

Employment & Labor Law in Germany

Schuster / von Steinau-Steinrück / Mengel

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Employment and Labor Law in Germany

by

Doris-Maria Schuster

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Preface

Eight years have passed since the fourth edition. Like the first, second and third edition, it was very well received in the market and has been sold out for quite some time. Since the last edition in 2016, the German legislator has enacted various new laws based on EU directives, such as the Transparency in Wage Structures Act (*Entgelttransparenzgesetz*), which aims to enforce the right to equal pay for men and women for equal or equivalent work and the Whistleblower Protection Act (*Hinweisgeberschutzgesetz*), which is intended to create far-reaching and binding protection for whistleblowers. The new German Act on the Protection of Trade Secrets (*Geschäftsgeheimnisgesetz*) regulates an extended protection of trade secrets. In addition, a new EU regulation, the General Data Protection Regulation (*Datenschutz-Grundverordnung*), came into force in 2018 and lays down rules on how companies are allowed to handle personal data throughout the EU. Furthermore, some changes have been made to various other statutes, such as the Federal Data Protection Act (*Bundesdatenschutzgesetz*) or the Documentation Act (*Nachweisgesetz*), in order to implement EU directives.

These changes require updating and have therefore been taken into account in the fifth edition of this book. However, our overall concept remains unaltered. This book explains the essential provisions of German employment and labor law.

Such knowledge is particularly important in today's economic world. The trend towards globalization continues unabated, so that an understanding of specific aspects of national legal systems and economic cultures is required for internationally operating companies to assert themselves in global competition. In view of the international integration of many companies operating in Germany, this applies in particular to German employment and labor law. On the one hand, knowledge of German employment and labor law is important for foreign companies in order to successfully set up production facilities in Germany and carry out business transactions. Vice versa, executives and consultants of German companies or branches must be able to explain German law to foreign partners. Both require a solid understanding of the law and the latest legal developments. German employment and labor law is characterized by the fact that it is heavily influenced by social security law and case law. In addition, there is the division into individual and collective law provisions, which can initially make access to the subject matter more difficult.

This book is therefore intended to provide a reliable overview of the essential provisions of German employment and labor law, including the impact of social security and tax law, concisely and comprehensibly, while assuming no prior knowledge of the subject on the reader's part. Its purpose is to give executives and consultants a brief and succinct overview of the German system of employment and labor law. It is intended to help them recognize the issues which, in our opinion, present the most important problems and risks in establishing and managing German subsidiaries, as well as those arising from takeovers of German companies. The book focuses on those issues which, based on our extensive experience in the field, require the most legal advice and assistance. Academic questions of little practical relevance have been omitted. This book was last edited in March 2024. Therefore, subsequent changes to the legal situation could not be taken into account.

Preface

We would appreciate any suggestions concerning (any) problems that are not addressed in the book. We would like to express our appreciation to the partners in our law firms for their suggestions and comments. We would also like to thank Ms. Mia Meinking for her contributions to the fifth edition as well as and in particular Ms. Bedene Greenspan for her translation of the legal texts, her longstanding commitment and her valuable support for the completion of the fifth edition. And last but not least a special thanks to Dr. Stefan Lingemann, who edited the first four editions of this book. He is followed as editor by Dr. Doris-Maria Schuster.

Hamburg and Berlin, March 2024

Dr. Doris-Maria Schuster
Prof. Dr. Robert von Steinau-Steinrück
Prof. Dr. Anja Mengel, LL.M.

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Authors

Dr. Doris-Maria Schuster, born in 1966, studied law at the Philipps University of Marburg. After her first state examination, she worked as a research assistant at the Chair of Civil Law, Labor Law, German and European Commercial Law in Marburg, where she obtained her doctorate in collective labor law. She completed her legal clerkship at the Higher Regional Court of Celle. She has been a lawyer since 1997 and a partner at Gleiss Lutz since 2002. In 1999, Doris-Maria Schuster was a secondee at one of the leading US law firms specializing in employment law in Chicago. She is a member of the supervisory board of the German Lawyers' Academy (*Deutsche Anwaltakademie*) and chair of the board of the German Bar Association's Labour Law Working Group (*Arbeitsgemeinschaft Arbeitsrecht im Deutschen Anwaltverein*). Doris-Maria Schuster advises and represents national and international corporations and companies in all matters of employment law.

Prof. Dr. Robert von Steinau-Steinrück, born in 1964, studied law at the universities of Passau and Bonn. During his legal clerkship in Berlin, which included periods in Palermo and Dublin, he obtained his doctorate in labor law. After his second state examination, he worked as a foreign associate in New York. He was admitted to the bar in 1997 and began his career at Luther. In 1998 he moved to Gleiss Lutz and returned to Luther in 2003, where he has worked ever since. He advises and represents companies and executives in court in matters of collective and individual labor law. He is also a lecturer in labor law at the University of Potsdam.

Prof. Dr. Anja Mengel (LL.M. Columbia/NYC), born 1969, studied law at the University of Cologne and the Université d'Auvergne (Clermont-Ferrand, France, Diplôme en Droit) from 1988 to 1994. She completed her graduate studies at Columbia Law School, NYC/USA, from 1995 to 1996 with Harlan Fiske Stone Honors, where she was supported by various renowned scholarship institutions (including DAAD and Rotary Foundation) and was Associate Editor of the American Review of International Arbitration. She received her Ph.D. in 1996 under Prof. Dr. Dres. h.c. Peter Hanau with the work "Umwandlungen im Arbeitsrecht". After her legal court clerkship (1996 to 1998) at the Court of Appeals in Berlin and in Jerusalem (Supreme Court of Israel), she was admitted to the bar in 1999 and became a certified specialist in employment and labor law in 2002. After more than 25 years of advising employers in leading international commercial law firms and German employment law firms (with responsibility for offices in Berlin, Frankfurt, and Munich), Anja Mengel now continues her work in her own specialist employment law firm in Berlin. She has been an Honorary Professor at Bucerius Law School, Hamburg, since 2017. She is the author of numerous specialist publications, a speaker on specialist topics and involved in various honorary positions as a lawyer for around 30 years.

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