Newsletter Commercial

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Content

Dear Readers,

the fourth quarter of 2025 has once again shown that companies and institutions must continue to face ongoing changes in nearly all areas. The structural transformation of the German economy, driven by decarbonization, digitalization, demographic changes, and geopolitical upheavals, persists and impacts industry and production capacities. While economic growth stagnated in 2025, a gradual improvement in gross domestic product is expected from 2026 onward. Although inflation remains above the European Central Bank's target, a trend towards a slowdown has emerged, raising hopes for future interest rate cuts.

In this issue of our newsletter, you will find a summary of the legal challenges in the context of the security and defence industry amid rising NATO member states' defence spending. Additionally, our authors address the design of insolvency-dependent standard solution clauses. Complementing this, we examine the jurisdiction of German courts in cross-border consumer disputes post-Brexit as well as liability issues related to Section 84 of the German Medicines Act.

Through our articles and analyses, we aim to help you successfully navigate legal challenges in everyday business. In this context, we would also like to remind you about our regular webinars on current topics in commercial law. For more information, please refer to the Luther Events Calendar.

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Termination in the event of insolvency

Why standard insolvency-dependent termination clauses often fail and how they can be made effective

Many (distribution) agreements – be they supply, commercial agency or authorized dealer agreements, etc. – contain clauses such as this (or similar):

> *'A has the right to terminate this contract without notice as soon as B files for insolvency or provisional insolvency proceedings are opened against B's assets.'*

Companies use such provisions to try to protect themselves against the consequences of their business partners' insolvency or to minimize the associated effects – unfortunately, mostly without success. This is because such clauses are often ineffective. First of all, their effectiveness usually fails due to sec. 119 of the German Insolvency Act (InsO). This section declares agreements that restrict in advance the **right of the insolvency administrator to choose** between continuing or terminating a contract in the event of insolvency to be invalid pursuant to sec. 103 InsO. Even if such clauses are worded in such a way that they do not impermissibly restrict the insolvency administrator's right of choice, they often do not stand up to scrutiny under the law governing general terms and conditions.

Recently in its ruling of 27 October 2022 (Az. IX ZR 213/21), the Federal Court of Justice (BGH) provided new guidance on when an insolvency-dependent termination clause can be valid and when it is invalid. This decision, as well as the increasing relevance of such clauses in the current economic situation, is taken as an opportunity to examine in more detail the limits of the drafting of such termination clauses in (distribution) agreements, taking into account the highest court rulings on this issue in recent years.

I. Fundamental invalidity of insolvency-dependent termination clauses pursuant to sec. 119 of the German Insolvency Act (InsO)?

The law does not contain any conclusive provisions on the question of the validity of insolvency-dependent termination clauses. Essentially, there are two opposing views on this issue:

- One view holds that insolvency-dependent termination clauses are fundamentally **invalid** under sec. 119 InsO. The primary objective of the Insolvency Act is the collective satisfaction of creditors. Sections 103 and 105 InsO give the insolvency administrator the option of choosing to fulfil ongoing, reciprocal contracts and thus continuing the business economically. This purpose could be thwarted if the debtor's contractual partner were to withdraw from a contract that is favourable to the estate due to the insolvency, thereby undermining the insolvency administrator's right of choice.

- The opposing view considers insolvency-dependent termination clauses to be **effective** in principle. Termination clauses are not covered by sec. 119 InsO because such clauses relate to the existence of the contract, but not to its execution within the meaning of sections 103–118 InsO. Furthermore, the history of the norm's development argues against the invalidity of such clauses.

II. Case law on the invalidity of insolvency-dependent termination clauses pursuant to sec. 119 of the German Insolvency Act (InsO)

To date, the *Federal Court of Justice* has ruled on three cases concerning insolvency-dependent termination clauses, summarized as follows:

1. In its **ruling of 15 November 2012 (Az. IX ZR 169/11)**, the *Federal Court of Justice* had to assess termination clauses in contracts for the ongoing supply of goods or energy in favor of a monetary creditor, which were linked to the filing for insolvency or the opening of insolvency proceedings. As a result, the Federal Court of Justice deemed these to be invalid within the meaning of sec. 119 InsO on the grounds that the provisions made excluded in advance the insolvency administrator's right of choice under sec. 103 InsO, *for which there was no possibility to terminate/ rescind provided for in special legislation in this case.*

2. In its **judgment of 7 April 2016 (Az. VII ZR 56/15)**, however, the *Federal Court of Justice* assessed a corresponding insolvency-dependent termination option included in a construction contract as valid, as this did not go beyond the statutory termination option under sec. 649 sentence 1 German Civil Code, according to which the client is entitled to terminate the contract for work and services at any time; *in other words, because in this case there was a corresponding possibility to terminate/rescind provided for by special legislation*. A contractual termination clause does not impair the insolvency administrator's right of choice if the termination option does not arise **solely** on the basis of insolvency, but is **closely based on a statutory termination option.**

3. In its latest **judgment of 27 October 2022 (Az. IX ZR 213/21)** on this issue, the Federal Court of Justice declared an insolvency-dependent termination clause to be invalid

   'if the insolvency-dependent circumstance **alone** *enables termination of the contract and the termination clause deviates in its prerequisites or legal consequences* **from statutory termination options**, *without there being* **legitimate reasons** *for these deviations from an objective point of view ex ante at the time of conclusion of the contract on the basis of the mutual interests of the parties.'*

As a result, an insolvency-dependent termination clause should be effective under sec. 119 InsO if it either (i) corresponds to a possibility to terminate/rescind provided for by law or (ii) does not correspond to a possibility to terminate/ rescind provided for by law but there are **legitimate reasons** for this.

III. Legitimate reasons for a termination clause that deviates from the statutory options

In its ruling of 27 October 2022 (Az. IX ZR 213/21), the Federal Court of Justice left open the question of whether there was a legitimate reason in the case to be decided there. However, the *Federal Court of Justice* stated in general that termination clauses are regularly **effective**

- where the contracting parties pursue an **objective that is justified under insolvency law** in accordance with their interests at the time the contract is concluded within the autonomous structure of the contract (e.g. if the contract is concluded as part of a restructuring of the debtor and the clause serves to mitigate the risks of a failure of the restructuring);

- for which the law permits termination for good cause and the contractual formulation of the good causes is justified by **a standardized assessment of interests** for the cases regulated therein.

  - *For the standardized assessment, the decisive factor is whether the risks associated with the insolvency jeopardize the further performance of the contract to an extent that, depending on the nature of the contractual obligations and the mutual interests of the parties, may constitute good cause when considered in isolation from the individual case.*

On the other hand, termination clauses are generally **ineffective** if they

- link the termination of the contract to conditions that are less stringent than those deemed – by the legislator – insufficient for the period from the filing of the insolvency petition;

- are agreed in favor of a creditor of monetary performance, inter alia because he is already sufficiently protected by sec. 320 of the German Civil Code or – if he is obliged to make advance performance – by sec. 321 of the German Civil Code.

Furthermore, termination clauses may be subject to **exercise control**. If the party entitled to terminate the contract does not pursue legitimate interests – for example, if it uses the insolvency to enforce higher prices or if it wishes to withdraw from a contract whose performance would not be impeded by the insolvency – the exercise of the right of termination may be excluded in accordance with the principle of good faith.

IV. Conclusion / Proposed actions

In summary, contracting parties should not automatically rely on insolvency-dependent termination clauses being effective in an emergency, as their legal requirements – as shown – are very high in terms of both formulation and application.

Anyone wishing to agree such a clause effectively must carefully consider the specifics of the respective business relationship when drafting and carefully examine whether, from an objective point of view ex ante at the time of conclusion of the contract, such a provision is actually reasonable and enforceable in view of the specific assessment of interests. In particular, the following should be noted:

- In order to draft an effective termination clause in the event of insolvency, it should be closely aligned with the **standards and case groups established by the Federal Court of Justice**.

  In this respect, it should be noted that the Federal Court of Justice has formulated generally applicable principles for the effectiveness of insolvency-dependent termination clauses. Nevertheless, these standards must be applied separately to the respective type of contract (supply contract, authorized dealer contract, commercial agency contract, etc.), taking into account the specific features of this type of contract (its statutory termination options, the different distribution of interests, etc.).

- Even if a clause is permissible according to the above standards, it may still fail to comply with the provisions of sections 305 et seq. of the German Civil Code if the clause is not agreed in an individual contract but is used as a **general term and condition**.

  This could be the case in particular if the provision unreasonably disadvantages the contractual partner and/or is formulated in a non-transparent manner.

As a result, it is essential to check the termination clause for compatibility with the law on general terms and conditions on the one hand, and to adapt it to the specific contractual situation and interests on the other. If both aspects are adequately taken into account, a termination of the respective contracts is possible and the contractual partner of the insolvent partner gains the necessary economic security, as the existing obligations under the respective contract expire and it can be replanned.

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Pharmaceutical Entrepreneurs vs. Contract Manufacturers: Who (really) bears the risk of liability under Section 84 of the German Medicines Act (AMG)?

According to Section 84 of the German Medicines Act (AMG), the pharmaceutical entrepreneur is liable for damages caused by a medicinal product placed on the market. However, contract manufacturers are increasingly pressured by contractual agreements to assume the liability risk under Section 84 AMG. Considering the distribution of economic benefits, this is not appropriate.

It is primarily pharmaceutical entrepreneurs that benefit economically from medicinal products (sales, market position) and should therefore bear the main responsibility for risks. This article explains the terms “pharmaceutical entrepreneur” and “contract manufacturer”, the scope of liability under Section 84 AMG and the hedging of liability risks under Section 84 AMG.

Understanding Roles: Pharmaceutical Entrepreneur vs. Contract Manufacturer

According to Section 4 (18) AMG, a pharmaceutical entrepreneur is any entity that holds the marketing authorization or registration for a medicinal product or places medicines on the market under their own name. The pharmaceutical entrepreneur controls the marketing of the medicinal product and is responsible for its quality. The contract manufacturer, on the other hand, produces the medicinal product according to the specifications of the pharmaceutical entrepreneur, i.e. does not operate under its own name and does not hold a marketing authorization. The **contract manufacturer** therefore legally **cannot be a pharmaceutical entrepreneur.**

This understanding of roles is crucial for the attribution of liability under Section 84 AMG. The pharmaceutical entrepreneur (and not the contract manufacturer) is responsible externally towards the patient or end consumer. They have market power and decide how the medicinal product is manufactured by the contract manufacturer. Therefore, the pharmaceutical entrepreneur also bears the liability risk.

Strict Liability under Section 84 AMG

Liability under Section 84 AMG is **strict liability**. This means that the pharmaceutical entrepreneur is liable for any damage caused by a human medicinal product placed on the market by the pharmaceutical company, regardless of whether it is at fault (negligence or intent). The liability includes personal injuries such as harm or death resulting from the use of the medicinal product.

Pharma Pool Insurance – a Protective Shield for Pharmaceutical Entrepreneurs

Pharmaceutical entrepreneurs are obliged to secure insurance coverage for potential claims arising from Section 84 AMG,

see Section 94 AMG. This coverage can be provided only in two ways: (1) by taking out sufficient liability insurance or (2) by means of an indemnity or warranty obligation from a credit institution. The minimum cover must correspond to the amounts specified in Section 88 sentence 1 AMG, i.e. at least €120 million per claim. In practice, due to the high sums involved, cover is provided almost exclusively through insurance contracts and only rarely through banks/credit institutions.

Most pharmaceutical entrepreneurs join together to form reinsurance pools, known as **pharma pools**. The pharma pools combine coverage amounts and thus enable particularly strong protection against claims for damages that could threaten the existence of individual companies.

Shifting the Liability Risk to Contract Manufacturers through Contractual Arrangements

From a business perspective, it is understandable that pharmaceutical entrepreneurs want to shift their liability risks internally to contract manufacturers. As a rule, extensive indemnification obligations and unlimited liability for all claims are demanded. However, this effective assumption of liability under Section 84 AMG is existentially threatening for contract manufacturers. Unlike pharmaceutical companies, **contract manufacturers are not members of these pharma pools**, which significantly weakens their protection in the event of damage.

Contract manufacturers therefore do not have comparable insurance coverage. Usually, contract manufacturers agree on coverage amounts of € 10 million or € 20 million annually with insurers.

Conclusion

For contract manufacturers, it is particularly crucial to limit their liability at least in amount through contractual liability caps. Unlimited liability and the effective assumption of liability risks under Section 84 AMG are hardly feasible from an insurance perspective and economically unsustainable. Moreover, such an assumption does not correspond to the clear legislative intent.

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Federal Court of Justice: German courts remain competent for cross-border consumer lawsuits despite Brexit

In its ruling of 7 October 2025, the Federal Court of Justice (Ref. II ZR 112/24) decided that German consumers can continue to take legal action against companies based in the United Kingdom before German courts in disputes relating to the United Kingdom even after the expiry of the transition period agreed in the Brexit Agreement[1]. The so-called consumer jurisdiction regulated in Article 18 (1) of Regulation (EU) No. 1215/2012 ("Brussels Ia Regulation") will continue to apply in favour of German consumers despite Brexit.

Facts

The plaintiff had acquired a profit participation right in an Austrian stock corporation as part of an investment. Following a conversion, the corporation was merged with the defendant, which is based in London. The plaintiff, who is resident in Germany, considered this conversion to be unlawful and is seeking damages or the reimbursement of her deposits.

In the first instance, the Munich I Regional Court (judgment of 25 April 2024, ref. 47 O 13979/22) had ruled against the defendant on the assumption that it had international jurisdiction. Following the defendant's appeal, the Munich Higher Regional Court (judgment of 16 September 2024, ref. 17 U 1521/24 e) dismissed the action on the grounds of the lack of international jurisdiction of the German courts. Essentially, the Munich Higher Regional Court argued that the Brexit Agreement, as an international treaty under Article 216 (2) TFEU, took precedence over the application of the Brussels Ia Regulation. It followed from the Brexit Agreement that the Brussels Ia Regulation would no longer apply to matters relating to the United Kingdom after the end of the transition period. Otherwise, the provisions of the Brexit Agreement would largely be rendered meaningless, which was certainly not the intention. International jurisdiction must therefore be determined in accordance with the provisions of the German Code of Civil Procedure. According to this, the courts at the defendant's place of residence in the United Kingdom have jurisdiction. Due to the fundamental importance of the legal issue, the Munich Higher Regional Court had allowed an appeal.

1 Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ of 12 November 2019/C 384 I./01)

Decision

The Federal Court of Justice did not follow the reasoning of the Munich Higher Regional Court. It clarified that the Brexit Agreement does not preclude the applicability of the Brussels Ia Regulation after the end of the transition period. In the specific case, the Federal Court of Justice therefore derived the international jurisdiction of the German courts from the place of jurisdiction of the plaintiff consumer's place of residence in accordance with Article 18 (1) 2nd half-sentence of the Brussels Ia Regulation.

1. Applicability of the Brussels I Regulation to cases relating to the United Kingdom

The Federal Court of Justice first clarified that, in accordance with Article 6 (1) of the Brussels Ia Regulation, the jurisdiction of the courts of a EU member state in disputes with defendants who are not domiciled in the territory of a EU member state ("third state") is governed by their own law. However, for consumer matters, Article 18 of the Brussels I Regulation provides for exceptions that take precedence and can also establish the international jurisdiction of the courts of EU member states in cases involving third states.

The Federal Court of Justice did not share the Munich Higher Regional Court's view that the application of the Brussels Ia Regulation was excluded due to the Brexit Agreement. Although Article 216 (1) TEU states that the European Union may conclude agreements with third countries that are binding on the Member States, the Brexit Agreement only contains provisions on the application of EU law during the transition period. After that, EU law should have the same legal effects for the United Kingdom as it does within the EU and its member states. However, the Brexit Agreement only contains provisions on the application of EU law during the transition period. According to these provisions, EU law should have the same legal effects for the United Kingdom as it does within the EU and its member states and should be interpreted and applied in accordance with the same methods and general principles.

However, the Brexit Agreement does not contain any provisions on how the Brussels Ia Regulation is to be applied in relation to the United Kingdom after the transition period. Rather, the Brexit Agreement provides that, after its withdrawal, the United Kingdom will be considered a third country in relation to the European Union (as already stated by the Federal Court of Justice, decision of 15 June 2021, ref.: II ZB 35/20). The Brexit Agreement does not contain any specific provision that would limit the applicability of the Brussels Ia Regulation (in particular Article 18 of the Brussels Ia Regulation) in the member states in relation to the United Kingdom as a third state. Brexit therefore does not affect the applicability of the Brussels Ia Regulation in the member states of the European Union.

As a result, the Brussels Ia Regulation must therefore be applied by the courts of EU member states even if they have to decide on a case relating to the United Kingdom.

2. Consumer jurisdiction for the acquisition of shares

In the case decided by the Federal Court of Justice, the consumer jurisdiction in Germany was established in accordance with Article 18 (1) of the Brussels Ia Regulation.

According to the findings of the Munich I Regional Court, the plaintiff was to be classified as a consumer within the meaning of the Brussels Ia Regulation. Furthermore, the case concerned a consumer matter within the meaning of Article 17 of the Brussels Ia Regulation. The Federal Court of Justice emphasized that the acquisition of shares is also to be classified as a consumer transaction if the primary purpose of the transaction is not to become a shareholder but to invest private capital.

According to the Federal Court of Justice, the defendant's legal predecessor also acted commercially and directed its activities at consumers resident in Germany within the meaning of Article 17 of the Brussels Ia Regulation, by also offering its services and products in Germany. (see ECJ, judgment of 7 December 2010, ref. C 585/08, 144/09).

3. Acte clair

In the view of the Federal Court of Justice, the correct interpretation of the Brexit Agreement was obvious and left no room for serious doubt ("acte clair"). The Federal Court of Justice therefore refrained from referring the matter to the European Court of Justice and referred it back to the Munich Higher Regional Court for the further proceedings.

4. Conclusion

The Federal Court of Justice clarifies that German consumers will, in principle, still be able to take legal action against British companies in German courts after Brexit. The Brexit Agreement and the expiry of the transition period agreed

therein do not alter the applicability of the Brussels Ia Regulation within the EU – in particular, they do not alter the consumer jurisdiction under Article 18 (1) of the Brussels Ia Regulation. This means that German consumers will continue to have access to their domestic courts, even if the defendant is based in the United Kingdom. The Federal Court of Justice's ruling also makes it clear that the hurdles for accepting a consumer transaction aimed at EU citizens are extremely low. In practice, for example, an online offer in German may be sufficient.

Companies operating in the EU or targeting EU citizens must therefore examine particularly carefully whether and how jurisdiction agreements can be drafted in a legally secure manner. Jurisdiction agreements are only effective vis-à-vis consumers in very limited exceptional cases and cannot generally effectively exclude the jurisdiction of German courts. In the case of invalid jurisdiction agreements, there is even a risk of actions for injunction filed by consumer protection associations.

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NATO significantly increases defence spending - Legal challenges for a security and defence industry 5.0

Secretary General Mark Rutte's statement at the press conference following the conclusion of the NATO summit in June 2025 was clear: It is time to 'roll up our sleeves to put this new plan into action.' Prior to this, NATO member states had agreed in their final declaration to invest five per cent of gross domestic product (GDP) in defence and security annually from 2035 at the latest.

Since then, the European security and defence industry has been undergoing a period of upheaval and reorientation unlike anything seen in recent decades. For many companies, the resulting increase in procurement requirements and funding may make it economically attractive to use production resources as part of a transformation process to supply companies in the security and defence industry. One example that has received particular attention in the press is that of companies and suppliers in the automotive industry.

Companies that decide to take this step are often unfamiliar with the specifics of the security and defence industry and find themselves in a completely changed economic and legal environment. The transformation of production processes is often lengthy and involves considerable costs. Due to the complex challenges involved, it is essential to provide technical, business and legal support for such a transformation process within the company from the outset.

Building new production capacity

Neither the manufacturers' production facilities nor the suppliers along the supply chain are seriously prepared for the situation. Enormous upheavals are imminent, as evidenced, for example, by the growth of companies such as Helsing, which has developed from a start-up to a major market player and has recently invested hundreds of millions of pounds in production facilities in the United Kingdom alone.

This example shows that building new production facilities can bind a significant amount of capital. Anyone who wants to increase their production capacity must deal with the financing of the expansion and new construction of their production facilities. Consequently, manufacturing companies also have a considerable interest in securing their investments economically, for example by concluding long-term supply contracts.

Legislative activities

The framework conditions within the security and defence industry are more heavily regulated by law than in many other sectors. Changes in legal requirements can therefore have a significant impact on the business model of manufacturing companies and their suppliers. For example, the deployment of employees in certain areas may require these employees to undergo a security check in accordance with the German Security Check Act (German: *Sicherheitsüberprüfungsgesetz*, SÜG). This can make it difficult to deploy employees flexibly. In the case of new hires, a lengthy security check procedure

can mean that companies only find out whether they are allowed to deploy their new employees in a position that requires security clearance after the employee's probationary period has expired. In addition, there are a number of licensing requirements for the production, transport and export of defence goods. A double licensing requirement applies to exports, as licences are required under both the War Weapons Control Act (German: *Kriegswaffenkontrollgesetz*) and the Foreign Trade Act (German: *Außenwirtschaftsgesetz*).

It is therefore essential to be aware of legislative activity in this area and to make the necessary adjustments to contracts and procedures. In fact, there are signs that the regulatory framework for the security and defence industry could undergo fundamental changes in the near future. Well-known associations such as the Federal Association of the German Security and Defence Industry are calling for adjustments to the legal situation in order to simplify and accelerate the expansion and reconstruction of production facilities. In June 2025, the Federal Government presented a draft bill with the same objective.

Recently, in June 2025, the Federal Association of the German Security and Defence Industry (German: *Bundesverband der Deutschen Sicherheits- und Verteidigungsindustrie*) proposed a comprehensive package of legislative measures. These measures primarily concern public procurement law. The association proposes expanding the circle of potential bidders in procurement procedures. At present, participating in procurement procedures is particularly difficult for start-ups. The association proposes that the legislator should counteract this by lowering or abolishing the turnover and liquidity requirements of procurement law for security and defence-related projects. Outside of procurement, approval procedures for the export of defence goods in particular should be simplified. Specifically, the association proposes introducing a single complementary permit for exports instead of the double licence requirement. In addition, the legislator should create the possibility of obtaining approval for the export of defence goods at the same time as approval for manufacture. Furthermore, security checks should be accelerated and the information obligations of the authorities involved should be laid down in law for the benefit of companies.

The association also calls for the increased use of so-called standby contracts (German: *Vorhalteverträge*). These are a special type of contract in which the supplier's performance does not consist solely of the delivery of the ordered goods. Instead, the purchaser pays the supplier in advance to keep the goods to be delivered on call. This allows the public sector to maintain the security of supply for the armed forces in a flexible manner without this being at the expense of the contracted company.

It remains to be seen whether and to what extent these demands will be implemented. With regard to the procurement procedure, the Federal Government presented a draft bill for a new Bundeswehr Planning and Procurement Acceleration Act (German: *Bundeswehrplanungs- und beschaffungs-beschleunigungsgesetz* (BwPBBG)) on 1 October 2025, which is intended to simplify and accelerate the award of defence-related contracts (available here: DIP - Act on Accelerated Planning and Procurement for the Bundeswehr). For example, the scope of application for accelerated direct awards is to be expanded on the basis of essential security interests. In addition, the draft provides for the possibility of advance payments by the public sector in order to facilitate investment and expand the pool of potential bidders. Start-ups and companies with lower liquidity are expected to benefit from this.

Current developments in financing

The European Investment Bank (EIB) has also already responded by significantly increasing the financing framework for investments in 'Europe's strategic and technological independence' for 2026 to €100 billion. Of this, €4.5 billion is earmarked for investments in security and defence (EIB Group renews record-high financing target of €100 billion to boost Europe's strategic and technological independence). It has also expanded the catalogue of eligible projects in the security and defence industry. Ultimately, this is also an important signal for small and medium-sized enterprises, whose lenders often refinance with the EIB. Overall, the EIB has made it much easier for companies in the security and defence industry to access finance. The eligible projects cover a wide range of areas. They now also include military-related infrastructure projects, research and development projects, for example in drone technology, projects in cyber security and even in space travel. In addition to the procurement of military helicopters by Italy, the EIB has therefore also co-financed, for example, the development of satellites in Poland and Spain, cyber security programms in France and investments in military infrastructure in the Baltic States.

Due to these and other EU-wide facilitations in the financing of security and defence projects, it is strongly recommended that participating companies review their financing options.

Change of use of production facilities in the automotive industry

Furthermore, the increase in European security and defence spending comes at a time of unprecedented structural change in the automotive industry. Due to the increasing market share of electric vehicles and intense international competition, several European car manufacturers are considering significantly reducing their production capacities by closing production sites. The transformation of the security and defence industry may therefore represent an opportunity for affected companies in individual cases to use existing production resources for the manufacture of other goods and products in the future. Some car manufacturers are already involved in the security and defence industry, often through subsidiaries and joint ventures. However, due to the current market situation, some suppliers and service providers to the automotive industry are also attempting to diversify their offerings more and acquire new orders in the security and defence industry.

However, such a transformation of the use of production facilities towards the production of security and defence goods is associated with considerable practical and legal challenges. From an organisational point of view, it is generally advisable to spin off the production and distribution of goods for the security and defence industry into a separate business unit, which raises corporate law issues such as the choice of the appropriate legal form for the business unit. Legal and technical measures may also be necessary with regard to production. For technical reasons, existing production facilities are often only suitable for the production of security and defence goods after extensive conversion. One particular legal challenge lies in the implementation of regulatory requirements for the security and defence industry, for example in the execution of the necessary approval procedures or the requirements of the Security Screening Act already outlined for certain employees. In addition, it can be assumed that companies will have to completely restructure their supply chains. One such special feature, for example, are quality management plans, which some public clients require and which contractors therefore often contractually oblige their suppliers to conduct as well. These issues require comprehensive contract management to terminate old supply contracts and conclude new ones.

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■ GENERAL INFORMATION

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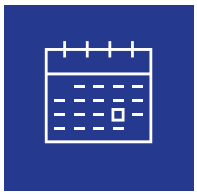
Events, publications and blog



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