



# NEWSLETTER



SAVOIR FAIRE

PROPOSED BY **DS GRANER LAWYERS AVOCATS**

In our newsletter we would like to inform you regularly about news and general information in the field of law and business in Europe and Germany in particular. We hope you find this useful and wish an enjoyable read!

## NEWS RELATED TO THE CORONAVIRUS PANDEMIC (COVID-19) – 2021-02-05

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### Recent developments and measures

Due to further high Corona infection numbers and new Corona mutations, a **hard lockdown** applies throughout Germany at least **until February 14, 2021**.

In particular, retail, public institutions and restaurants are closed. **Nighttime curfew restrictions** apply in parts of the country. In so-called **hotspot areas**, the movement radius of residents is restricted to 15 km around the place of residence.

**Entry restrictions into Germany** apply to states with high infection rates and states where corona mutations occur.

As of today, **2.8 million people** in Germany have been **vaccinated against the Corona virus**. This corresponds to about **2,5% of the population**. Approximately **756.000 people** have already received their second vaccination and **are considered immune**.

#### (1) EU measures

The EU Commission has already granted conditional marketing authorization to **Biontech/Pfizer's, Moderna's and AstraZeneca's vaccine**.

The EU Commission is proposing **stricter and uniform travel restrictions** within the EU due to new virus mutations. According to this proposal, the EU's borders will **remain open in principle** for commuters and goods traffic, but anyone entering from risk areas will have to present a **negative test** upon entry and go into **quarantine**.

EU Commission secures **new potential vaccine** from pharmaceutical company **Valneva**. The planned contract would allow all EU member states to purchase a **total of 30 million doses** for the time being - with the option of an **additional 30 million doses**. The Commission is also proposing that EU countries purchase an additional **200 million doses of COVID-19 vaccine produced by BioNTech and Pfizer** - with an option for an additional **100 million**.

More and more European countries, **including Germany and the Netherlands**, are adopting the storage of medical **rescEU stockpiles**. This stockpile of vital equipment is used in medical emergencies throughout the EU, for example when **national healthcare systems are overloaded due to corona patients**.

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## (2) Governmental measures in Germany

Due to the **hard lockdown**, the existing measures for companies were **extended and expanded**:

- Closed companies with annual sales of **EUR 500 million** can receive up to **EUR 1.5 million per month** in aid, depending on the amount of the sale loss. This aid does not have to be repaid.
- Until **June 30, 2021**, companies affected by the pandemic will have easier access to loans with low interest rates.

- Depending on the number of employees, companies can take out up to **EUR 800,000** in **so-called quick loans**. These are provided without collateral and without much bureaucracy.

- The state and banks secure the liquidity of companies with **guarantees**.

- To avoid Corona-related layoffs, they receive **60% of their net salary** from the state when they are on **short-time work**.

- **EUR 600 billion** in federal guarantees are available to provide credit protection for large companies.

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## FURTHER NEWS RELATED TO TRADE AND LAW

### ● *EU Commission proposes new competition law instruments*

The EU Commission is planning new rules to protect against **subsidies from third countries**. In particular, it wants to prevent state-supported companies from the **PRC** from taking over European companies. Specifically, the following is proposed:

- Conduct merger control on corporate acquisitions that are primarily funded by **third-state subsidies**.
- Requiring companies to declare whether they have received aid **from foreign governments** in recent years when bidding for a public contract.
- Checking whether the activity of state-subsidized companies, distorts competition.

In the event of a violation, the Commission can **refuse takeovers** and **siphon off subsidies**.

### ● *EU and PRC agree on investment treaty*

The PRC is committed to providing European companies with **better access to key economic sectors**.

Specifically, the following points were agreed upon:

- In the manufacturing and services sectors, the PRC can **no longer prohibit market access** for European companies.
- Forced technology transfers for European companies, **such as a joint ventures obligation**, will be prohibited.
- The PRC obliges to **disclose state subsidies** to the EU.
- The PRC commits itself to better labor protection and a ban on forced labor.

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### ● **EU and United Kingdom reach agreement on Brexit trade deal**

Since **January 1<sup>st</sup> 2021**, the United Kingdom has finally left the customs territory and the single market of the European Union.

The new **TCA free trade agreement** provides for the following arrangements:

- The movement of goods between the EU and the United Kingdom remains **duty-free and quota-free** if the goods **originate there**. However, a so-called declaration of origin must be issued for this purpose.
- **Customs formalities**, such as registration with the customs authorities, must be observed in the movement of goods.
- Disputes relating to the movement of goods are **decided by arbitration courts and not by the EU courts**.

### ● **The EU association action is coming!**

The EU has decided that **consumer associations** will in future be able to sue for **consumers' rights** in the event of breaches of regulations in the areas of financial services, travel and data protection. The promise is to further strengthen consumer protection.

### ● **EU Commission wants to regulate Internet corporate groups more closely**

To ensure fair competition, the EU Commission wants to **regulate the market power** of online giants such as Google and Amazon more closely. In order to better **protect European companies from takeovers**, these corporations will in future have to notify the EU Commission of such plans in good time.

In the event of violations, the companies could face fines in the billions - in the worst case, they could even be broken up.

### ● **EU Commission examines new anti-dumping measures against PRC**

- (1) The EU Commission is investigating whether existing anti-dumping measures on foil and aluminum **originating in the PRC** are being circumvented, meaning that new rules will have to be adopted.
- (2) An investigation has also been initiated into whether further anti-dumping duties need to be imposed on fiber optic cables and iron and steel fasteners **originating in the PRC**.

### ● **Covid 19 pandemic may constitute change in business basis of lease agreements**

In German private law, a new statutory presumption has been included in **Art. 240 § 7 EBGB**. Accordingly, **restrictions and closures as a result of the Covid 19** pandemic may constitute a serious change in the basis of a **lease**. For example, a **foreign commercial tenant** can demand and enforce in court that its landlord **significantly reduce the amount of rent** in the event of a closure.

### ● **ICC publishes new arbitration rules**

The new version of the ICC Arbitration Rules has entered into force on **January 1, 2021** and includes some interesting innovations. Important changes are:

- Parties must disclose if they use **third-party funding**.
- In investment arbitration, **complete neutrality** of the arbitral tribunal is ensured by the fact that no arbitrator may have **the same nationality as that of a party**.

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- Arbitration court may decide that the oral hearing will be **held by video conference**.
- The amount in dispute for the expedited procedure is increased from **two to three million US dollars**.

### Recent major insolvency proceedings

These companies with a turnover of **more than 50M €** filed for insolvency:

- Adler Modemärkte AG
- arko GmbH
- E.I.S. Aircraft Products and Services GmbH
- Hussel GmbH
- J. Eilles GmbH & Co. KG
- Maschinenfabrik Möllers GmbH
- Spiele Max GmbH

- Star Inn Hotels Deutschland GmbH
- SUNDAIR GmbH
- Tadano Demag GmbH
- Tadano Faun GmbH

However, the number of insolvencies is still significantly lower than before the corona crisis. Though, this effect might be caused by the suspension of the obligation to file for insolvency within three weeks after the commencement of insolvency or over-indebtedness (art. 15a of the German Insolvency Code) **until April 30<sup>th</sup> 2021**. However, this **only applies to companies that have not yet received the requested Corona aid**. Experts expect the number of insolvencies to rise after the deadline, especially in the retail, events and travel industries.

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*For more information:*

### DS Graner Lawyers Avocats

Griegstraße 27 B 70195 Stuttgart / Germany  
Tel.: +49 711 16260 - 0 Fax: - 18  
www.ds-graner.com info@ds-graner.com

Paris Beijing Shanghai Guangzhou Stuttgart Toronto Montreal Vancouver Ottawa Québec Ho Chi Minh City Hanoi Singapore Barcelona Madrid Milan Brussels Buenos Aires Santiago Lima Bordeaux Lille Lyon La Réunion Dakar



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