

RIMÔN
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„Ampelkoalition 2021 - 2025“

***The Coalition Contract of the Socialist, Liberal and
Green Party in Germany***





WHAT IS THE ISSUE?

The New Coalition of the Socialist, Liberal and Green Party in Germany introduced their Coalition Contract („*Koalitionsvertrag*“)

The ten most important labor and employment projects

WHAT TO EXPECT IN L&E TERMS?

Working Time

- The out-of-date German Working Time Act (*ArbeitszeitG*) and its 8 hours working day shall remain untouched.
- The arrangement of „more flexible structures“ may be embedded in collective bargaining contracts (*Tarifverträge*) or shop agreements (*Betriebsvereinbarungen*),
- via so-called experimental spaces („*Experimentierräume*“).
- In view of the recent **EuGH** decision regarding the recording of working time, adjustments to the *ArbeitszeitG* shall be reviewed.

WHAT TO EXPECT IN L&E TERMS?

Working from Home (WFH) – Mobile Work

- Mobile work shall be permissible **EU-wide**.
- Homeoffice shall be distinguished from **Telework** (*Telearbeit*) and shall no longer be under the scope of the **Workplaces Regulation** (*ArbStättV*).
- Employees shall be granted with a **right to discuss** WFH with the Employer, Employers may **only object** to WFH requests if contradicting operational issues (*betriebliche Belange*) exist, which are not irrelevant or arbitrary.
- Deviating rules under collective bargaining contracts or shop agreements shall remain permissible.

WHAT TO EXPECT IN L&E TERMS?

Co-determination

- We differentiate between **operational** and **corporate** co-determination (*betriebliche* and *Unternehmensmitbestimmung*):
- **Works Councils** (*Betriebsräte*) shall decide, whether they want to operate in the conservative analog way or whether they want to open up to digital working;
- As a pilot project, works council election may be conducted online, **Unions** (*Gewerkschaften*) shall be granted digital access to operations in line with their analog rights.
- Corporate co-determination shall be extended to prohibit that co-determination can be fully avoided in SE corporate structures; accrual rules under the **Co-determination Act** (*MitbestG*) shall be transformed into the Partial Co-determination Act (*DrittelbG*).

WHAT TO EXPECT IN L&E TERMS?

Tariff Autonomy - TUPE

- Strong words: „*We will prohibit any outsourcing of operations while keeping the identity of the original owner with the sole purpose of abandoning collective bargaining agreements (so-called **Tarifflucht**) – we will safeguard the ongoing continued validity of existing **Tarifverträge**.*”
- German TUPE rules pursuant to **Sec. 613a German Civil Code (BGB)**, however, shall remain untouched.
- **Public Procurement Projects (PPP)** by the Federal Government will be linked to observing the governing rules of the collective bargaining contracts of the respective industry.

WHAT TO EXPECT IN L&E TERMS?

Further Education, Qualification

- Further education and qualification shall be strengthened by:
- Professional education and further education during part-time, so-called „**Lebenschancen-BaföG**“ for self-determined further education beyond job-related qualifications,
- Money to pay for qualification measures (**Qualifizierungsgeld**) comparable to short-time work allowance (**Kurzarbeitergeld**), whereby the Federal Agency for Work (*BfA*) shall enable companies to keep their workforces employed by way of ongoing qualification measures.
- The German model of so-called „**Transfergesellschaften**“ and respective collective bargaining contracts shall be developed further.

WHAT TO EXPECT IN L&E TERMS?

Fixed Term Contracts

- Important message up-front:
- **time restricted contracts** shall not be prohibited all together;
- Contracts with so-called „**Sachgrundbefristung**“ i.e., founded fixed term restrictions shall still be permissible, but not beyond a maximum duration of **six** years with the same employer;
- only in very limited exceptions, six years may be exceeded.
- there are even statements like „**work contracts and employee leasing are necessary tools**“ ...

WHAT TO EXPECT IN L&E TERMS?

Science Time Contract Act

- The Science Time Contract Act („*WissenschaftszeitvertragsG*“) shall be evaluated and reformed;
- including commitments to PHD positions and **extension** of respective PHD contract durations;
- and even the possibility of **permanent** employment in science;
- alternative career opportunities in science shall be established.

WHAT TO EXPECT IN L&E TERMS?

Minimum wage, Mini- and Midi-jobs

- The statutory minimum wage shall be increased to **€ 12,00** per hour, with an option of further increases set by the minimum wage commission.
- The limit for Midi-jobs will be increased to **€ 1600,--** per month and for Mini-jobs to **€ 520,--** per month.

WHAT TO EXPECT IN L&E TERMS?

Freelancer

- For „*new*“ freelancer, or other self-employed persons who are not covered by any obligatory old age insurance schemes,
- a mandatory obligation for **old-age retirement plans** shall be introduced.

WHAT TO EXPECT IN L&E TERMS?

Employee Equity Participation

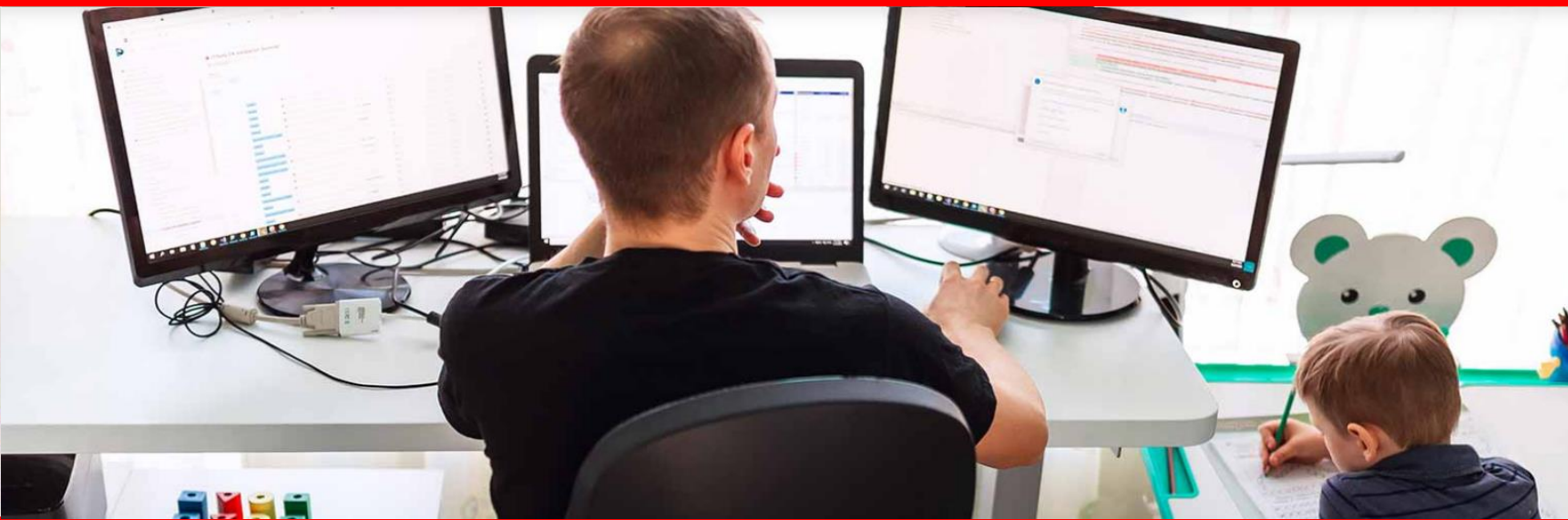
- **Start-ups** should be incentivized with **extended tax allowances** to make employee equity participation schemes more attractive;
- we will monitor further developments and
- we will observe whether this is

... much hot air about nothing, or whether innovations will actually occur ...



LABOR & EMPLOYMENT

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SELECTED EXPERIENCE

- Viskase Companies Inc. On complex restructuring measures, including mass dismissals and collective bargaining matters
- EIT Health e.V. on setting up new management structures; C-level coaching
- GfK SE on D&O matters, C-level coaching
- MAS Malaysian Airlines on its complete shutdown of all its German hubs
- HB Fuller in relation with their acquisition of Swiss Forbo plants in Germany

* Includes work for other law firms

- ✓ Future of Labor Law
- ✓ Regulatory Changes
- ✓ Mindfulness at the Workplace
- ✓ Communicating in times of Crisis
- ✓ Works Council Issues
- ✓ Union matters
- ✓ Labor Compliance
- ✓ Diversity Issues
- ✓ Risk Management
- ✓ Whistleblowing Systems
- ✓ Remuneration Structures
- ✓ Data Protection



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Michael Magotsch has over 30 years of experience in advising global companies in all aspects of German labor and employment law. His practice focuses on national and cross-border restructurings, acquisitions, redundancies and outsourcing measures.

He also advises C-level executives in transition or exit scenarios as well as supervisory boards in sensitive disputes with C-level executives.

Michael held various management positions for other law firms.

He was Coudert Brothers' Head of the EU Employment Practice as well as Country Managing Partner for Germany until 2005. He started DLA Piper's Frankfurt office and was Office Managing Partner until 2009.

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Labor & Employment



Compliance



M&A/Corporate



Restructuring

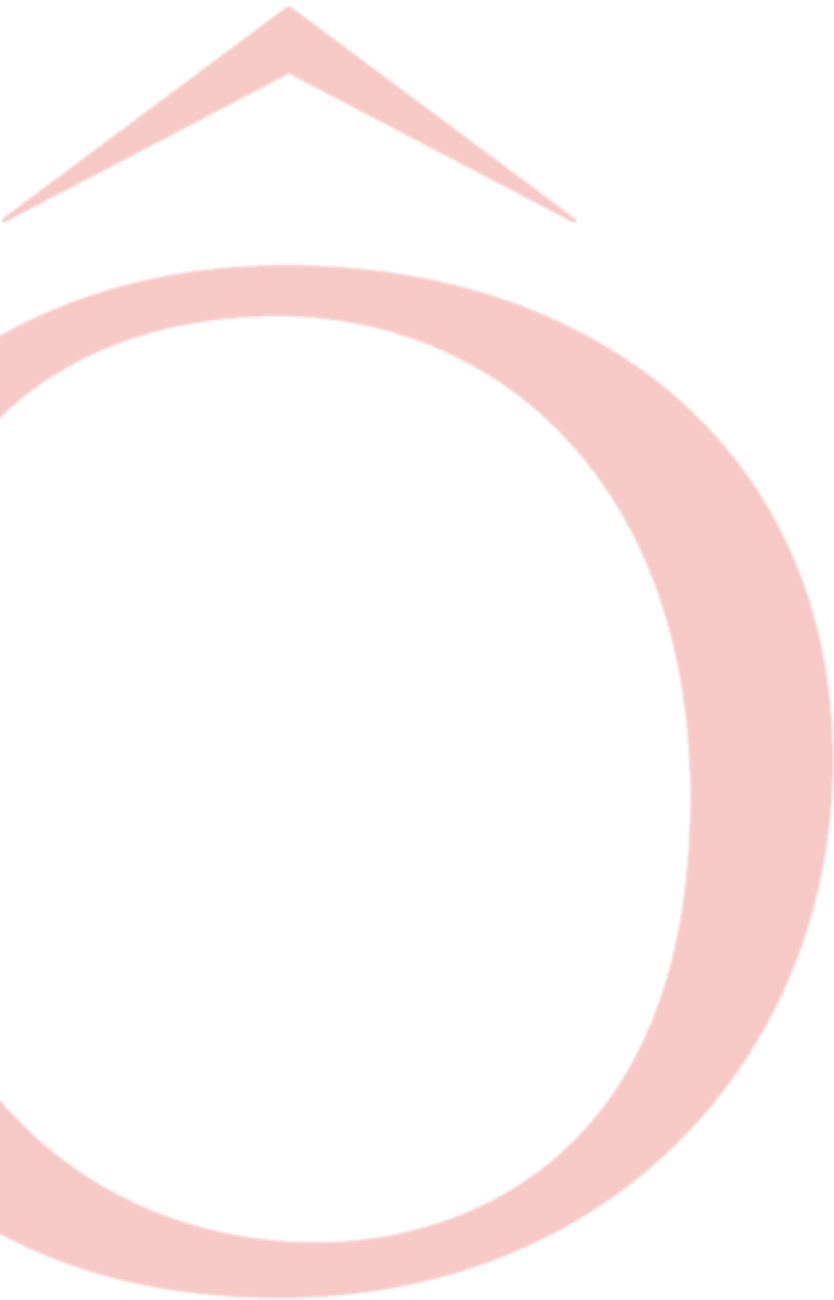
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