

Newsletter Commercial

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Dear readers,

the first quarter of 2026 has once again shown how geopolitical developments and regulatory changes are shaping the global business environment. Increasing trade tensions, new protectionist measures and regional conflicts have led to significant disruption across international markets and supply chains. The intensification of US tariff measures and the US Supreme Court's 20 February 2026 decision not only have immediate implications for transatlantic trade relations, but also raise complex questions regarding potential compensation claims by European companies. Meanwhile, the ongoing conflict in the Middle East, particularly the war in Iran, is having a growing impact on energy prices, transport routes and existing supply contracts.

Regulatory developments likewise remain highly dynamic. The introduction of the Workplace Fairness Act in Singapore is setting new employment law standards and presenting international employers with additional compliance requirements. Meanwhile, companies, particularly in the logistics sector, are increasingly facing insolvencies along the supply chain, which further highlights the importance of forward-looking risk management.

In this edition of our newsletter, we address these developments and examine selected legal issues that arise in practice. Our articles cover employment law developments in Asia, current challenges in the logistics and insolvency environments, and the legal implications of international trade disputes and geopolitical risks for existing contractual relationships.

Through our analysis, we aim to help you identify evolving legal and economic conditions early on and make well-informed business decisions. We would also like to draw your attention to our regular webinars on current topics in the field of 'Commercial'. Further information can be found in our events calendar [Luther Events Calendar](#).

Dr Steffen Gaber, LL.M. (Sydney)
Head of Commercial

Leon Breiden
Legal Content Coordinator

Singapore Workplace Fairness Act (WFA) - Employer obligations and implications



The Workplace Fairness Act (WFA) is currently expected to come into force by the end of 2027 and marks Singapore's first binding comprehensive legislative framework aimed at promoting fairness and equality in the workplace. Following the passage of the first bill by Parliament in January 2025, the second of the two bills was approved in November 2025. The first bill laid the substantive foundation of the regime by defining protected characteristics and setting out employers' core obligations to prevent discriminatory employment practices. Building on this framework, the second bill establishes a new procedural mechanism through which employees may seek redress for workplace discrimination. Combined, both bills prohibit adverse employment decisions based on protected characteristics across the entire employment lifecycle and introduce a mandatory, mediation-first dispute resolution pathway. Cases that are not resolved through mediation will be adjudicated at the Employment Claims Tribunals (ECT) or at the High Court, depending on the size of the claim. Since the WFA is expected to come into force towards the end of 2027, employers are provided with a substantial transitional period, enabling them to review and adapt their internal policies, processes, and training programmes to ensure alignment with the WFA's requirements and to mitigate future compliance risks.

Regulatory Context and Approach

Whilst the standards for fairness in employment in Singapore are currently set out in the Tripartite Guidelines ("Guidelines") on Fair Employment Practices issued by the Tripartite Alliance for Fair & Progressive Employment Practices ("TAFEP"), the proposed WFA shall form Singapore's first comprehensive, binding law to combat discrimination in employment relationships. It marks a paradigm shift from a predominantly soft-law-based system to a codified, enforceable legal system.

Although non-statutory in nature, the Guidelines already set out expected standards of fair employment, and if an affected employee makes a complaint against the employer, non-compliance with the Guidelines can trigger an investigation into the employer's practices and the Ministry of Manpower may take enforcement action such as curtailing work pass privileges against the employer. The Guidelines are anticipated to remain applicable after the WFA comes into force and are intended to operate alongside the new statutory framework, complementing it and further strengthening legal protection against workplace discrimination.

Scope of Protection and Prohibited Employment Decisions under the WFA

The WFA will improve protection against discriminatory employment decisions across the entire employment lifecycle. This includes the pre-employment period with advertising, screening, and the final decision if the employer decides to hire an individual, as well as any decisions during the employment, such as appraisals, promotions, training, demotion, and also decisions at the end of the employment like termination or retrenchment.

The regime is designed to prohibit adverse decisions based on enumerated protected characteristics like age, nationality, sex, marital status, pregnancy, caregiving responsibilities, race, religion, language ability, disability, and mental health conditions.

Not explicitly enumerated and therefore not protected by the WFA are a person's gender identity and sexual orientation, criminal record and medical condition (insofar as this is not a disability or a mental health condition). These will however continue to be protected by the Tripartite Guidelines on Fair Employment Practices.

Enforcement Mechanisms and Remedies for Workplace Discrimination

Based on the WFA possible workplace discrimination shall first be raised with the employer based on the company's internal grievance-handling mechanism. If the internal process fails to resolve the dispute, a mediation request must be submitted by the employee or individual involved in a dispute with the employer. Only where mediation is unsuccessful may a workplace discrimination claim be brought before the ECT or, if exceeding SGD 250,000, before the High Court. Proceedings before the ECT follow simplified, judge-led procedures and external legal representation is generally not allowed in ECT proceedings, whereas proceedings before the High Court are governed by full civil procedure and require external legal representation.

Implications of the WFA for Employers and Compliance Roadmap

The WFA imposes comprehensive obligations on employers and robust documentation and record-keeping will be central to WFA compliance. In the hiring process, employers must adopt merit-based recruitment practices and avoid direct or indirect references to protected characteristics in

job advertisements, screening questions, or interviews, unless a legally permitted exception applies. Employers are expected to retain adequate selection documentation, including assessment criteria, interview notes, and scoring frameworks, to demonstrate that hiring decisions are fair and non-discriminatory.

During employment, all employment decisions must be based on objective factors and applied consistently across the workforce. Employers must also ensure that workplace policies or practices do not indirectly disadvantage protected groups, unless such measures are objectively justified by legitimate and proportionate business needs in accordance with the WFA.

Decisions to end employment, including terminations and retrenchments, must not be influenced by protected characteristics. Employers should maintain clear, documented justifications for such decisions, supported by evidence such as performance records or redundancy selection matrices.

The WFA further requires employers to establish and maintain an effective, accessible and confidential internal grievance-handling mechanism for discrimination-related complaints.

Compliance Roadmap

Phase 1: Preparation

Employers should begin by mapping roles and processes throughout the employment lifecycle, from recruitment to termination, in order to identify points at which protected characteristics could unintentionally influence decision-making. Anti-discrimination policies and grievance policies should be drafted, reviewed, or updated as needed. In parallel, employers should plan targeted training for managers and HR professionals to ensure awareness of legal obligations and consistent application of policies.

Phase 2: Implementation

In the implementation phase, job descriptions and recruitment advertisements should be reviewed and standardized to eliminate biased language. Interview processes should be supported by structured interview guides and objective scoring systems. Employers should also introduce clear documentation standards for performance appraisals, promotion decisions, and training nominations to ensure transparency and traceability.

Additionally, a formal grievance mechanism should be rolled out, including clearly communicated points of contact, confidentiality safeguards, impartial and timely investigative procedures, explicit assurances against retaliation, and robust record-keeping of complaints, findings, and remedial actions.

Phase 3: Monitoring and Response

Once the framework is in place, employers should continuously monitor its effectiveness. This includes tracking grievances, resolution timelines, and outcomes to identify recurring issues. A clear protocol for mediation should be established, defining who is involved, decision-making authority, and required documentation. Finally, periodic data and workforce analytics should be conducted to detect patterns in employment decisions that may indicate discrimination or structural issues, enabling timely corrective action. Please consult us on the use of such patterns and any implementation of policies following from the detection of such patterns, since there is an inherent risk that using such findings may lead to discriminatory practices e.g. reducing hiring of a particular group which the patterns revealed had been hired at a disproportionate rate.

Author

Jan Zimmer

Luther Rechtsanwaltsgesellschaft, Singapore

New developments in the logistics sector: Insolvencies among customers and logistics service providers

In 2026, the German and European logistics market will face one of its most complex phases since the 2008/2009 financial crisis. While digital transformation, automation and sustainability requirements continue to advance, insolvencies among customers and logistics service providers are overshadowing the industry – not as sporadic exceptions, but as a structural challenge in addition to the already strong fluctuations and sluggish economy. This article describes the current situation, the underlying causes and the specific implications for players in the logistics sector.



1. Insolvency trends: the figures speak for themselves

The number of insolvencies among logistics service providers in Germany has risen by almost 20% since 2024 – a figure that exceeds 1,000 insolvencies per year for the first time since 2012. These are not only small freight forwarders, but also medium-sized companies with more than 50 employees and an established customer base.

Even more alarming is the trend among typical customers in the logistics industry: here, insolvencies among retail and manufacturing customers – i.e. those who commission logistics services – rose by well over 20%. Particularly affected are:

- Retailers (especially textiles, electronics, furniture): due to overcapacity, price pressure and declining demand for physical products.

- Producers of consumer goods with high energy costs and supply chain disruptions.
- E-commerce players with poor profitability who were dependent on subsidies and capital market financing – and are now unable to find further investors.

Two examples: In the first quarter of 2025, online furniture retailer *WohnLux* went bankrupt – a customer of three regional freight forwarders and a national express delivery service. The logistics partners had already experienced payment delays months before the bankruptcy. When insolvency proceedings were opened, the logistics contracts were terminated. Another example from 2024: Textile retailer Esprit filed for insolvency and subsequently closed all its stores. As a result, the logistics centre, which had only recently been put into operation, lost its raison d'être, was closed and the expensive logistics technology was sold off at scrap prices.

2. Reasons:

a) Inflation, interest rates and cost pressure

Interest rate hikes as a result of rising inflation have not only made loans more expensive, but also made it more difficult to finance inventories and transport capacities. Logistics companies that have financed their vehicle fleets or rented warehouses are under enormous cost pressure. Not to mention the sharp rise in energy and fuel prices. At the same time, margins in logistics are traditionally very low. And logistics companies cannot raise their prices in line with their importance and costs, as customers are also struggling with declining margins.

b) Overcapacity in the market

After the pandemic, many logistics service providers expanded – often financed by loans – in anticipation of rapid growth in e-commerce. In reality, however, demand has remained static or even declined, as consumers are tending to hold back on purchases in view of the overall economic situation. What remains, however, are high fixed costs and contracts without reasonable protection against fixed costs. The result: a market with too many providers, too few orders and fierce price competition. Margins are shrinking – and with them, solvency.

c) Lack of risk management strategies

Many logistics companies – especially medium-sized ones – do not have professional receivables management. They accept long payment terms of 90–120 days without specific credit checks and rely on “trust”. The result: if a customer files for insolvency, the sometimes high outstanding amounts are not or insufficiently secured.

3. What to do

a) Consolidation is inevitable

Major players such as DHL, DSV / DB Schenker and Kuehne + Nagel, but also established medium-sized companies such as Fiege, are gaining market share – not only through economies of scale, but also through better risk management and greater market power. Small and medium-sized companies that do not digitise, diversify or take precautions against risk will be taken over or removed from the market.

b) Securing receivables

Legal liens (and thus securities) are already available in the logistics sector: the carrier’s lien (Section 440 of the German Commercial Code (HGB)); the freight forwarder’s lien (Section 464 HGB); and the warehouse keeper’s lien (Section 475b HGB). However, these liens are often waived by customers (“market power”) and, on the other hand, they are only worth as much as the existing goods still have value. After all, the goods subject to the lien are often only delivered under simple retention of title. The question of whether and when the right of ownership takes precedence over the security interest has not been conclusively clarified. It is also often overlooked that certain goods cannot be distributed by the logistics provider at all, e.g. due to a lack of authorisation for medicines or special spare parts. In this case, it is better to secure claims through insurance companies (e.g. Allianz Trade (formerly Euler Hermes), Coface). Although premiums have risen (from 0.3% to 0.8–1.5% of the claim amount), this is the lesser evil compared to a bad debt that threatens the existence of the business.

c) Optimise contracts

Unfortunately, the German Freight Forwarding Conditions (ADSp) offer only limited protection. It is therefore advisable to supplement the ADSp with individual agreements (e.g. guarantees, transfer of ownership by way of security, short payment terms, short billing intervals, partial advance payments for fixed costs). Agreeing on advance payment is a good idea for customers who are already at risk – even if advance payment is often not enforceable. In addition, contractual “early warning systems” can be agreed upon, in which payment terms and collateral depend on creditworthiness. Without collateral, in the event of insolvency, one will only participate in the quota (usually 5–15%). Payment is often only made at the end of the proceedings, years after the insolvency application. The insolvency of just one customer can therefore jeopardise performance for all other customers (“domino effect”).

d) Customer management

In an ideal world, it would be desirable to create a risk profile for each new customer based on freely available databases before accepting an order. In real life, this will not always be possible.

Nevertheless, at least a risk assessment system should be implemented in the company, which shows the payment behaviour of each customer (discount payers, payment within the agreed period, frequent reminders necessary, etc.). If a deterioration is apparent, appropriate measures must be taken. Contractual provisions must be dynamic and flexible in order to take account of changed circumstances.

4. Conclusion

A structural shake-up is taking place in the logistics industry. The industry is no longer growing through expansion, but through efficiency. Those who continue to work exclusively “on trust” will fail. Those who take risks seriously, professionalise themselves and think strategically will survive – and even emerge stronger from this phase.

Author

Reinhard Willemsen

Luther Rechtsanwaltsgesellschaft, Munich/Cologne

US tariffs, the US Supreme Court Decision of 20 February 2026 and possible reimbursements for European suppliers and exporters

The US Supreme Court struck down on 20 February 2026 the tariffs imposed under the International Emergency Economic Powers Act (IEEPA). Please read our blogpost below on the implications of the decision and practical recommendations on what European companies and exporters should do now.



I. The US Supreme Court Decision that the IEEPA is not a valid legal basis for the imposition of tariffs

Ever since the beginning of Trump's second presidency, starting in January 2025, suppliers of goods to the US were concerned about the imposition of tariffs by the new US administration.

On February 20, 2026, the U.S. Supreme Court handed down a seminal ruling that curtails the president's role in shaping U.S. trade policy and in particular his authority to enact tariffs. The Court held that the International Emergency Economic Powers Act (**IEEPA**) does not empower the president to unilaterally impose customs duties. In a 6–3 decision, the justices determined that Congress did not transfer a general tariff setting authority through IEEPA and that the power to levy duties remains lodged in Congress under Article I, Section 8 of the Constitution. Hence, tariffs imposed by the IEEPA are invalid. US tariffs imposed on the basis of Section 232 of the Trade Expansion Act of 1962 (product-specific national security tariffs) and duties imposed

under Section 301 of the Trade Act of 1974 to counter unfair foreign trade practices are not subject to the Court's decision and therefore remain valid.

The court's reasoning is based on the wording and structure of the IEEPA and systemic arguments on the balancing of power and the delegation of authority by Congress to the US President. The IEEPA does not make any reference to tariffs or duties at all, which goes against the principle that such a broad delegation of power has to be explicitly provided for. The Court dismissed the government's contention that the statute's grant of power to "regulate" imports implicitly extends to imposing revenue generating tariffs, underscoring that Congress has traditionally used clear and specific language when delegating authority of such major economic consequence.

This begs the question of what will happen to the total of USD 100 billion that has already been paid for IEEPA-based tariffs to the US Customs and Border Protection Authority (**CBP**) and what European suppliers can do now. The Court has left the question open of how the tariffs would be returned.

Practically speaking, a reimbursement will depend on whether the IEEPA-based tariffs have already been paid, which is not the case for imports that have not yet been liquidated. CBP is unlikely to impose the IEEPA tariffs when liquidating pending imports now. US-importers could submit Post Summary Corrections for unliquidated entries to exclude the IEEPA component. For imports that have already been liquidated, importers may need to file administrative protests with CBP or seek relief before the U.S. Court of International Trade. However, there is no formal refund process yet in place. It is important that US importers are mindful of the statute of limitations of two years running from the legal imposition of the tariffs for the invocation of their reimbursement claims against CBP.

II. What should European and German suppliers do now?

European and German suppliers of goods subject to US tariffs should assess whether they may have reimbursement claims, either against their US customer or CBP.

In order to do so, suppliers should check first whether they were under a duty to pay US customs or duties for goods they exported to the US on the basis of the underlying contractual agreement. This is oftentimes determined on the basis of the Incoterms used. If this is not the case, the US Supreme Court decision has no impact for them and may only entitle the US importer to reimbursements.

Should the underlying contractual agreement provide for a payment of the US customs or duties by the European or German exporter, whether in total or in parts, the suppliers should assess whether their products supplied to the US were subject to the IEEPA-based tariffs or not.

Should they be subject to the IEEPA-based tariffs, German and European suppliers should request from their US customer repayment of excess US tariffs paid.

If you were under the obligation to pay the IEEPA-based tariffs for your shipments to the US, please reach out so that we can advise you on the next recommended steps.

Authors

Dr Steffen Gaber, LL.M. (Sydney)
Luther Rechtsanwaltsgesellschaft, Stuttgart

Dr Johannes Teichmann
Luther Rechtsanwaltsgesellschaft, Frankfurt a.M.

Dr Alexander Ehrle, LL.M. (NYU)
Luther Rechtsanwaltsgesellschaft, Frankfurt a.M./ Brussels

Federal Court of Justice (BGH) Decision of November 19, 2025 (IV ZR 66/25) on the Loss of D&O Coverage in the Context of Insolvency Law

In its ruling of November 19, 2025 (IV ZR 66/25), the Federal Court of Justice ('FCJ') issued a decision of significant importance for director and officer liability during a crisis and the related practice of D&O insurance. The focus is on the question of the requirements for a risk exclusion (in favor of the insurer) due to "knowing breach of duty" when managing directors are held liable for payments made after the company became insolvent. The FCJ clarifies that the managing director's knowledge must relate specifically to the breach of duty that forms the basis of the liability claim. The Court rejects a blanket denial of insurance coverage based on a breach of the duty to file for insolvency. This decision is of significant importance for advising board members during a crisis and for litigation in coverage disputes.



Key Facts

The ruling concerns a typical scenario in the context of D&O insurance under insolvency law. The insolvency administrator of a GmbH brought a claim against the sole managing director for unauthorized payments made after the company became insolvent, based on § 64 sentence 1 German Limited Liability Companies Act (former version). In the coverage proceedings, the D&O insurer invoked the risk exclusion provided for in the insurance terms and conditions (No. 6 ULLA), according to which no insurance coverage exists in the event of intentional causation of damage or a knowing breach of duty. Accordingly, excluded from insurance coverage shall be *"liability claims arising from intentional causation of damage or from knowingly deviating from laws, regulations, resolutions, powers of attorney, or instructions, or from any other knowing breach of duty by an insured person. (...)"*

Key points of the ruling

According to the Senate's established case law, risk exclusion clauses in general insurance terms and conditions must be interpreted narrowly and not more broadly than their meaning requires, taking into account their economic purpose and the wording chosen (para. 10a).

Regarding the relevant exclusion of risk under No. 6 of the ULLA, the FCJ clarifies that "it is precisely the breach of duty" on the basis of which the insured person is held liable for compensation for financial loss that must have been committed knowingly (para. 9). It is not sufficient to invoke a breach of the duty to file for insolvency (Section 15a German Insolvency Code) to deny insurance coverage for claims under Section 64 German Limited Liability Companies Act (former version) in their entirety.

After all, the fact that a company has become insolvent does not imply that all payments made thereafter are prohibited (para. 17). The FCJ thus clarifies that the duty to file for insolvency and the duty to make payments after insolvency has become imminent only to the extent consistent with the diligence of a prudent businessman are legally independent obligations. A breach of one obligation does not automatically imply that the other obligation has also been breached. Consequently, each individual payment must be examined separately to determine whether it objectively violates the prohibition. Only once it is established that a payment is prohibited does the question arise whether the managing director was aware of the impermissibility of that specific payment and nevertheless made or arranged it.

Practical Consequences

The ruling clarifies the requirements for a proper procedural submission by D&O insurers regarding the exclusion of risk due to a knowing breach of duty. D&O insurers bear the primary burden of proof regarding the existence of the subjective requirements for the exclusion with respect to each individual payment made after the company became insolvent. This is a clear and thus helpful clarification.

However, lengthy coverage disputes – including those concerning the interpretation of risk exclusion clauses in insurance contracts with reference to alleged knowing breaches of duty – are unlikely to be avoided as a result. In any case, the ruling was issued regarding § 64 German Limited Liability Companies Act (former version) and thus “only” concerns the predecessor provision of § 15b German Insolvency Code. Therefore, it remains an open question whether the FCJ would adopt a comparable approach in relation to § 15b German Insolvency Code.

Section 15b(3) of the German Insolvency Code provides (unlike the former version Section 64 of the Limited Liability Companies Act) that payments made only after the deadline for filing for insolvency has expired “*are generally not consistent with the diligence of a prudent and conscientious manager.*”

Pursuant to § 15a(1) sentence 2 German Insolvency Code, the insolvency petition must be filed no later than three weeks after the onset of inability to pay and six weeks after the onset of over-indebtedness. The inability to pay of a company or its over-indebtedness constitutes reasons for insolvency that, in practice, mark a company’s so-called “insolvency trigger”.

For D&O insurers, the question that remains to be clarified is whether the statutory requirement of Section 15b(3) German Insolvency Code for a regular withdrawal of liability protection following a failure to meet the insolvency filing deadline can be interpreted as a knowingly breach of duty by the managing director.

For insolvency administrators, the already narrow scope for bringing liability claims against a company’s managing directors under § 15b of the German Insolvency Code is likely to become even more restricted in both liability and insurance coverage proceedings. In practice – given the practical feasibility of asserting special assets for the insolvency estate – the earliest provable date of insolvency is regularly used as the basis. However, in certain scenarios, depending on the specific amount of payments made after the expiration of the deadline for filing for insolvency, this could have adverse consequences in a coverage lawsuit against the D&O insurer.

Author

Christiane Kühn, LL.M. (Hong Kong)

Luther Rechtsanwaltsgesellschaft, Munich

Impact of the Iran War on Supply Chains and Existing Supply Agreements

The Iran War, and in particular Iran's blockade of the Strait of Hormuz, is impacting global supply chains at a time when companies are already grappling with the consequences of the war in Ukraine and the situation in the Red Sea. In addition to blocked sea routes, restricted air traffic, rising energy and transportation costs, and tightened sanctions are leading to delays, additional costs, and disruptions throughout the entire supply chain. Companies will have to determine who bears these risks under the terms of their contracts, whether force majeure clauses apply, and whether adjustments to existing contracts are enforceable.



Who bears the risk of disrupted supply chains?

The starting point is the contractually agreed allocation of risk. Many supply agreements – often by reference to Incoterms – specify who is responsible for transportation, transfer of risk, insurance, and customs duties. If the supplier bears the procurement and transportation risk, they must generally also switch to alternative routes or modes of transport if, for example, customary transport routes, such as the Strait of Hormuz, are unavailable. Additional costs for freight, energy, and insurance are then generally borne by the party responsible for the transport, unless otherwise agreed. In the absence of clear contractual provisions, the party bearing the risk of additional costs must be determined by interpreting the contract in accordance with Sections 133 and 157 of the German Civil Code (BGB). Provisions regarding the place of performance and the transfer of risk, for example, serve as guidelines for this.

How can companies respond?

When unexpected disruptions to supply chains occur, such as those recently caused by the Iran War, many companies face the question of how to respond to the changed circumstances.

a) Force majeure clauses

Many supply agreements contain force majeure clauses that may fully or temporarily release the parties from their performance obligations in the event of force majeure. Force majeure is typically understood to mean external, unforeseeable events that are unavoidable even with the exercise of the utmost care. Force majeure clauses usually contain illustrative lists that contractually define certain events – such as war, armed conflicts, blockades, embargoes, sanctions, or government intervention – as force majeure events.

In the context of the Iran War, there is strong evidence that events such as the blockade of the Strait of Hormuz, the closure of airspace, or the imposition of embargoes are generally covered by such clauses.

Whether a contracting party can invoke force majeure depends on the specific terms of the contract. Force majeure clauses often also stipulate formal requirements (immediate notification, obligations to provide evidence and documentation). If these are not met, the affected party may, under certain circumstances, be unable to invoke force majeure. Typical legal consequences include the temporary suspension of performance obligations, the extension of delivery deadlines, the exclusion of claims for damages and contractual penalties, as well as special termination rights.

b) Hardship and Price Adjustment Clauses

In addition to force majeure clauses, hardship or price adjustment clauses can be of significant importance.

Hardship clauses are designed to adjust a contract in the event of profound, unforeseeable disruptions to the contractual balance, without – and this is the key difference from force majeure clauses – completely suspending the parties' performance obligations. They often provide for renegotiation obligations, a contractual adjustment (e.g., by the contracting parties themselves or through mediation), and, where applicable, termination rights. Hardship clauses have become more common since the COVID-19 pandemic, but they are still not the norm, at least in contracts governed by German law.

As an alternative, price adjustment clauses can also be used to restore balance to the contract. Typical price adjustment clauses include indexation clauses, in which the price trends of two similar or comparable goods are linked, and cost element clauses, in which changes in certain contractually defined cost elements are automatically reflected in a proportional price adjustment. When drafting price adjustment clauses, it is important to note that these may be invalid even in individual contracts. This is because the Price Clause Act (PrKG) applicable in Germany imposes strict requirements on their formulation.

c) Legal Solutions

If no contractual mechanisms have been agreed upon, the German Civil Code provides for two approaches, under strict conditions, to address unforeseeable events.

On the one hand, rights to refuse performance under Section 275(2) BGB may apply if war-related cost increases lead to a gross disproportion between the debtor's performance burden and the creditor's interest in performance. It is not possible to provide a blanket answer as to when such a disproportion exists. Rather, the law requires a balancing of all interests in each individual case. However, this often involves considerable uncertainty, as an unjustified exercise of the right to refuse performance may, under certain circumstances, trigger claims for damages by the contracting party.

On the other hand, a contract adjustment may be considered under the principles of frustration of the basis of the contract (Section 313 BGB). The hurdles for this are high: The provision applies only if circumstances that, according to the mutual understanding of the contracting parties, formed the basis of the contract have changed significantly after the contract was concluded, whereby the contractual allocation of risk must be taken into account to a decisive extent. Whether the escalation in the Iran War reaches this threshold depends heavily on the timing of the contract's conclusion, the intensity of the impact, and the specific terms of the contract. It appears doubtful whether the Iran War constitutes a case of a fundamental change in the basis of the contract. This is because the Federal Court of Justice (BGH) has already ruled, in connection with the 1973 oil crisis, that companies had to anticipate war-related developments in the Middle East and the associated effects on the oil price and take appropriate measures (see BGH, judgment of February 8, 1978 – VIII ZR 221/76). It seems doubtful that the courts would assess the current situation differently. Furthermore, mere reductions in profits or even significant cost increases are generally insufficient to justify a contract adjustment. In practice, therefore, even in the case of serious events such as the Iran War, a disruption of the basis of the contract exists only in the rarest of cases.

Recommendations for Contract and Risk Management

Against the backdrop of the Iran War, companies should critically review their supply agreements as well as their internal organization:

Existing contracts must be reviewed to determine who bears the transport and cost risks, how force majeure, hardship, and price adjustment clauses are specifically worded, and whether contractual penalty and liability provisions should be adapted to crisis-related disruptions. Contractual partners must be informed immediately if there are any impacts on the agreed delivery dates.

When drafting new contracts, care should be taken to ensure that force majeure clauses are clearly defined, hardship clauses include clear thresholds and procedures, and price adjustment clauses are formulated in a manner that is legally sound and consistent with industry practice.

In addition, companies should establish structured crisis and supply chain management: risk analyses for critical supply chains, alternative procurement and transportation strategies, clear communication channels with customers and suppliers, and careful documentation of all decision-making criteria.

Conclusion

The Iran War serves as a stress test for the crisis resilience of international supply agreements. Those who understand their contractual risk allocation, utilize contractual flexibility regarding force majeure, hardship, and price adjustment provisions, actively manage risks, and engage in structured discussions with contractual partners at an early stage can prevent legal disputes while simultaneously securing their own ability to deliver to customers. For many companies, it is now advisable to adapt their contract templates to this new geopolitical reality.

Authors

Dr Johannes Teichmann

Luther Rechtsanwaltsgesellschaft, Frankfurt a.M.

Pieter Krüger, Mag. iur.

Luther Rechtsanwaltsgesellschaft, Frankfurt a.M.

Tom Kalinski

Luther Rechtsanwaltsgesellschaft, Frankfurt a.M.

■ GENERAL INFORMATION

Authors of this issue



Dr Steffen Gaber, LL.M. (Sydney)
Lawyer, Partner
Stuttgart
T +49 711 9338 19192
steffen.gaber@luther-lawfirm.com



Leon Breiden
Lawyer, Associate
Cologne
T +49 221 9937 21686
leon.breiden@luther-lawfirm.com



Dr Alexander Ehrle, LL.M. (NYU)
Lawyer, Partner
Frankfurt a.M., Brussels
T +49 69 27229 20065
alexander.ehrle@luther-lawfirm.com



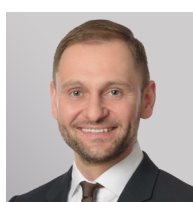
Jan Zimmer
Lawyer, Senior Associate
Singapore
T +65 6408 8000
jan.zimmer@luther-lawfirm.com



Christiane Kühn, LL.M. (Hong Kong)
Lawyer, Partner
Munich
T +49 89 23714 24756
christiane.kuehn@luther-lawfirm.com



Pieter Krüger, Mag. iur.
Lawyer, Counsel
Frankfurt a.M.
T +49 69 27229 20973
pieter.krueger@luther-lawfirm.com



Dr Johannes Teichmann
Lawyer, Partner, Location Head
Frankfurt a.M.
T +49 69 27229 26475
johannes.teichmann@
luther-lawfirm.com

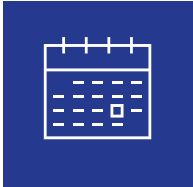


Tom Kalinski
Associate
Frankfurt a.M.
T +49692722920954
tom.kalinski@luther-lawfirm.com



Reinhard Willemsen
Lawyer, Partner
Munich, Cologne
T +49 89 23714 25792
reinhard.willemsen@luther-lawfirm.com

Events, publications and blog



You will find an overview of our events [here](#).



You will find a list of our current publications [here](#).



You will find our blog [here](#).

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Published by: Luther Rechtsanwaltsgesellschaft mbH
Anna-Schneider-Steig 22, 50678 Cologne, Germany
Telephone +49 221 9937 0
Fax +49 221 9937 110, contact@luther-lawfirm.com
Responsible for the content (V.i.S.d.P.): Dr. Steffen Gaber, LL.M.
(Sydney) Luther Rechtsanwaltsgesellschaft mbH Lautenschlager-
straße 24, 70173 Stuttgart, Telefon +49 711 9338 19192
steffen.gaber@luther-lawfirm.com

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