In addition to agreed working hours, information on agreed breaks and rest periods. In the case of shift work, the shift system, the shift schedule and the prerequisites for a shift change must also be indicated;
- For on-demand work, the agreement regarding on-demand work, the minimum number of paid working hours, the time period set for the performance of the working hours as well as the respective notice period for the employer;

Dr. Erik Schmid
ADVANT Beiten, Munich
Lawyer, Partner

erik.schmid@advant-beiten.com
www.advant-beiten.com

Peter Weck
ADVANT Beiten, Dusseldorf
Lawyer, Partner

peter.weck@advant-beiten.com
www.advant-beiten.com

- Whether there is a possibility to order overtime hours as well as their requirements;
- Any entitlements to training courses provided by the employer;
- In case of a commitment under a company pension scheme, the name and address of the pension provider unless the pension provider is obliged to provide this information; and
- The procedure to be complied with in case of a termination of the employment agreement, including at least the written form requirement for termination, the notice periods as well as the period for filing a complaint for unfair or wrongful dismissal.

The written form requirement will be fulfilled either if the employment agreement is concluded in writing, and a signed original is presented to the employee, or if the essential contractual terms are printed, signed by a representative of the employer and provided to the employee. Employees should be asked to counter sign such documents as proof of their consent to the conditions.

Shorter periods to provide written information

Until now, the NachwG gave employers one month from the commencement of the employment relationship to specify the essential working conditions in writing. In the case of new employment relationships starting from August 1, 2022, employers will have to inform employees in writing about the details of the contractual parties, the remuneration as well as the working hours (including breaks and rest periods) at the latest on the first day of work. Employers will have one month to inform the employee about the duration of annual leave, any entitlement to training courses, the details of the pension provider, the procedure for giving notice as well as to make reference to any collective agreements; all other information must be provided to the employee within 7 days.

> "The new NachwG makes it necessary to name any external pension providers, as well as the individual amounts of the benefit and its maturities, based on commitments."

This artificially staggered timing is time-consuming and confusing. With the exception of those provisions which should be set out in a separate agreement for legal reasons, e.g., a post-contractual non-competition obligation or annual target agreement, all regulations under the NachwG should be included in one employment agreement provided at the latest on the first day of work.

Existing agreements may require adjustment. Existing employees may request a copy of the essential working conditions in writing. This record must be provided at the latest 7 days after the request.

If many employees exercise their right to receive a record of the essential working condition, companies may face extremely tight deadlines. Employment agreement templates should therefore be reviewed professionally and model wording should be drafted for conceivable scenarios without delay.

Consequences in case of violations of the NachwG

Until now, merely had the burden of proof in proceedings before the labor courts with regard to the essential contractual terms. From August 1, 2022, violations of the NachwG will be penalized. Violating the obligation to record the essential contract terms in writing or failure to comply with the time periods is an administrative offence which may result in a fine of up to €2,000.

Impact on company pension schemes

While company pensions were already considered an essential contract term, corresponding records rarely considered this aspect adequately. The new provisions require considerably more detailed information.

The new NachwG makes it necessary to name any external pension providers, as well as the individual amounts of the benefit and its maturities, based on commitments. However, it is unclear how to comply where the benefit amounts (keywords: purely defined contribution commitments and contribution-based benefit commitment) and commencement of contribution have not been determined yet.

Where the occupational pension scheme is set forth in collective, works or service agreements, a reference to the collective labor law regulation will suffice.

Need for action in other areas

The package also introduced changes to other laws.

- Vocational Training Act (BBiG)

The written record of a training contract must now include the name and address of the contracting parties and, if the trainees are minors, the name and address of their legal representatives. In addition, the location of the training site, any training measures to take place outside of the training site, the amount and composition of remuneration, as well as the remuneration and compensation for overtime must be documented.

- Act on Temporary Employment (AÜG), the Trade, the Commerce and Industry Regulation Act (GewO)

Employers must provide temporary agency workers and temporary employees, who express their desire in writing to take over or continue the employment relationship as an unlimited employment relationship, with a reasoned response in text form within one month of receipt of this notification.

The GewO now provides that employees may not be charged for training if the employer is required by law or collective bargaining agreement to offer such training. Training courses must also be held during regular working hours.

- Part-Time Work and Fixed-Term Employment Act (TzBfG)

An agreed probationary period in a fixed-term employment contract must be proportionate to the expected duration of the fixed-term and the nature of the activity. The legislator does not provide guidance on what is considered proportionate.

Conclusion

Employers have had little time to prepare. Existing standard employment agreements that do not comply with the new provisions must be amended as a priority.

Whether the implementation of the Working Conditions Directive into German law is in line with the spirit of the Directive on transparent and predictable working conditions in the European Union is questionable. Employment agreements will become even more comprehensive and, from the employee's point of view, even more illegible and difficult to understand. However, this does not change the fact that employers in Germany must now revise model and existing employment agreements and adjust their HR practices for compliance without delay. ←

The General Approval is intended to offer certain advantages to employees who are actually affected by the conflict. Russian employees who do not have their habitual residence in Russia and therefore do not have to or did not have to transfer their residence due to the present conflict are therefore excluded from this regulation.

It's all about the "General Approval"

Facilitated labor market access for Russian professionals in the context of the Russia-Ukraine conflict

By Ruben Fiedler

Ruben Fiedler
Fragomen, Frankfurt/M.
Lawyer, Associate

rfiedler@fragomen.com
www.fragomen.com

As the conflict between Russia and Ukraine progresses, more and more internationally active companies are facing the question of labor market access in Germany for Russian skilled workers who are currently residing in Russia. In this context, German immigration authorities, particularly the Federal Employment Agency have taken measures which can facilitate the process of labor market access for internationally active companies. An overview.

In coordination with the Federal Ministries, the Federal Employment Agency has issued a so-called General Approval ("Globalzustimmung"). This General Approval applies if certain criteria are being met. This approach of the Federal Employment Agency has a strong impact on the current legal Visa processes of internationally operating companies that seek to relocate their businesses and employees to Germany. The purpose of the regulation is to enable international companies and their skilled workers working in Russia to relocate from Russia to Germany in a facilitated manner. The regulation creates faster processing of visa applications and reduces the workload of employees and employers as well as the German authorities.

Residency requirement

The Federal Employment Agency's General Approval applies to individuals who have their residence or habitual abode, i.e. their center of life, in Russia or who have had to relocate abroad due to the ongoing Ukraine conflict.

The General Approval is intended to offer certain advantages to employees who are actually affected by the conflict. Russian employees who do not have their habitual residence in Russia and therefore do not have to or did not have to transfer their residence due to the present conflict are therefore excluded from this regulation.

Ongoing employment

At the time of applying for a visa, the employee must have already been employed by a company with international operations in Russia. The purpose of the General Approval is therefore to attract skilled workers who are already employed by an internationally operating company out of Russia and to create simplified conditions for this. However, global consent does not apply to employees who are newly joining the company. In this case, a normal pre-approval or approval procedure must be initiated with the Federal Employment Agency.

On the legal basis of the General Approval, therefore, either employment must be carried out at a Russian location of a German or international company at the time of the visa application, which is to be carried on in Germany, or the same employment must have been carried out at a Russian location on February 24, 2022 and has not been terminated.

It therefore will depend on whether the employment relationship as a cohesive part still exists or if it does not exist. If it no longer exists or does not yet exist, the application is reviewed under normal circumstances and, if necessary, with the involvement of other German authorities.

Continued employment in German branch of the company

Likewise, the employment of the person must be a continuation of employment. This means that in individual cases it will have to be determined whether the application for a corresponding visa is for continued employment in a German branch or location of the same company of the employer, or whether the application for the visa is on the basis of new employment.

In this sense, it is therefore crucial whether – even in the case of an already existing employment – there is an interruption of the employment relationship or not. An interruption of the existing employment relationship can therefore also result in the prerequisites for general approval no longer being met.

Type of residence permit

Furthermore, the Federal Employment Agency's General Approval does not apply to all residence permits, but only when applying for certain visas. The Global approval includes the EU Blue Card for shortage occupations, residence permits for skilled workers and residence permits for employees with distinctive practical professional knowledge in information and communication technology or with company-specific special knowledge. In con-

trast, students, interns and applications for residence permits for in-company training and further training are not covered by the General Approval.

Salary

The employee's salary must meet certain minimum requirements. Thus, for Global Approval, the salary must amount to at least €43,992 gross per year or €50,760 gross per year in the case of employees with distinct professional practical knowledge. The minimum salary threshold for the EU Blue Card must of course still be substantiated in individual cases.

Legal consequence and actual impact on practice

Provided that all requirements are met, the approval of the Federal Employment Agency will be based on the specific General Approval. In practice, this will result in a swifter procedure and simplified documentation requirements in individual cases. The embassy and consulates in Russia have adapted these facilitated processes. Depending on the availability of visa appointments, fast and competent processing, even of a high number of visa applications, can be handled. This is extremely beneficial both for internationally operating companies, which are relocating their business out of Russia and the employees. In addition, however, the General Approval also relieves the workload of the Federal Employment Agency and efficiently facilitates the processing of visa applications at the embassy and consulates. Companies that want to move large numbers of staff abroad are thus enabled to effectively enforce the same.

The global consent is currently valid until September 30, 2022.

Political framework and perspectives

It therefore remains to be observed how the political parties and also the German authorities will further proceed with the Global Approval. The Global Approval is currently valid until September 30, 2022. Political parties are presently proposing to restrict the issuance of visas to Russian citizens in order to maintain the sanctions policy against Russia. This should apply especially to Russian tourist visas. By now, countries such as Estonia, Latvia, Lithuania and the Czech Republic have already stopped issuing Schengen Visas to citizens of Russia. How this will affect the issuance of visas for work purposes and a possible extension of the Global Approval remains to be seen. ←

In a nutshell: Everything leading labor lawyers need to have in mind

From practice for practice

By Sebastian Mohr

In our Inhouse Top 5 section of the LaborLawMagazine, we are presenting all the important and practice-oriented topics that are high on the agenda of lead-ing labor lawyers in Germany and abroad. Since 2015, the core statement of this magazine has been: "From lawyers for companies." In implementing this journalistic claim, it is helpful for all parties involved if external consultants actually know which questions move the client inhouse. With the Inhouse Top 5, we would like to contribute further to improving transparency in the German legal market in the future, on both the demand and supply side, with companies, law firms, auditing firms and service providers. Inhouse Top 5 supplements the practice-oriented reporting introduced in the LaborLawMagazine.And because time is a factor (and, of course, time is money), we tried to make our reporting as succinct as possible.

In this issue, our advisory board member Sebastian Mohr points out his Top 5 topics in Labor Law:

LaborLawMagazine – Inhouse Top 5

1. **Cross-border mobile working**
   Since the pandemic, there has been a desire among many employees to continue mobile working on a daily or more frequent basis than before. To this end, companies have implemented regulations that accommodate these wishes and enable mobile or hybrid working. However, it becomes legally difficult if employees wish to work from abroad. These wishes are increasingly being addressed, but – depending on the country – complex tax, labor law and social security issues have to be clarified.

2. **Influence of inflation on social dialogue**
   In many countries around the world, the rate of inflation has risen sharply in recent months. This has led to requests from unions and employee representatives for salary increases or other compensation. It is questionable to what extent the resulting cost increases can be passed on to customers. In any case, this is an issue that HR departments – and not least the labor relations officers – must address.

Sebastian Mohr
LEONI Bordnetz-Systeme GmbH, Kitzingen
Head of Global HR Governance, Vice President, Global HR Governance
s.mohr@leoni.com
www.leoni.com

③ Working hours – mobile working

While mobile working is relatively manageable in terms of its legal structure, the same does not apply to working time regulations in many countries – especially in many countries of the European Union. Employees often wish to take a break in the afternoon, e.g. for family matters, in order to continue working in the evening. However, this is sometimes contradicted by regulations on rest periods, which provide for an uninterrupted rest period of a certain length after the end of the daily working time. As a result, the period between the end of work and the start of work on the next morning may be too short.

④ Working time – disrupted supply chains

Due to various factors, supply chains for many products are disrupted. This can lead to a significant distribution of work volume. Days with little work alternate with days on which, due to available parts, full production must be carried out in order to process existing orders. This is very challenging both in terms of planning and for the partners of the social dialog. Flexible shift models have to be developed to meet both the needs of the company and to protect employees from overwork.

⑤ Sustainability

Sustainability is also playing an increasingly important role in the design of employment conditions, at the latest since the UN's Sustainable Development Goals 2016 or the EU CSR Directive. In the area of employment conditions, this involves a large number of elements that contribute in particular to a stronger bond between employees and the company to ensure fair, secure and future-oriented cooperation. On the one hand, there is the strengthening of employee autonomy through, for example, new freedoms in determining the type, scope or duration of work. Self-organized forms of work can also contribute to this. In addition, wages and salaries that guarantee employees and their families an adequate standard of living are also part of an element of sustainability. Last but not least, good social dialog is a crucial pillar of the design. ←

In a nutshell: Top trends in the field of tech-enabled legal services

By professionals for professionals

By Nicolas Pezzarossa

Nicolas Pezzarossa
Epiq Systems Deutschland GmbH, Frankfurt/M.
Sales Director
nicolas.pezzarossa@epiqglobal.com
www.epicglobal.com

As global player in the field of tech-enabled legal services, in particular eDiscovery, Legal Operations, Information Governance & Compliance, we see, from an international perspective, several trends with growing relevance for the legal space in Germany:

1 **Trend 1: Legal Operations as a function is maturing**
Far more legal departments now have dedicated Legal Operations staff who are working at optimizing how people, processes and tech are deployed to improve cost-effectiveness and the efficiency of legal services. To this end, many more are now automating processes to get the right work into the right hands, integrating applications, and leveraging data to continually improve performance.

2 **Trend 2: Growing demand for tools to support data driven decision making in the legal profession**
Across corporations and law firms, we see a growing need for and adoption of tools to support data-driven decision-making processes, business intelligence tools and analytics to report on and improve their efficiency, costs and talent acquisition/retention, often driving in organizations in Germany the adoption of tools largely in use in the US.

3 **Trend 3: Continued trend of migration to the cloud and increase in relevant data volumes**
The trend of moving data to the cloud has reached companies in German-speaking countries, as has the growing corporate use of social media platforms and the introduction of tools such as Teams, which often poses a major challenge for the GDPR-compliant data management, processing and findability of data when needed, for example in internal and regulatory investigations.

4 **Trend 4: Increased interest in and adoption of easy-to-use software applications supporting the legal function**
The rise of web-based and easy-to-use software solutions for inhouse usage to support digitization continues, now opening up to a broader scope of processes in the legal departments, including low/no-code automation tools for intake and triage,

bots for FAQs, and robotic process automation (RPA) for repetitive tasks.

⑤ **Trend 5: The rise of Artificial Intelligence (AI) and advanced analytics in the legal profession**

Accelerated by large litigation matters & investigation projects, in particular in antitrust-related cases, the need for advanced solutions such as AI and advanced analytics to reduce the amount of data and improve the findability of relevant information continues to grow. Also in Contract Management – both pre- and post-signature – the solutions strive to make sense of unstructured data and support informed decisions on matters such as feasible termination, notice requirements, implications of a new regulation, or the applicability of force majeure. Contract analytics can also help with standardizing contracts and pinpointing outlier clauses that could affect negotiations or increase the risk of non-compliance. ←

Strategic Partners

Markus Künzel
ADVANT Beiten,
Ganghoferstraße 33,
80339 Munich
Partner

markus.kuenzel@bblaw.com
www.bblaw.com

Dr. Axel Boysen
Fragomen Global LLP,
Neue Mainzer Straße 75,
60311 Frankfurt/M.
Partner

aboysen@fragomen.com
www.fragomen.com

Dr. Guido Zeppenfeld
Mayer Brown LLP,
Friedrich-Ebert-Anlage
35-37,
60327 Frankfurt/M.
Managing Partner

gzeppenfeld@mayerbrown.com
www.mayerbrown.com

Cooperation Partners

Julia Zange
ACC Europe,
c/o Fresenius Medical Care
AG & Co. KGaA,
Else Kröner Straße 1,
61352 Bad Homburg

julia.zange@fmc-ag.com
www.acc.com/chapters-networks/
chapters/europe

Christian Vetter
Bundesverband der
Personalmanager (BPM),
Oberwallstraße 24,
10117 Berlin

arbeitsrecht@bpm.de
www.bpm.de

Strategic Partners

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ACC Association of Corporate Counsel EUROPE

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Karin Gangl
Phone: +49 69 7591 2217
E-mail: karin.gangl@@faz-bm.de

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