HANDELSBLATT (26.06.2015): GERMANY´S BEST LAWYERS 2015

NEWSLETTER 04/2015

Dear readers,

At the end of 2015 the fourth Newsletter of the year reports on the developments having occurred in the last 12 months. The focus is once again on real estate business law with some partial areas: commercial landlord and tenant law, public building law and insurance law in the the field of construction as well as the accompanying law concerning legal proceedings. In fact, there is also a first ruling with respect to the seizure of areas for refugees (regulatory authorities and police law). We supplement our reporting by taking a look at the legal development of the EU and in other EU member states for which I wish you – as usual – some stimulating reading.

Our law firm wishes all readers a happy new year.

Yours

Dr. Johannes Grooterhorst

Dr. Detlef Brümmer
Of Counsel

A. Current News

European Developments 2015

In 2015 some legal developments have occurred in Europe which can also be of interest to German companies and entrepreneurs.

I. EU Law

1. EU Law – Legal proceedings – Coming into force of rules of the regulation (EU No. 1215/2012 of December 12, 2012 Regulation concerning the Court Competence and the Recognition and Enforcement of Rulings in Civil and Commercial Matters (EuGVVO)) – Preventing "torpedo actions"

It was already on December 12, 2012 that the European Union has passed the regulation EU No. 1215/2012 of the European Parliament and of the Council concerning the court competence and the recognition and enforcement of rulings in civil and commercial matters (EuGVVO) (official journal of the European Union of December 20, 2012 (official journal 3511)). Pursuant to article 81 (official journal 351/21) the regulation applies as of January 10, 2015 (except for some articles which have already come into force as of January 10, 2014).

To be continued on page 2

Content

To be continued from page 1

The regulations for solving the problem which has arisen due to so-called “torpedo actions” are significant for the procedural practice of courts. These suits, which are denominated in the recitals 22 of the Regulation concerning the Court Competence and the Recognition and Enforcement of Rulings in Civil and Commercial Matters (EuGVVO) as abusive litigation tactics, are based on the following problem under procedural law:

Principle: Duty of the stay of proceedings in case of duplicate proceedings

In order to avoid duplicate proceedings in courts in the member states of the EU Article 20 Regulation concerning the Court Competence and the Recognition and Enforcement of Rulings in Civil and Commercial Matters (EuGVVO) (previously Article 27) regulates that in the event of action based on the same claim between the same parties the court applied to later has to stay proceedings until the competence of the court applied to first is established. This opens up possibilities: A declaratory action lodged fast – even before an incompetent court of a member state with a well-known record of a long duration of proceedings – blocks (“torpedos”) those proceedings pending at a later stage. In doing so, the proceedings, for example, before a court of the state of Italy with its duration of proceedings uniquely long in Europe, can grant the defendant some breathing space for further activities and allow the debtor time until a finally imminent enforcement.

Exception: Jurisdiction agreement

To avoid or at least to restrict this abuse, at any rate in case of existing jurisdiction agreements, Article 31 Sec. 2 Regulation concerning the Court Competence and the Recognition and Enforcement of Rulings in Civil and Commercial Matters (EuGVVo) applies as of January 10, 2015. According to that, the court of the other member state has to stay the proceedings until the court applied to on the basis of the jurisdiction agreement has declared that it is not competent pursuant to the agreement. If, in fact, the jurisdiction agreement provides for the exclusive competence of German courts, the Italian court, even if applied to earlier, has to stay the proceedings. The German court is not barred from continuing the proceedings.

Even if the uninterrupted effectiveness of this regulation is occasionally doubted in the literature, an abuse is, as a matter of fact, at least made more difficult at first glance.

2. EU Law – Court proceedings – Significance of an exclusive jurisdiction outside the jurisdiction agreement

Federal Supreme Court (BGH) 2015: No stay of proceedings in case of exclusive jurisdiction

In its ruling of March 13, 2015 (5 ZB 158/14) the Federal Supreme Court (BGH) has stated that in case of an action in rem within the meaning of Article 22 No. 1 Regulation concerning the Court Competence and the Recognition and Enforcement of Rulings in Civil and Commercial Matters (EugVVO) (old) (= Article 24 No. 1 Regulation (EU) No. 1215/2012) in case of exclusive competence of the courts of a member state no stay of proceedings is given. In the course of this the Federal Supreme Court (BGH) has interpreted the “matter in dispute” in a broad sense: It was not only about effectively exercising the right of first refusal as one of the prerequisites for the coming into being of a claim for acquisition but it was also about the fact which regulations in the purchasing agreement with the third party pursuant to § 464 Sec. 2, § 465 German Civil Code (BGB) or comparable provisions of other legal systems, became subject of the purchasing agreement between the seller and the party entitled to the right of first refusal.

In the case ruled sisters were in dispute with shares of 6/10 or 4/10 respectively as co-owners of a plot of land in Germany. A right of first refusal concerning the share of co-ownership of the minority owner was entered in favour of the majority owner. The minority owner sold its minority share to a third company (civil-law partnership (GbR)).

After the sisters had come to an agreement with respect to the assignment of the share in the property following a longer dispute and after the purchasing price had been paid, the minority owner rescinded her purchasing agreement with the civil-law partnership (GbR). The civil-law partnership sued both parties of the lawsuit before courts in Italy in order to regulate the registration – later by the majority owner against the minority owner. The Landgericht (LG) stayed the proceedings before the German courts; the Oberlandesgericht (OLG) repealed the decision of staying proceedings.

The Federal Supreme Court (BGH) has ruled that staying proceedings could not be taken into consideration pursuant to Art. 27 Sec. 1 Regulation concerning the Court Competence and the Recognition and Enforcement of Rulings in Civil and Commercial Matters (EuGVVO) old version (now Article 29 Sec. 1 EuGVVO). The pending action before Italian courts did not lead to a stay of the German proceedings. The courts in Italy were not internationally competent but exclusively those courts at the place where the plot of land was located (Art. 22 No. 1 EuGVVO old version, today Art. 24 No. 1 EuGVVO). In fact, Article 27 old version (Article 29 new version) EuGVVO principally applied, because it was about the same subject matter of the contract which did not have to coincide completely: all that matters was that in both proceedings the same issues were at the centre.

It was also irrelevant that the plaintiff of the Italian proceedings ("the third party") was not part of the German legal proceedings. A lawsuit also affected the same parties if they were not completely identical.

However, staying proceedings also failed because of the fact that the Italian courts were not internationally competent. For that reason the German proceedings did not have to be stayed but had to be terminated by means of a ruling on the factual issues raised.

Practical considerations

Even without a jurisdiction agreement within the meaning of the new Regulation concerning the Court Competence and the Recognition and Enforcement of Rulings in Civil and Commercial Matters (EuGVVO) proceedings before an exclusive jurisdiction have to be conducted before the latter and have to be terminated without staying proceedings. The "torpedo" filed before an international non-competent court is, therefore, without any effect.

II. Spain

1. General Commercial Law – De-indexation of the Spanish civil law – Prohibition of index clauses in rental agreements

On March 30, 2015 Phillip VI., King of Spain, has announced via the Spanish prime minister (Presidente del Gobierno) Mariano Rajoy the law No. 2/2015 of March 30, 2015 regulating the "de-indexation" of the Spanish economy (Boletín Oficial del Estado (BOE) No. 27 of March 31, 2015, 27.244-27258).

Considerations

Based on the objective of integrating the Spanish economy into the Euro zone because of experiences of an adverse effect of continuous price adjustments and bearing in mind the necessity to regain the competitiveness of the Spanish economy (Preamble I), the law was intended to result in a new form of price adjustment (statutory objective, Art. 1).

No indexation in the public sector

The law affected the public sector (Chapter 2, Art. 4 to 6) and contracts between private individuals (Chapter 3, Art. 7).

As far as various areas were concerned, the effects were regulated with pecuniary advantages.

As far as the real estate industry is concerned the following was relevant

No indexation in case of rental agreements

- the Disposicion final primera with the amendment of the law No. 28/1994 of 24 November regulating rental agreements (arrendamientos urbanos) (rental agreements regarding inner city plots of land).

- the Disposicion final secunda regulating the amendment of the law 49/2003 of 26 November with respect to contracts concerning areas (arrendamientos rusticos) (plots of land outside the developed city area).

As an example the amendment of the price adjustment in case of rental agreements concerning municipal plots of land could be mentioned: new version § 1 Art. 18 of the law 29/1994:

"During the effectiveness of the contract the rent can be "revised" once a year, at the time of the annual period of the rental agreement and by means of a separate agreement. If there is no explicit agreement, a change in rent cannot be made".

2. Company Law – Postponing a partial reform of the corporation law until December 31, 2016 (instead of December 31, 2014)

Issu of withdrawing from the company

The Spanish legislator has further postponed in its effectiveness a reform rule of the corporation law – hidden in the law regulating urgent measures in the area of the bankruptcy law No. 11/2014 of September 5, 2014 (state law gazette BOE 2014-9133). This newsletter has reported on the reform of the corporation law since 2010 and on the partial reform of the reform with the law 2512/2211. Article 348 BIS provided that partners of a corporation were entitled as of the commencement of the fifth financial year subsequent to the registration in the commercial register to withdraw from the company if the general meeting (junta general) did not distribute at least one third of the statutory distributable profit of the previous business year.

In the first final regulation of this law on measures (disposicion final primera) the law on corporations 1-2010 of 2 July will be revised as follows:

Exit clauses in case of corporation law only from January 1, 2017

"The application of Article 358 BIS concerning the company law governing corporations will be suspended until December 31, 2016".

The preliminary remarks with respect to that law mention the regulation VI Sec. 8, but do not include any explanation. For that reason, the conflict regarding minority protection and the majority rights in the corporation, therefore, still remains unresolved.

Dr. Detlef Brümmer

B. Real Estate Law

I. PI. Private Building Law – Architect Law – Obligation to partial acceptance only in case of contractual agreement

Ralf-Thomas Wittmann
Partner

The OLG Munich has decided in its ruling of February 10, 2015 (U 2225/14) that if an explicit partial acceptance clause for the work phases 1 – 9 (HOAI – Architects and Ingenieurs honorary law) did not exist, there was no obligation to partial acceptance. The exact determination of the date of acceptance and thus the associated commencement of the statutes of limitation quite often experienced difficulties in practice concerning architect contracts. Especially when commissioning the so-called full-work architecture, i.e. including work phases 1 – 9 to the full, it could result in very long warranty periods for the architect.

The plaintiff commissioned the defendant architect with the work phases 1 – 9 for the construction of a single-family home. After defects at the building had become apparent the building owner sued him for damages on the grounds of insufficient object supervision. The architect by contrast was of the opinion that claims for damages against him had become time-barred. Within this context he relied on the following formulation in the architect contract:

Issue of the commencement of the statutes of limitation (Acceptance)

"The statutes of limitation commence with the acceptance of those work to be delivered under this contract, at the latest with the acceptance of work to be delilvered in work phase 8 (object supervision) (partial acceptance). For work to be delivered subsequent to that, the statutes of limitation commence with the acceptance of the last service."

The architect took the position that by paying (by way of instalments) the work delivered including work phase 8 in 1999 the work phases 1 to 8 had also been partially accepted. He concluded from that that potential claims for damages had already become time-barred when the action had been filed in 2007.

No statutory obligation to partial acceptance – no tacit agreement

The architect has not succeeded with this argumentation at the Oberlandesgericht (OLG) Munich. According to the senate an obligation of the principal for partial acceptance subsequent to work phase 8 was lacking in the aforementioned contract clause. However, there was no statutory obligation to a partial acceptance. Thus, a respective clause should have been explicitly provided for in the contract. It was also not possible to tacitly infer such an obligation to partial acceptance from the clause. As a matter of fact, the regulation concerning the statutes of limitation exclusiverly related to a case where partial acceptance had actually and verifiably taken place.

No implied partial acceptance

There was also no implied partial acceptance by merely paying work phases 1 to 8. The performance of work phase 9 was still indisputably lacking. According to the senate the architect, therefore, still had to complete service phase 9 and then a verifiable acceptance had to be carried out. It was only at that point in time when the statutes of limitation commenced.

Practical considerations

A tacit agreement can apply if the orderer accepts the plans of a stress analyst or an architect and if he/she communicates to him/her that he/she intends to accept the work as corresponding to the contract in the main (Federal Supreme Court (BGH), ruling of February 6, 1964 – VII ZR 99/62). This, for example, is the case if the orderer accepts the not yet fully completed static calculations and plans, pays the invoice of the structural engineer in full and if he does not notify of any defects relating to the structural design several months after

moving into the almost completed building (Federal Supreme Court (BGH), ruling of February 25, 2010 – VII ZR 64/09). Implied acceptance of the architect or engineer work can also take place in such a way that the orderer does not notify of any defects of the planning work within an appropriate assessment period subsequent to the completion of the building and after having moved in (Federal Supreme Court (BGH), ruling of September 26, 2013 – VII ZR 220/12). Internally passing on the planning for an implied acceptance to a test engineer as well as his/her test is, however, not sufficient since some conclusive behaviour has to outwardly emerge (Federal Supreme Court (BGH), ruling of November 15, 1973 – VII ZR 110/71).

RALF-THOMAS WITTMANN

II. Private Building Law – Architect Law – Prolonging the statutes of limitation by means of secondary liability of the architect

The Oberlandesgericht (OLG) Celle has decided on the following subject matter in its ruling of March 5, 2015 (6 U 101/14): In 1998 the building owner had actually commissioned the defendant architect with the work phases 1 to 8 for constructing an office building. In the course of the legal proceedings it remained contentious whether the architect had also been commissioned with work phase 9. The building had been put into operation on September 13, 1999. The building owner had paid the final invoice of the architect on June 6, 2000.

Damage resulting from dampness – unsuccessful improvement

In March 2002 it was noticed that dampness penetrated the building via a roof window, which the architect contested towards the architect in his letter of March 7, 2002. Although the architect inititated supplementary work carried out by the roof tiler, this measure of supplementary work turned out to be unsuccessful. As a matter of fact, further leaks in the area of the roof windows subsequently came to light.

Action for damages due to planning and supervision errors

On November 23, 2011 the action was delivered to the architect aimed at damages for errors in planning and supervision. The architect took the position that potential claims for damages against him had become time-barred.

The architect has remained unsuccessful at the Oberlandesgericht (OLG) with this objection. For even if it could be assumed that the work phase 9 had not been assigned to the architect, the architect was still held liable according to the senate. As a matter of fact, if the commissioning of the work phases 1 to 8 were assumed, the payment of the final invoice had to be assumed as implied acceptance of the work of the architect. For that reason the statutes of limitation principally expired on June 6, 2005.

However, the principles of secondary liability were opposed to the statutes of limitation. According to the Oberlandesgericht (OLG) the architect should have examined the causes in more detail when he was informed about the inflowing water in 2002. In particular, it would have been required to inform the building owner that for this case even his/her own failures in the context of the planning or, at least, of the object supervision had been responsible. As a consequence of this information the building owner could have then taken measures against the architect suspending the statutes of limitation.

No expiry of the statutes of limitation with entry of

Due to the fact, that this information was lacking the so-called secondary liability applied. The latter was subject to the regular statute of limitation. The commencement of the statute of

limitation was the point in time at which the duty of examination and information had been violated. Pursuant to § 199 Sec. 3 Sent. 1 No. 1 German Civil Code (BGB) the so-called ultimo statute of limitation of ten years applied. The regular statute of limitation built on the knowledge the building owner concerning the responsibility of the architect. However, the building owner only gained such knowledge by means of an expert opinion of the year 2011. Commencement of the statute of limitation was, therefore, December 31, 2011, so that the claim had by no means become time-barred when filing the action.

THE SO-CALLED SECONDARY LIABILITY (VIOLATION OF THE DUTY OF INFORMATION)

REGULAR STATUTE OF LIMITATION IN CASE OF SECONDARY LIABILITY

The negligent lack of knowledge of an architect concerning a defect does not trigger any secondary liability. Secondary liability is connected to the violation of the architect's duty to search for the cause of defects already known. If the architect has inspected the building in the context of work phase 9, this manifests a violation of duty of the architect contract; however, this ground alone is not sufficient to trigger a secondary liability (OLG Cologne, ruling of August 29, 2012 – 16 U 30/11). Moreover, secondary liability is connected to the property of the architect as trustee of the building owner. The property developer does not take on such a special position of trust in his relationship to the building owner. He faces the building owner – and recognizably so for the latter – as work contractor with his own partially opposing interests (OLG Schleswig, ruling of September 4, 2009 – 14 U 27/09).

PRACTICAL CONSIDERATIONS:

RALF-THOMAS WITTMANN

C. Commercial Landlord and Tenant Law

I. Contractual Content – Written form clause § 550 Sec. 1 German Civil Code (BGB) – Even in case of a unilateral and perennial waiver of the right to terminate the contract

According to a recent ruling of the OLG Hamburg of October 5, 2015 (4 U 54/15) even a unilateral exclusion of termination binding the landlord for several years requires the written form of the rental agreement and also in turn requires the written form. If the exclusion of termination has been agreed contrary to the written form, it develops – at best - an effect for a period of one year.

CONTINUATION OF USE FOLLOWING A FIXED TERM – ORAL WAIVER OF THE RIGHT TO TERMINATE

The ruling is based on the following facts: There was – by way of a continuation of use subsequent to the termination of the original fixed period - an unlimited, written rental agreement on commercial real estate between the landlord and the tenant. The tenant claimed that it was later orally agreed between the parties "that the landlord would waive his right to terminate the tenancy for a period of five years (…)." During the period of the alleged waiver of the right to termination the landlord duly terminated the rental agreement and now requested to clear and to hand over the rental space by way of an action.

MEANING AND PURPOSE OF § 550 GERMAN CIVIL CODE (BGB)

The OLG Hamburg has deemed the ordinary termination effective because of the agreement on the exlusion of termination which was contrary to the written form. Pursuant to § 550 German Civil Code (BGB) a rental agreement concluded for more than one year required the written from. Otherwise it was considered as concluded for an indefinite period and was, therefore, subject to an ordinary notice of termination. However, it was only possible to (orderly) terminate the rental agreement no sooner than at the end of one year subsequent to having passed on the rental object (§ 550 Sent. 2 German Civil Code (BGB)). If the violation of the written form only occurred

LEONIE MUNZ
RECHTSANWÄLTIN

in the existing tenancy, this annual period commenced when concluding the relevant amendment agreement. The OLG Hamburg has been of the opinion that the written form requirement of § 550 German Civil Code (BGB) did not only apply to fixed-term rental agreements with a period of more than one year, but also to tenancies for which, though concluded for an unlimited period, the parties had nevertheless excluded the ordinary termination for more than one year. With respect to the meaning and purpose of § 550 German Civil Code (BGB) the written form would also be required for a restricted unilateral waiver of the right to termination. Agreeing a waiver of the right to termination that was contrary to the written form would lead to the fact that the waiver – developed an effect by considering § 550 German Civil Code (BGB) – only for the period of one year since the agreement of the supplement.

PRACTICAL CONSIDERATIONS

With its decision the OLG Hamburg follows the ruling of the Federal Supreme Court (BGH). A(n) (even unilateral) waiver of the right to termination covering more than one year factually seems like a limitation of the entire contractual relationship thus triggering the written form requirement of § 550 German Civil Code (BGB) for all material contractual contents, the non-performance of which results in the ordinary termination.

In this context it has to be observed that according to the ruling already waiving the right of some reasons for termination requires the written form.

LEONIE MUNZ

II. CONTRACTUAL CONTENT – ASSUMED CUSTOMER FREQUENCY– GUARANTEED FACTUAL ASPECTS

In its ruling of April 14, 2015 (5 U 1483/14 the OLG Koblenz has deceided on the entitlement of terminating a rental agreement because of the non-occurrence of the assumed customer frequency.

RENTAL AGREEMENT CONCERNING AN AREA IN A NON-COMPLETED SHOPPING CENTRE – INFORMATION PROVIDED BY THE LANDLADY ABOUT THE NUMBER OF VISITORS TO BE EXPECTED

The defendant rented a stall in a shopping centre. Upon the conclusion of the rental agreement the shopping centre had not yet been built. During the negotiations concerning the rental agreement the plaintiff in her capacity as landlady provided information to the effect that she assumed that about 25000 visitors were to be expected on Saturdays; in fact, only 19000 visitors had been counted. Based on this rather too low customer frequency the defendant terminated the rental agreement without notice. Then the plaintiff asserted the outstanding rent.

The Oberlandesgericht (OLG) has not recognized any reason for termination, but has sustained the action for payment of the plaintiff.

The court has reasoned that the plaintiff neither provided a guarantee, nor a factual aspect with respect to the frequency of tenants. As far as the remark of the plaintiff was concerned, it was rather a kind of blurb. Furthermore, the Oberlandesgericht (OLG) has based its ruling on the circumstance that the rental agreement did not include any indicators for a specific customer frequency. In addition, the rental agreement included the clause that no oral ancillary agreements existed.

JÖRG LOOMAN
RECHTSANWALT

The court has also not recognized an assured factual aspect because of the numbers of visitors in the circumstance that the defendant concluded an agreement on marketing measures with another company in parallel to concluding the rental agreement. Actually this

marketing agreement did not include any specific marketing measures for the defendant, but only generally for the shopping centre.

Practical considerations

Especially when renting sales areas in shopping centres still to be built it can later turn out that the forecast customer frequency and the associated turnover did not materialize. Disputes frequently develop between the parties to the rental agreement whether the landlord had garantueed a factual aspect when negotiating the rental agreement. If tenants presume a specific customer frequency, they are, therefore, well advised to expressly fix this in the rental agreement and to subject it to a respective special right of termination.

Jörg Looman

III. Contractual Content – Ineffective final renovation clause even in case of commercial landlord and tenant law when handing over unrenovated premises

The LG Lüneburg has recently ruled that a final renovation clause in a standard-form contract concerning commercial space was ineffective because of an inappropriate disadvantage of the tenant, if the rental space had been handed over in an unrenovated condition at the commencement of the tenancy (ruling of August 4, 2015 – 5 O 353/14).

Standard-form contract concerning commercial rental real estate – contractual clause regarding decorative repair work upon termination of the rental agreement

The lawsuit was based on the following facts: There was a standard-form contract for commercial space between the parties. When the rental space was handed over it was in an "unrenovated and desolate condition". § 16 of the rental agreement regulated that the tenant had to carry out decorative repair work at his/her own expense upon the termination of the tenancy and thus amounting to a so-called "final renovation clause". Subsequent to the end of the rental period the defendant tenant did not carry out any decorative repair work in spite of being requested to do so and by setting a deadline. The plaintiff claimed to get the costs for the decorative repair work replaced.

Contract interpretation on the basis of § 535 Sec. 1 German Civil Code (BGB) – Guarantee of the landlord regarding the intended use – Contractually passing on the costs according to the content review of §§ 307 ff German Civil Code (BGB)

The LG Lüneburg has rejected the action of the landlord. The duty to carry out decorative repair work was not effectively passed on to the tenant and remained therefore, still the responsibility of the landlord. Pursuant to the basic conception of § 535 Sec. 1 Sent. 2 German Civil Code (BGB) the landlord has to bear the wear and tear of the rental object associated with the intended use and, therefore, has to carry out the decorative repair work. The norm, however, could be altered by mutual consent, so that this duty could have amicably been passed on to the tenant. If this passing on was based on General Terms and Conditions, its effectiveness relied on the content review of §§ 307ff German Civil Code (BGB). If that passing on of decorative repair work represented an inappropriate disadvantage, it would be ineffective pursuant to §§ 307, 310 German Civil Code (BGB) – even in business transactions between companies. Such a disadvantage actually applied according to court rulings of the Federal Supreme Court (BGH) concerning residential landlord and tenant law if the tenant - irrespective of the point in time of the last implementation of decorative repair work -had been obliged to carry out the final renovation or if the tenant should be requested to carry out continuous decorative repair work during the tenancy, although the flat had been handed over to him/her in an unrenovated condition (see also our Newsletter 02/2015, p. 10). This also applied in the present case. The rulings of the Federal Supreme Court (BGH) focussed, in fact, on residential landlord and tenant law. According to the ruling of the Federal Supreme Court (BGH) there was, in fact, only in exceptional cases reason to assume that rental agreements governing commercial space were to be judged in a different manner than those governing residential real estate. Such an exception did not apply.

Practical considerations

It remains to be seen how high court rulings judge the effectiveness of a final renovation clause when handing over an unrenovated rental object. This ruling once again illustrates that even in commercial landlord and tenant law it is only possible within strict limits to pass on decorative repair work by means of General Terms and Conditions and that it has to be reviewed in detail regarding its effectiveness. Individually considered effective clauses can indeed be ineffective in connection with other clauses ("summation effect"). Furthermore the circumstances of the individual case have to be considered – such as, for example, the condition of the specific rental object when being handed over.

Leonie Munz

IV. Warranty – Exclusion of the liability for material defects by using a standard form

The OLG Brandenburg has decided in its ruling of September 22, 2015 (6 U 99/14) that excluding the liability for material defects by using a standard form was effective for defects that existed upon the conclusion of the contract.

Rental agreement on a large-scale restaurant und taking over of the rental spaces in the current condition well known to the tenant

The legal proceedings are based on the following facts: The landlady acquired a plot of land developed with a so-called large-scale restaurant. She had rented out premises to the former tenant in order to operate a restaurant. The rental agreement included the following disclaimer of warranty: "The landlord grants the use of the rental object in the current condition well known to the tenant due to a detailed inspection. The tenant waives any rights to warranty." The former tenant had undertaken to convert the premises at his/her own expense. This also involved, among other things, work on the heating system. In doing so, the payment of the basic rent should be dropped for the first 12 months. The former tenant had transferred the rental agreement to the current tenant. The latter contested defects at the rental object, especially with respect to the heating capacity as well as the single glazing. She stopped paying the rent. Resulting from that, the landlord terminated the rental agreement without notice and demanded the payment of the outstanding rental amounts and a compensation for use.

No right of reduction in case of a contractually agreed disclaimer of warranty

The OLG Brandenburg has deemed the termination without notice effective and has affirmed claims for payment of the landlady. A reduction could not be taken into consideration. By taking over the rental agreement the tenant had also taken over the contractually agreed disclaimer of warranty. The latter even applied if made in the form of General Terms and Conditions. Moreover, the tenant was aware of the contested defects when concluding the agreement. According to the regulations in the rental agreement heating the rental areas was the business of the (former) tenant. That agreement was effective. In commercial landlord and tenant law the tenant could largely be obliged by means of an individual agreement to carry out conversion, repair and maintenance work. There would be no reservations against such an agreement particularly if the taking over of such work was included in the calculation of the rent. If the contracting parties agreed that the rental object was passed on to the tenant in a condition requiring maintenance work and if the tenant was to carry out specific work, the landlord only owed the given condition upon hand-over as the condition pursuant to contract.

Dr. Rainer Burbulla
Partner

Practical considerations

From the point of view of the landlord it is always recommended to contractually exclude strict liability for initial defects (§ 536 a Sec. 1 German Civil Code (BGB)). This can also be done in the form of General Terms and Conditions.

Dr. Rainer Burbulla

D. Public Law

I. Planning Law – City district built in an arrangement (inner area) – Outer area

In its most recent ruling the Federal Administrative Court (BVerwG) has once again dealt with the criteria of demarcating the inner area (§§ 34 German Building Code (BauGB)) from the outer area (§ 35 German Building Code (BauGB)) (BVerwG, ruling of June 30, 2015 – 4 C 5.14).

Outer area in the inner area – developed areas as outer areas

Demarcating the inner area from the outer area is not always easy. Even areas surrounded by some development can be categorized as outer area in a legal sense (§ 35 German Building Code (BauGB)), which principally have to be kept free from any development ("outer area in the inner area"). It is decisive whether these areas are developed themselves. Even if those areas are developed, they cannot be necessarily assigned to the inner area in the legal sense (§ 34 German Building Code (BauGB)). When demarcating the inner area from the outer area only those structures are to be considered that represent a harmoniously continued development of the existing buildings. If they only represent subordinated structural facilities, they remain unconsidered. Therefore, even developed areas can represent an outer area in the legal sense. However, it can be made part of a development via a legally binding land-use plan at any time.

Eva Appelmann
Rechtsanwältin

The ruling of the Federal Administrative Court (BVwerG) has dealt with the issue of a so-called outer area in the inner area.

It was based on the following facts: The plaintiffs applied for an outline building permit under planning law concerning the construction of two single-family homes and ten semi-detached houses in a two-storey design. The plots of land of the project were located within a square of streets. This square of streets is, on the roadside, mainly developed with one to three-storey residential buildings, agricultural units and buildings used for the horticultural or commercial sector. Within this square of streets large-scale greenhouses were located with an extension of up to 160 m in width and 100 m in length as well as free areas used for the horticultural or agricultural sector. For this area no legally binding land-use plan existed.

Application for an outline building permit under planning law

The authorities rejected the outline building permit since the plots of land were located in the outer area. The administrative court confirmed that ruling. The OVG stated that the permit had to be granted on the basis of a district built in an arrangement. The Federal Administrative Court (BVerwG) has annulled that ruling of the OVG.

Arrangement of buildings only for visually perceivable structures with a certain significance – shaping character – permanently residing people

The BVerwG has stated: The existing greenhouses did not participate in the development arrangement. Only those structures could participate in the arrangement of buildings that could be visually perceived and were of certain significance. The structures had to be suitable to shape a district with a certain character. As a rule, the structures had to serve the purpose of making people reside permanently so that they were considered as a character-forming element of the settlement structure. The existing greenhouses did not develop those unique elements since they only represented ancillary facilities with the main use in the field of commercial horticulture and thus not being able to contribute to an organic settlement structure.

The square of streets was characterized by one to three-storey residential and company buildings. The existing greenhouses did not, therefore, have any function characterized by unique elements so that they could not be allocated to the inner area.

Practical considerations

In practice disputes are regularly dealt with as to whether a plot of land has to be allocated to the inner area or already to the outer area. Building a structure on a plot of land decisively depends on the fact whether the plot is located in the inner or outer area. The outer area principially has to be kept clear from any development. The current ruling of the Federal Administrative Court (BVerwG) offers a good summary of the crucial criteria to demarcate the inner area from the outer area.

Eva Appelmann

II. Planning Law – Deadline regarding judicial review (§ 47 Sec. 2 Sent. 1 Rules of the Administrative Courts (VwGO)) subsequent to a renewed publication of the legally binding land-use plan

The Federal Administrative Court (BVerwG) has clarified in its most recent ruling (ruling of August 18, 2015 – 4 CN 10.14) that the deadline of one year for lodging the application for judicial review against a legally binding land-use plan (§ 47 Sec. 2 Sent. 1 Rules of the Administrative Courts (VwGO)) is triggered once again if a legally binding land-use plan was published again in supplementary proceedings after having remedied a design deficiency.

Remedying a design deficiency subsequent to first publication– renewed publication

A legally binding land-use plan had been decided and published as statutes in 2006. After having remedied the design deficiency, the legally binding land-use plan had once again been published in 2009 whilst remaining unchanged in terms of the content. As the Federal Administrative Court (BVerwG) has stated, the statutes-providing municipality unjustly took the position that the renewed publication subsequent to completing supplementary proceedings for remedying a design deficiency did no longer trigger the deadline for an application for judicial review if the plan remained unchanged with respect to its content. The application for judicial review lodged by the applicant during the judicial review proceedings in 2010 – within a one-year deadline as of the publication in 2009 – was, therefore, valid. The fact that the statutory regulation of § 47 Sec. 2 Sent. 1 Rules of the Administrative Courts (VwGO) took the publication into account, the regulation connected the application deadline to the point in time at which the legally binding land-use was made public with a formal claim of validity. However if the party responsible for the plan realized (or if he/she – even erroneously – assumed) subsequent to a deadline-triggering publication that it did not comply with the statutory requirements (or the plan was afflicted with formal errors), the party responsible for the plan was allowed to renew the claim for validity subsequent to remedying the error by once again publishing the plan that remained unchanged content-wise and to pursue the objective of replacing an actually (or allegedly) ineffective legally binding land-use plan by an effective legally binding land-use plan. In fact, this renewed publication has re-triggered the deadline for judicial review of § 47 Sec. 2 Sent. 1 Rules of the Administrative Courts (VwGO), according to the Federal Administrative Court (BVerwG).

Isabel Strecker
Rechtsanwältin

No renewed deadline in case of an obvious absence of burden of the applicant

A new publication of the legally binding land-use plan serving the purpose of remedying any potential design deficiency could only re-trigger the deadline for an application of judicial review intended to be directed against the legally binding land-use plan as a whole, if the (potential) design deficiency only affected a fixing amended with respect to the original legally binding land-use plan due to which the applicant was obviously not burdened. However, such a case did not apply in the context to be ruled. Since the Oberverwaltungsgericht (OVG) did not yet make any points justifying the application for judicial review, the Federal Administrative Court (BVerwG) has referred the issue back to the Oberverwaltungsgericht (OVG).

The ruling once again reveals how important it is to observe the formal requirements imposed on the publication and design of a legally binding land-use plan. If the legally binding land-use plan has to be published again because of a recognized design deficiency, the deadline for judicial review is thus triggered again. The parties responsible for the plan as well as investors in the planning area, therefore, have once again to be afraid of the fact that the legally binding land-use plan will be successfully attacked in the course of judicial review proceedings.

Practical considerations

Isabel Strecker

III. Public Procurement Law – Right to information – § 4 Information Act North Rhine-Westphalia (IFG NRW) - of the unsuccessful bidder regarding property deals of the public entities (property title holder)

Dr. Steffen Schleiden
Rechtsanwalt

The Verwaltungsgericht (VG) Gelsenkirchen has ruled on August 27, 2015 (17 K 5507/13) that a natural person has, in the context of property sales, a right to information against a city with respect to the sales price and value determination.

The issue was about the sale of a plot of land in a city in North Rhine-Westphalia. At the same time the seller intended to create the requirements under planning law for building a food retailing market.

After the sale of the plot of land the managing director of the unsuccessful bidder filed an application for information pursuant to § 4 Information Act North Rhine-Westphalia (IFG NRW). § 4 Information Act North Rhine-Westphalia (IFG NRW) only grants natural persons a right to information without preconditions.

Right to information pursuant to § 4 Information Act North Rhine-Westphalia – IFG NRW

The seller (city) refused to provide information by referring to the fact that the purchasing price manifested a trade and business secret thus excluding the right to information. The applicant filed an action for being granted information.

Purchasing price and valuation report in case of property deals with public authorities no trade and business secret

The Verwaltungsgericht (VG) Gelsenkirchen has ruled that the purchasing price and the valuation report in case of a concluded property deal with the public entities did not represent a trade and business secret within the meaning of § 8 Sent. 1 Information Act North Rhine-Westphalia (IFG NRW). Disclosing the purchasing price and the valuation report did not allow for any conclusions to be drawn from price calculations, conclusion of contracts or other competition-relevant data of the purchaser. By only disclosing the agreed purchasing price the competitive situation of the party affected did not deteriorate. In fact, further non-publicly accessible business information concerning the purchaser would be necessary in order to be able to draw a conclusion from potential future rent or lease rates.

Accordingly, the defendant city was ordered to provide the information requested.

Practical considerations

As far as practice is concerned, this ruling is of far-reaching significance. In fact, it offers the unsuccessful bidder the possibility of obtaining more information about the purchase of the plot of land and especially about the purchase price and the determination of the purchase price. This information is of decisive significance in order to be able to understand whether the plot of land had been sold at market value or whether inadmissible subsidies had been paid to the purchaser in the context of selling the plot of land. If that applies, the option is given to take

action against these inadmissible subsidies in the context of review proceedings at the European Commission.

Dr. Steffen Schleiden

IV. IV. General Regulatory Authorities Law (Police Law) - § 8 Lower Saxonian Law on the Public Security and Order (NDS SOG) – Seizure of residential space in order to provide residential space for refugees

In its ruling of October 9, 2015 (5 B 98/15) the Verwaltungsgericht (VG) Lüneburg has ruled that the seizure of a private plot of land to accommodate refugees on the basis of the general clause under police law was only possible as an ultima ratio.

Seizure of a stripped out children's and young people's home for residential use

The city of Lüneburg seized a vacant building in Lüneburg – formerly used as a children's and young people's home. The building had already been stripped out. It was intended to be converted for new usage. At first the city of Lüneburg had unsuccessfully negotiated with the owner of the property about renting it. Subsequent to that, the city seized the property and ordered to accommodate 50 refugees in the building. Furthermore, the authorities ordered the immediate enforcement of the seizure.

Immediate enforcement

Restoration of the suspensive effect

The Verwaltungsgericht (VG) Lüneburg granted the emergency appeal of the property owner concerning the restoration of the suspensive effect of the action addressed against the seizure.

Burden of producing evidence of the municipality regarding other possibilities of averting danger

The court has considered the seizure of a private property to be admissible in order to accommodate refugees only as ultima ratio. Seizure could only be taken into consideration if (all) prerequisites of the general clause under police law (in the present case § 8 of the Lower Saxonian Law on the Public Security and Order – Nds. SOG) were fulfilled. According to that, the administrative authorities could take all necessary measures to avert some danger and could also direct such measures – by considering the prerequisites of § 8 Sec. 1 Nds SOG – against people not responsible. Although the threat of homelessness represented a disturbance of public security and, thus, a danger, the city, in fact, did not produce evidence whether it could not or not in time avert that danger itself.

Seizure prerequisites – no other possible or acceptable way being in the power of the municipality of eradicating homelessness

When seizing plots of land or flats to accommodate homeless people (refugees) demanding conditions had to be made because of infringing the right of ownership of the house owner (Art 14 Grundgesetz (German constitution)) (comp. Lower Saxonian OVG, ruling of December 14, 2009 – 11 ME 31609). The administrative authorities had to provide evidence when using private property to accommodate homeless people that they did not dispose of any accommodation belonging to the municipality at the time in question and that it would also not be possible to organize such accommodation from any third party (comp. OVG Oldenburg, ruling of May 22, 2012 – 7 A 3069/12 and VG Darmstadt, ruling of July 20, 2009 – 3 L 946/09). Prior to using it, the authorities had to do everything in their power, i.e. everything possible and acceptable to them, to eliminate the danger. When taking the effort to eradicate involuntary homeslessness and to organize some new accommodation the authorities should not restrict themselves to the premises available to them or to flats accessible due to their influence. In fact, they were expected to also rent, if necessary, accommodation in hotels, even if this solution should be cost-intensive in relation to seizing properties and to paying some compensation for use (comp. OVG Saarland, ruling of April 14, 2014 – 1 B 213/14). In the present case, some respective

evidence produced by the city of Lüneburg was not available. Even if the high number of refugees for whom some accommodation needed to be organized, represented a huge challenge and even if the use of the former children's and young people's home was useful and reasonable in order to be able to offer the refugees an appropriate accommodation and to also offer at that place social work and measures of integration, the city did not provide evidence that it would have been impossible to host the refugees in the youth hostel of Lüneburg with its total of 148 beds, for instance by renting one wing. The argument that Lüneburg would be a tourist location and would also have to be accessible for visitors being less well off, did not have the desired effect. Ultimately, it was about economic considerations that should principally play no role when asking the question whether claims can be asserted against a non-disturber.

Practical considerations

For the first time a court ruling has been made regarding the (strict) prerequisites of a seizure. The Verwaltungsgericht (VG) Lüneburg has confirmed the discussions taking place so far that seizure can only be taken into consideration as an "ultima ratio", if the authorities have at first tried everything else without success in order to accommodate refugees. The owner can take action against the order of a seizure by way of an action of annulment and a separate emergency appeal. An immediate enforceability of the seizure can be prevented by the latter. The owner can base the application – as in the case given – on the fact that the local authorities have not exploited all other measures to accommodate refugees. An exception to this, however, applies in Hamburg. According to the law of Hamburg, an objection and an action of annulment against the seizure are not meant to have any suspensive effect. Apart from the legal (strict) prerequisites local authorities should refrain from seizures out of their own interest. Otherwise the mood in the population threatens to further tip over.

Dr. Rainer Burbulla

E. Insurance Law

I. Legal Protection Insurance – General Terms and Conditions of the Legal protection Insurance (ARB) – Exclusion of building risk – Coverage claim

The Oberlandesgericht (OLG) Braunschweig has ruled on the scope of the so-called building risk clause in the legal protection insurance (ruling of August 28, 2015 – 11 O 195/14).

Legal protection insurance contracts provided in § 3 of the General Terms and Conditions of Legal Protection (ARB) for a variety of risk exclusions. The so-called building risk clause also formed part of the risk exclusion. Accordingly, there was not legal protection for protecting legal interests in a causal connection with, among other things, the planning and construction of a building or of a part of a building that was owned or possessed by the insurance holder or that the latter intended to acquire or to take possession of.

Building accident when monitoring the building project by the building owner

The plaintiff erected a residential building on his plot of land. On the day of the accident he was on that plot of land together with his son in order to monitor the installation of a filigree ceiling. He kept a distance to the building of about 10 m, went around the house and stood on a mound at the south side. While the filigree ceiling had been unloaded by a crane, the scaffolding erected at the wall tipped over and fell on the plaintiff. The plaintiff was seriously injured and had to undergo months of inpatient treatment followed by outpatient treatment.

Action for damages for pain and suffering and compensation pp. – rejection of coverage

By way of an action the plaintiff asserted claims for damages for pain and suffering, for compensation and for determing further liability for damages against the company commissioned with the construction. In order to conduct this lawsuit he requested coverage of the defendant legal protection insurer. By invoking the building risk clause the legal protection insurer rejected coverage.

Sense and purpose of risk exclusion – accident as a typical hazard of building sites

The OLG has confirmed the legal opinion of the insurer. It has referred to the ruling of the Federal Supreme Court (BGH): According to that, there was a direct connection with the planning or construction of a building or of a part of a building if apart from a certain temporal connection also an inner objective link existed. Sense and purpose of the risk exclusion was to take out of the insurance those legal disputes concerning building measures of all kinds as well as the directly associated procedures which were deemed difficult to estimate and hardly predictable regarding the risk of costs because such a risk could only come into being for a relatively small part of the insurance holders. Principally exclusion clauses were not allowed to be extended further in the context of interpretation than required by their sense and purpose. However, the building risk was not only reflected in traditional building lawsuits such as in actions concerning defects or compensation for work which regularly involved high dispute values and necessitated comprehensive expert opinions. The accident risk, too, accompanying the operation of building sites was such a typical hazard. Bearing in mind the generally known hazards posed by building sites the insurer had a legitimate interest to cover also those legal disputes by the exclusion clauses having claims as subject matter resulting from accidents typical for a building site. Such typical accidents also included the falling over of the scaffolding on the plot of land of the plaintiff. The scaffolding had been erected in causal connection with the construction of the building thus serving the building project. For that reason it was exactly not about a so-called anyone's risk. The ruling has not yet come into force. An appeal against denial of leave to appeal is still pending at the Federal Supreme Court (BGH) under file reference IV ZR 467/15.

Practical considerations

If the legal dispute deals with the issue whether the insurance holder has been deceived by the landlord by false, dubious information relating to the object with reference to rental opportunities, i.e. quality and profitability of the investment, no circumstances have been addressed typically associated with the planning and construction of a building (OLG Cologne, r + s 1997, 507; OLG Cologne, 9 U 85/02, ruling of February 18, 2003). Consequently, the building risk clause does not apply in this case. If the insurance holder acquires a fully completed house in which he commissioned to install a fitted kitchen, an action regarding warranty claims with respect to the fitted kitchen does actually not come under the building risk exclusion if it is about a tailor-made kitchen especially designed to the needs of the insurance holder (AG Neumünster, ruling of November 7, 2003, 36 C 1549/03, r + s 2004, 147). If due to building measures other measures relating to the property are taken, for example, the design of a garden, insurance coverage exists for disputes resulting hereof, if such work is not necessary for the building work, because then the necessary causal connection with the building project is lacking (Armbrüster, in: Prölss/Martin, VVG, 29th edition 2015, marginal note 17).

Ralf-Thomas Wittmann

F. Conducting Legal Proceedings

Planning Law – Neighbourhood action – Temporary legal protection – No unlimited neighbourhood protection

In its ruling of February 12, 2015 (1 B 297/14) the OVG Saxony has dealt with the need for legal protection as well as with the substantive prerequisites of a neighbourhood action in temporary legal protection.

No need for legal protection in case of a neighbourhood application against usage-independent effects of a completed building shell

In summary, the court has stated: The general need for legal protection (Rechtschutzbedürfnis) for granting temporary injunction did not exist in those cases in which the neighbourhood application is directed against such effects based on a usage-independent manner from the building structure itself and in which the building shell was already completed. The application for temporary legal protection was not valid in this case. Furthermore, the court has stated that the neighbourhood application only succeeded if the building permit violated a norm protecting the neighbour. If the building project was located in the inner area (§ 34 German Building Code (BauBG), the protection of third parties was restricted to the requirement of consideration.

Application for temporary legal protection against the construction of a new single-family home in the second row

With the application for temporary legal protection the applicants contested the building permit for the construction of a new single-family home granted to a neighbour. The applicants argued that with the granted project a development in the second row came into being for the first time, that the landscape and the townscape would be impeded by the building project and that there would be the fear of the emergence of a splinter settlement. In the course of the temporary legal protection the building shell of the project had already been completed.

The court has rejected the application as invalid due a lack of the need for legal protection. The applicants lacked the need for legal protection because they could not achieve any legal advantage with the pending proceedings. Actually the application was only directed against the usage-independent effect of the building shell. Since the building structure already existed and since in the temporary legal protection no preemption of the main issue, i.e. the demolition of the building, could be achieved, the assumed impairments could not be removed in the course of temporary legal protection proceedings. The court has held in addition that a neighbourhood application could in any event not be based on the impairment of the townscape, on an impairment of the landscape or on the emergence of a splinter settlement. In the unplanned inner area (§ 34 German Building Code (BauGB)) third party protection was only anchored in the requirement of due consideration. The requirement of due consideration was only violated if the project seen from an objective legal point of view turned out to be without any consideration towards the neighbour due to the hazardous environmental impacts resulting hereof or due to the type or scope of its building use or due to its constructed area of the plot of land. However, the requirement of due consideration did not give the neighbour the right to remain spared from any impairment regarding his/her plot of land because of a building project.

Practical considerations

This ruling deals with two important aspects: Firstly, it emphasizes once again how important it is to apply for temporary legal protection at a very early stage and to push proceedings rapidly. Especially if the asserted legal violation refers to the usage-independent effects of the

building structure, the need for legal protection has already disappeared with the completion of the building shell. Secondly, this ruling makes it clear that neighbours cannot rely on any type of legal violation, but only on those issues serving their protection, thus protecting third parties.

Dr. Johannes Grooterhorst

G. Current News – Events – Publications

Events

October 20 and 21, 2015

7. German Congress for Specialty Market Real Estate 2015
in Essen, Atlantic Congress Hotel, Norbertstraße 2 a, 45131 Essen
"From North to South from East to West – Regional development programmes and their effects on location and project development"
Speaker: Rechtsanwalt Dr. Johannes Grooterhorst, Partner
Grooterhorst & Partner Rechtsanwälte mbB

November 11, 2015

"Commercial Landlord and Tenant Law 2015 – current and compact"
in Düsseldorf, Königsallee 53-55
Speaker: Rechtsanwalt Dr. Rainer Burbulla, Partner
Grooterhorst & Partner Rechtsanwälte mbB

November 19, 2015

"Commercial Landlord and Tenant Law 2015 – rulings and contract design"
in Düsseldorf, Klosterstraße 22 (Fachbuchhandlung Sack)
Speaker: Rechtsanwalt Dr. Rainer Burbulla, Partner
Grooterhorst & Partner Rechtsanwälte mbB

November 24, 2015

German Council
Next Gen
Regional Dinner NRW, at 6 pm
in Düsseldorf, Königsallee 53-55
Grooterhorst & Partner Rechtsanwälte mbB

November 27, 2015

ICSC European Law Forum
in Berlin, Scandic Berlin Potsdamer Platz
Gabriele-Tergit-Promenade 19, 10963 Berlin
Member of the Programme Planning Group and Speaker:
Rechtsanwalt Dr. Johannes Grooterhorst, Partner
Grooterhorst & Partner Rechtsanwälte mbB

January 27, 2016

12th German Commercial Real Estate Congress
in Berlin, swissôtel Berlin "Am Kurfürstendamm"
"Business Improvement Districts (BIDs) – The way to increase attractiveness of urban quarters?"
Speaker and Panel Member: Rechtsanwalt Dr. Johannes Grooterhorst, Partner
Grooterhorst & Partner Rechtsanwälte mbB

German Congress for Professionals Dealing with the Field of Landlord and Tenant Law (Deutscher Mietgerichtstag) 2016 — **February 26, 2016**
"Duties of tenants when returning commercial premises"
Friday 26, 2016, at 4.30 pm, Congress Centre Westfalenhalle in Dortmund
Speaker: Rechtsanwalt Dr. Rainer Burbulla, Partner
Grooterhorst & Partner Rechtsanwälte mbB

8th German Commercial Real Estate Summit — **March 8, 2016**
S-Forum in the Finanzkaufhaus of Stadtsparkasse Düsseldorf
Rental agreements in the process of change. Which requirements do rental agreements have to fulfil today with respect to turnover rent, rent relating to footfall, pop-up areas etc?
Speaker: Rechtsanwalt Dr. Johannes Grooterhorst,
Grooterhorst & Partner Rechtsanwälte mbB

Lecture Commercial Real Estate – IREBS — **May 10, 2016**
in Hamburg
Speaker: Rechtsanwalt Dr. Rainer Burbulla, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Publications:

Germany's Best Lawyers 2015:
Rechtsanwalt Dr. Johannes Grooterhorst, Partner
Grooterhorst & Partner Rechtsanwälte mbB
Handelsblatt May 26, 2015

Current Commercial Landlord and Tenant Law – Current Developments in 2015
Haus und Grund Düsseldorf November 2015
by Rechtsanwalt Dr. Rainer Burbulla, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Temporary Legal Protection in Finland (Part 2)
AnwaltZertifikatOnline November 4, 2015
by Rechtsanwalt Ralf-Thomas Wittmann, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Temporary Legal Protection in Finland (Part 1)
AnwaltZertifikatOnline, October 21, 2015
by Rechtsanwalt Ralf-Thomas Wittmann, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Common Cause
How can centre operators respond to the needs of smaller retailers?
stores + shops special Shopping Center, Interview with
Rechtsanwalt Dr. Burbulla, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Rental Agreement with a Public Limited Company (AG) – Signature of the Management Board without a Note on the Representation
NJW 28/2015
by Rechtsanwalt Dr. Rainer Burbulla, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Temporary Legal Protection in Australia (Part 1)
AnwaltZertifikatOnline, July 15, 2015
by Rechtsanwalt Ralf-Thomas Wittmann, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Temporary Legal Protection in Estland (Part 2)
AnwaltZertifikatOnline, June 17, 2015
by Rechtsanwalt Ralf-Thomas Wittmann, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Legal Obstacles when Converting Quarters
Das Polis-Magazin für Urban Development 1/2015 pages 62 and 63
by Rechtsanwalt Dr. Johannes Grooterhorst, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Temporary Legal Protection in Slovenia (Teil 2)
AnwaltZertifikatOnline, March 25, 2015
by Rechtsanwalt Ralf-Thomas Wittmann, Partner
Grooterhorst & Partner Rechtsanwälte mbB

We do not Operate a Mass Client Business
Die Rheinische Post Special Edition “Business Law Firms” (“Wirtschaftskanzleien” of March 20, 2015, the article
by Rechtsanwalt Dr. Johannes Grooterhorst, Partner
Grooterhorst & Partner Rechtsanwälte mbB

Legal Consequences of Assigning the Right to Exemption against the Insurer in the Context of the D&O Insurance
Neue Zeitung für Gesellschaftrecht 6/2015
by Rechtsanwalt Dr. Johannes Grooterhorst, Partner
and Rechtsanwalt Jörg Looman
Grooterhorst & Partner Rechtsanwälte mbB

IMPRINT

PUBLISHER

Grooterhorst & Partner Rechtsanwälte mbB
Königsallee 53 – 55
40212 Düsseldorf
Tel. +49 (0)211/864 67-0
Fax +49 (0)211/13 13 42
info@grooterhorst.de
www.grooterhorst.de