

LABOUR LAW

With around 65 specialised lawyers, BEITEN BURKHARDT has one of the largest labour and employment law teams in Germany. Our experts are also ready to assist you internationally - in China and Russia.

We provide legal advice to companies from all sectors on all areas of labour law. In Germany, we advise companies on on-going individual labour law matters (“from the beginning until the end of the employment relationship”), on works constitution law and on collective bargaining issues. We are proven experts for restructuring measures and have considerable know-how in transaction-related labour law. We involve lawyers from other areas of law, as necessary, to develop integrated solutions.

Individual labour law – from drafting contracts to their termination

Individual labour law – the legal relationship between an employer and each individual employee – is a significant part of our work. We advise from the initiation of the employment process to the end of an employment relationship. Some examples:

- Drafting employment agreements with employees, management and other employees who are not covered by a collective bargaining agreement, as well as service agreements with board members and executive directors
- Part-time and limited term contracts, parental leave and occupational health and safety law
- Working time law, including the development of new working time models
- Leasing of employees
- Developing variable remuneration models
- Anti-discrimination law
- Developing and implementing compliance guidelines
- Employment law in the case of the transfer of undertakings
- Providing tactical and legal advice on the mutual termination of employment relationships through cancellation and settlement agreements
- Advising on the law against unfair dismissal, such as preparing and executing the notice of termination of an employment contract and defending against actions for wrongful or unfair dismissal.

Works constitution law

Where works councils represent employees within the group, all issues related to works constitution law - from individual issues to large projects – will be a focus of our work. We have extensive expertise in this key area. Our work includes:

- Advising companies on cooperation with works councils, joint works councils and group works councils
- Preparing hearings and other correspondence with works councils
- Negotiating works agreements (e.g. working time, flexible working time, introduction of digital personnel files, electronic data processing)
- Negotiating a reconciliation of interests or social plan as part of operational changes
- Negotiating guidelines for the selection of personnel
- Advising on all issues related to the codetermination of employees in supervisory boards
- Providing advice on European employee representation (European works council, codetermination of employees in an SE)
- Providing comprehensive representation in litigation at all instances, including the enforcement of or defence against interim injunctions

Collective bargaining law

Collective bargaining law, including industrial action law, is a core element of our work in this field. We negotiate collective bargaining agreements on all possible issues, especially remuneration and framework agreements. In the case of strike action, we devise the defence strategy and take the necessary steps to protect the interests of the company. Our activities include, in particular:

- Providing a defence against industrial action and advising during on-going action
- Negotiating all types of collective agreements (company or restructuring collective bargaining agreements, etc.)
- Developing and implementing collective bargaining strategies
- Preparing and negotiating complex models to amend or replace collective bargaining agreements
- Work alliance agreements (Bündnisse für Arbeit)
- Collective social plans

Restructuring / redundancies

Circumstances can force companies to reduce costs and optimise internal processes. Our labour law team provides comprehensive support when analysing the existing situation and develops specific strategies for action. In addition, we assist with the implementation of any downsizing measures or the cessation of operations. We work closely with communications experts and oversee public relations work and internal communications when preparing and executing such projects.

CORE AREAS

- Preparing restructuring measures
- Negotiating the reconciliation of interests and social plans with existing works councils, even in conciliation procedures
- Preparing hearing letters for works councils in preparation for dismissals
- Termination of employment contracts as part of mass dismissals
- Structuring processes for extensive exit interviews
- Preparing and implementing the transfer of undertakings
- Outsourcing of companies and divisions
- Labour law due diligence in connection with the acquisition of companies
- Introducing collective framework conditions for the promotion of health or a good work-life balance, or for long-term care for a relative

Transactional labour law

We oversee all aspects of M&A transactions, including corporate acquisitions, mergers and joint ventures, from a labour law perspective and assist with strategic planning, preparation and structuring, through to the implementation of the transaction and workforce integration.

This work includes:

- Drafting the labour law provisions of transaction agreements, e.g. for company acquisitions, mergers and joint ventures
- Conducting labour law due diligence
- Assisting with pre-transaction preparations, such as optimising the framework conditions of employment law
- Preparing and implementing the transfer of undertakings: separation in the case of a transfer of undertakings / functional successor, drafting the information notice, designing transfer agreements
- Providing advice on alternatives to the transfer of undertakings
- Negotiating with works councils and unions
- Post-merger integration: aligning employment conditions (collective agreements, works agreements, employment contracts)
- Managing all labour law aspects of international acquisitions

Insolvency labour law

We provide labour law advice and support to insolvency administrators during the restructuring and winding up of companies, but also to investors looking to acquire companies in insolvency. The following are core areas of our work:

- Developing and negotiating the reconciliation of interests, insolvency social plans, collective agreements, works agreements, etc.
- Advising on and implementing measures for the reduction of employee numbers (mass redundancy notifications, social selections, works council procedures, application procedures before the integration office or trade supervisory authority, notices of termination, garden leave, etc.)
- Advising on all aspects of outplacement/placement, from design to implementation
- Transfer companies: designing and negotiating tri-party transfer agreements and works agreements
- Assisting potential investors with labour law issues and advising the insolvency administrator (preparing and performing labour law due diligence)
- Helping shape acquisition concepts for the insolvency administrator to use as a basis for restructuring measures, negotiating and drafting the labour law aspects of the sale and purchase agreement, etc.

International labour law

Globalisation multiplies the challenges facing our clients. International processing of orders, cross-border workforce deployment, and international projects continue to increase. The forms are multi-faceted. The difficulty lies in maintaining the necessary overview of the different areas that are affected. Cross-border workforce deployment, for example, raises labour law, social security, tax and possibly even immigration law issues. We support our clients in all of these aspects. Our international network of proven labour, social security and tax law specialists allows us to offer our clients the best advisory services within short periods of time, even internationally.

Our services include:

INTERNATIONAL WORKFORCE DEPLOYMENT

- Labour, social security and tax law issues arising from cross-border workforce deployment

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- Generating standard documents (secondment agreements, corporate guidelines, etc.) and local employment agreements
- Advising on and handling the strict administrative obligations in accordance with the law of the relevant destination country: this includes in particular the notification and registration requirements for secondment within the EU
- Supervising the secondment process (from implementing preliminary discussions to the execution)
- Providing support with the procurement of residency and work permits in Germany and abroad

INTERNATIONAL PROJECT MANAGEMENT

- Labour law management of international acquisitions
- Cross-border relocation and transfer of operations
- Cross-border posting of workers
- International joint ventures
- Cessation of operations
- Providing comprehensive advice as part of outsourcing measures
- Labour law due diligence in connection with the acquisition of undertakings

Occupational pension schemes

Our labour law team advises clients on all aspects of occupational pension schemes. Primarily located in our Düsseldorf office, our pension experts provide fundamental legal support on all aspects of occupational pensions law, including representing clients in court.

EXAMPLES

- Restructuring occupational pension schemes to optimise the balance sheet
- Drafting and negotiating occupational pension rules
- Establishing and restructuring (shareholder) executive director pension schemes
- Lifelong flex-time accounts
- Due diligence as part of corporate transactions

Employee data protection

Our labour law team advises clients on all aspects of employee data protection. This includes:

- Advising on all issues related to the protection of employee data under German and European law
- Drafting, adapting and negotiating works agreements and corporate guidelines concerning data protection
- Providing advice on data protection law issues as part of labour law due diligence
- The protection of health data
- Advising on the use of social media at work, e.g. generating social media guidelines

Russia

International and Russian companies profit from the many years of experience of our labour law practice. We assist with Russian and international labour law advice, in particular in relation to start-ups, restructuring and plant closures, and the drafting of employment contracts.

AT A GLANCE:

- Drafting of employment agreements, work regulations and internal corporate documents
- Assisting with personnel measures, in particular the termination of employment contracts
- Secondment of employees to Russia
- Effective structures to run personnel issues
- Immigration law and obtaining work permits and working visas
- Collective labour law and trade union rights
- Out-of-court settlements of labour law disputes
- Staff data protection
- Establishing compensation programmes for management and employees
- Labour law audits

China

From our Beijing office, we assist international groups and medium-sized companies with all issues that arise in connection with the employment of staff in China, whether in daily business, in the sale and acquisition of companies or with the reorganisation and restructuring of a company.

We draft employment contracts, clarify which individual or works agreements could be affected, how individual or mass redundancies can be carried out and regulate all issues with a foreign element.

What sets us apart is our experience in numerous sectors: in the automotive, construction, electronics and consumer goods indus-

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tries, in trade and in mechanical and plant engineering, with media, pharmaceutical and chemical companies and with processing companies in the agriculture sector.

AT A GLANCE:

- Employment contracts and works agreements
- Design of discounts and benefits
- Compliance and due diligence
- Social security
- Non-compete and confidentiality clauses for employees
- Regulation of expat and visa issues
- International secondments
- Redundancies
- Arbitration and litigation (the latter in cooperation with Chinese law firms)