

Three initiatives of the Austrian legislator

Dear Ladies and Gentlemen,

In the following we would like to inform you about three initiatives of the Austrian legislator that will be important for you and your business:

1) Warranty law reform

In May 2019, the European Union issued two directives, namely one on certain aspects concerning contracts for the supply of digital content and digital services ("Digital Content Directive", EU 2019/770) and a second on certain aspects concerning contracts for the sale of goods ("Sale of Goods Directive", EU 2019/771). The two directives must be transposed into the respective national law by July 1st, 2021.

In order to implement these two Directives, the Austrian legislator has submitted the draft of a Warranty Directive Implementation Act. The implementation of the EU directives is carried out by

- a new Federal Law on the Warranty of Consumer Contracts for Goods or Digital Services (Consumer Warranty Act - VGG),
- the amendment of the warranty provisions in the General Civil Code (ABGB) as well as
- the amendment and extension of the Consumer Protection Act (KSchG).

It would go beyond the content of this short newsletter to present the extensive legal innovations in detail. We can therefore only point out that the VGG introduces a new category of tangible goods, namely goods with digital elements. For goods with digital elements, there is then an explicit obligation to update. This means that the manufacturer and distributor of goods with digital elements must keep the digital elements up to date for the duration of the usual lifetime of the goods and update them each time.

The practical consequence of the legislator's initiatives is that all businesses selling goods or services in Austria will have to adapt their general terms and conditions of sale to the new legal situation.

2) Investment Control Act

In March 2019, the European Union adopted a Regulation, (EU) 2019/452, establishing a framework for the screening of foreign direct investments into the Member States of the European Union. The regulation is also referred to as the EU-FDI-Screening-Regulation. The regulation does not need to be transposed into national law; it has direct effect in Austria.

In addition, the Austrian legislator enacted an Investment Control Act (InvKG) by Federal Law Gazette I 87/2020 and made amendments to the Foreign Trade Act. The InvKG, which already entered into force on October 11th, 2020, enacts the legal provisions authorising the Federal Minister of Economics to approve foreign direct investments, i.e. investments by natural persons who are not citizens of the European Union or an EEA state or Switzerland, or by legal entities that have their head office outside the European Union, the EEA or Switzerland. Foreign direct investments in certain sensitive economic sectors listed in the law are subject to approval. The list is very extensive, ranging from infrastructure to food.

Foreign direct investment contracts carried out without authorisation are null and void. The persons involved can be punished with a prison sentence of up to one year.

3) Reform of the execution law

On July 1st, 2021, an overall reform of the execution law will come into force in Austria. A comprehensive package of laws will profoundly change the Execution Code (EO) and other laws. The aim of the reform is to make it easier for creditors to enforce monetary claims against debtors.

In particular, executions on the debtor's receivables and on the debtor's salary are simplified. which the creditor cannot even know. If the debtor changes the employer, the execution order already obtained on the salary is also effective against the debtor's new employer.

The content of this newsletter does not constitute legal advice. BMA lawyers are available to assist in addressing any questions you may have regarding the issues discussed in this newsletter.

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