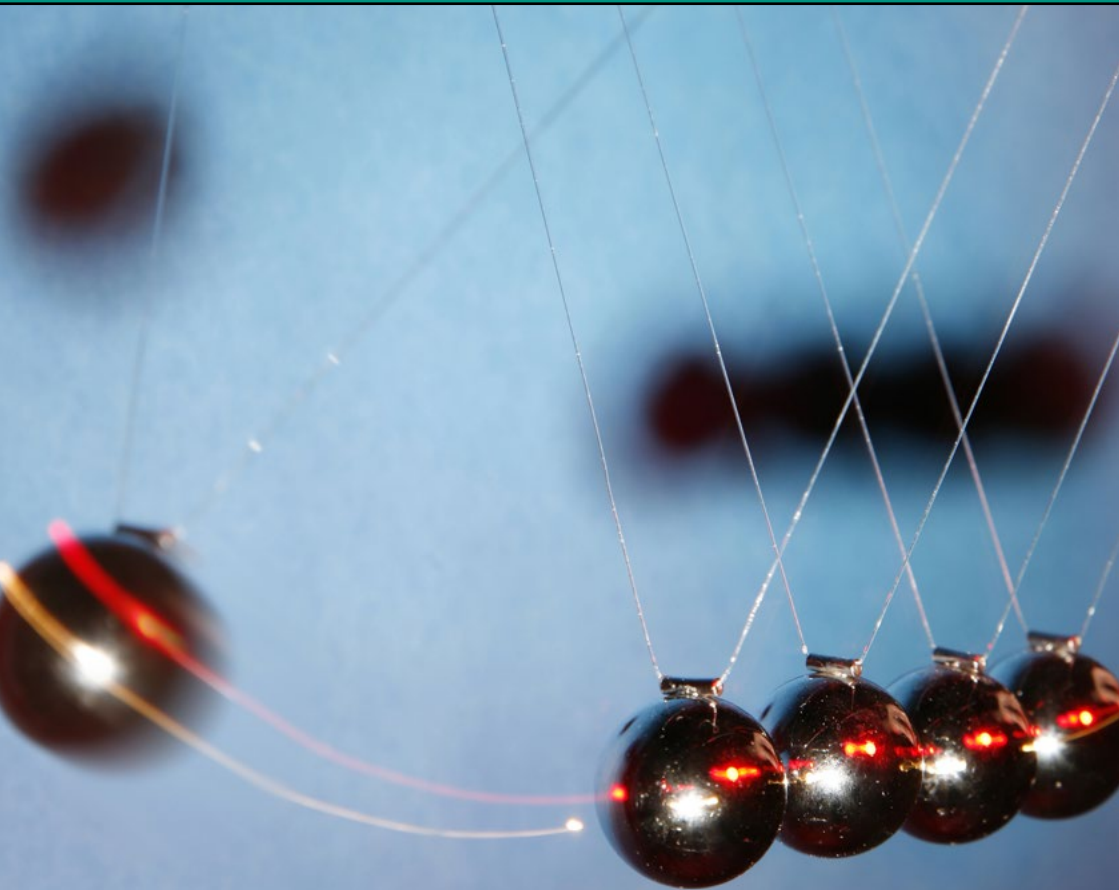


Rödl & Partner

PROVIDING
IMPETUS

Labour Law Practice Group



Providing impetus

“Companies often face difficulties in terms of labour law. The priority in each such situation is to find the right approach in time. On the international level and in cross-border assignments of workers, relevant national laws have to be taken into consideration. Our experts have rich experience in handling labour law issues both in the national and global context and find ways to assist our clients, be it through applying preventive measures or through representing a client in out-of-court or litigation proceedings.”

Rödl & Partner

Contents

Achieving goals in labour law issues	4
Providing impetus – What sets us apart	4
International labour law	6
Collective labour law	7
Public employment law / tendering procedures	8
Occupational pension schemes	9
Contract drafting / Amendments to terms of employment	10
Employment relations problems	12
Restructuring / Reorganisation	13
Social security law	14
Employee data protection	16
Your point of contact	18
About us	19

Achieving goals in labour law issues

Labour law is constantly changing due to its strong link to developments in society and politics. The influence of the EU legislation, the newly adopted German laws and the consequences of globalisation are steadily growing in importance. All this poses new challenges to companies. Therefore, you need to have a strong partner by your side to be able to meet such challenges and to achieve your goals.

Providing impetus – What sets us apart

The Labour Law Practice Group offers you personal points of contact and tailor-made assistance provided by specialised attorneys and lawyers expert in labour law at numerous locations in Germany and abroad. The networking and coordination within the Practice Group enables comprehensive assistance in larger projects and in cross-location and cross-border matters.

We develop individual and tailor-made solutions for our clients and thus help them to respond successfully to any issues they encounter.





International labour law

Does your company operate abroad in Europe or at other locations worldwide? We provide you with advice on all labour law issues related to your international presence. In this process, we work together with our colleagues from our locations and associate law firms worldwide. From drafting bilingual contracts with employees, sales representatives and executives abroad through to preparing and implementing comprehensive restructuring projects – with us you have a single point of contact who speaks your language.

A practical example

THE PARENT COMPANY WANTS TO IMPLEMENT COMPLIANCE GUIDELINES AT ITS LOCATIONS WORLDWIDE

“Can I adopt the US guidelines in Russia and in other countries in Europe and Asia just like that?”

Every country has its own national labour law and language requirements. Therefore it is necessary in every case to check and adapt corporate guidelines accordingly. In some cases, approvals should be obtained from relevant authorities. Also the introduction and involvement of employees and employees' representatives in the management bodies of the company can be regulated differently in different countries. We coordinate the work of our attorneys specialised in labour law abroad, advise you on site and assist you in implementing your corporate guidelines.

Collective labour law

We provide support in all collective bargaining matters and negotiate company-level collective agreements on your behalf. In collaboration with your works council, we support you in the negotiations of company agreements and, if necessary, represent you in collective labour law proceedings held before the arbitration committee and in courts.

A practical example

CHANGE IN THE REMUNERATION SCHEME

“We want to introduce a variable bonus and thus have the employees participate in the company’s economic success. Do I have to consult the works council?”

The works council must be consulted on (i.e. has co-determination rights with regard to) the implementation of a performance and result-related bonus also when you voluntarily set a budget for the bonuses, and in any case when you want to determine the criteria for granting bonuses to individual employees. Only a concept formulated jointly by the parties in the workplace will find acceptance. We will guide you along the way towards achieving your goal.

A practical example

A WORD FROM THE TRADE UNION

“The trade union wants to enter into a collective agreement with my company and has raised demands against me. I’m not a member of any employers’ association, so I am not obliged to conclude any collective agreement, am I?”

Even a single enterprise can be a party to a collective agreement. A trade union may raise demands against you and, in some circumstances, may try to enforce them through strikes. We are on hand to assist you in developing your strategic goals, provide help in the necessary negotiations with trade unions, and work out tailored provisions of collective agreements and relevant reference clauses in employment contracts for the benefit of your company.

Public employment law / tendering procedures

In collaboration with the Public Management Consulting (PMC) business area of Rödl & Partner we support you in privatisation and restructuring processes and in all labour law issues involving public and church employers and employees.

A practical example
PRIVATISATION IS ON THE AGENDA

“Our city wants to privatise its own hospital operated as a municipal enterprise. The staff council demands a personnel transfer agreement. Do I really have to enter into such an agreement?”

A transition of a business operated as a municipal enterprise into another legal form, e.g. a limited liability company, often results in a business transfer which triggers the legal protection of the transferred employees. Thus, a personnel transfer agreement is not required at first. However, it helps to dispel the fear that arose among the employees and the staff council as a result of the planned transaction.


Nevertheless, special caution is advised here, because the staff council could demand considerable restrictions to the freedom of enterprise when it comes to drafting the agreement – and this should be avoided. In addition, the transition can often open up opportunities for collective bargaining arrangements that were not available before.

Occupational pension schemes


The pension scheme is an important factor behind the motivation and loyalty of not only managers but also other employees. The interplay between the legal framework, the tax incentives and the accounting and financing aspects poses not only a complex challenge but also financial risks to the employer.

A practical example

WHEN PENSION SCHEMES BECOME AN ISSUE



“Occupational pension schemes are growing in importance. What advantages arise for my company and what risks should I expect?”



An attractive occupational pension scheme is a remuneration component which helps you to achieve an attractive competitive position when searching for new employees and building the loyalty of your specialist and managerial staff. But a pension scheme is really attractive only if it reconciles the employee's individual interests with the company's needs and objectives.

We arrange and design pension schemes and financing models with you and support you from the implementation of the occupational pension scheme, through the adjustment of the pension and balance sheet outsourcing, to its termination.

With our advice tailored to your needs you can not only avoid liability risks but also create solutions that allow your occupational pension scheme to become the critical factor behind the success of your company not only in the race for the best talents.

Contract drafting / Amendments to terms of employment

The employment contract and its structuring play a major role not only when hiring a new employee but also in the further course of the employment relationship. In addition to the development of an employee and his or her position in the enterprise, also the legislation and the case law change the content of the employment relationship. We understand your wishes and practical needs and structure the employment contract in collaboration with you so that you have a solid basis to rely on in day-to-day cooperation with your staff.

Thanks to the interdisciplinary approach of Rödl & Partner you profit from solutions from a single source.

A practical example
NEW ON THE MARKET

“The company has available financial resources. Motivated employees want to start work right away. But what should be borne in mind when building the workforce of a company?”

The main challenges that arise already at the stage of establishing an enterprise and starting operations include a large number of labour law issues. At first, the specific corporate objectives are crucial to the structuring of employment contracts and terms of employment. But also collective labour law issues may quickly start to play a role if, for example, a company intends to achieve a fast growth in the staff number. In addition, it is also necessary to organise payroll accounting, obtain any necessary work permits and register for social security. We will be pleased to support you in all these areas.

A practical example
USE YOUR CREATIVE TOOLBOX

“We want to hire new employees on the basis of fixed-term employment contracts. Apart from that, the already existing fixed-term employment contracts should be extended. What legal aspects should be taken into account? What should be implemented?”

Make sure that the original fixed-term employment contract is signed by both parties before the first day of work. A fixed-term employment contract should also be extended in writing before it expires. Other contractual provisions must not be changed upon contract extension.

Have you already hired the desired employee within the last three years? If yes, the limitation of the contract term requires giving an objective reason. There are many pitfalls. We help you to identify and successfully prevent them.

Employment relations problems

When enough is enough and the employee's performance or behaviour is no longer acceptable to the enterprise, we check and develop with you the necessary steps, up to and including an amicable dissolution or termination of the contract of employment.

A practical example

DEALING WITH LOW PERFORMERS

“Can I dismiss poorly performing employees who perform less well than they could or who, despite all efforts, perform significantly less well than comparable employees?”

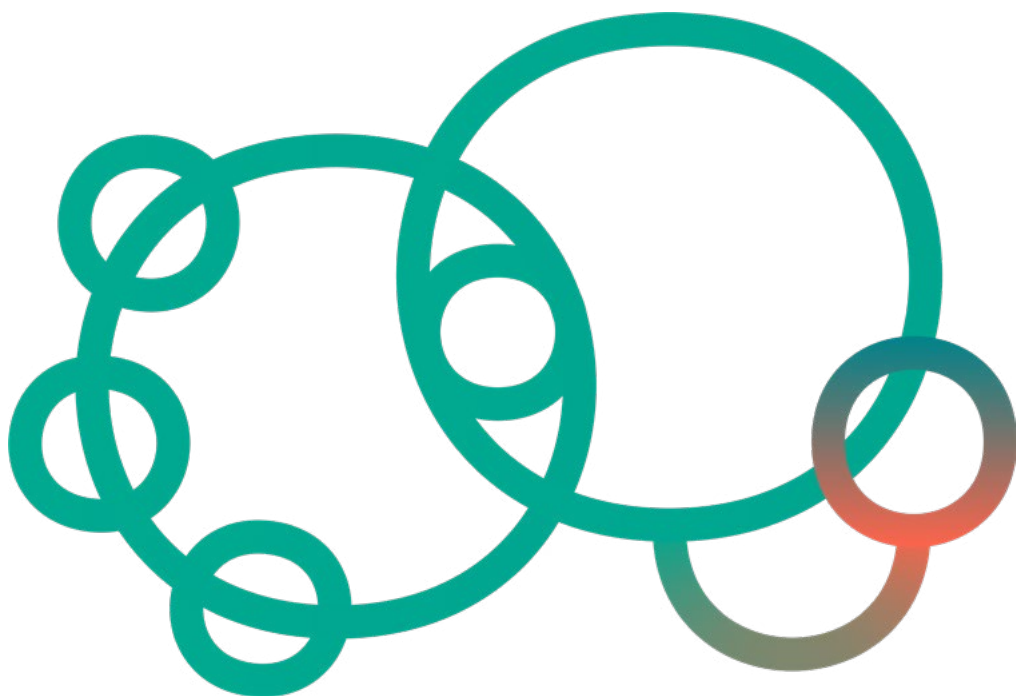
Basically, each employee has to perform his job “the best he can”.

The reason for the discrepancy between the employer's expectations and the employee's performance is often difficult to find. The employer can objectively ascertain that a given employee is a low performer only with the help of the relevant comparables.

We support you in finding measures aimed at boosting the efficiency of your enterprise and develop with you solutions for dealing with low performers which range from individual support and encouragement of employees, for example those in difficult life situations, up to the termination of employment contracts with real low performers.

Restructuring / Reorganisation

After analysing all facts and circumstances, we support your Personnel Management in implementing short-time work or transfer measures as well as internal restructuring measures, and, whenever required, we negotiate a reconciliation of interests and a social compensation plan or a reorganisation collective agreement. Together with you, we develop personnel takeover concepts, including the structuring or avoiding of business transfers. In the case of M&A transactions we advise you in close collaboration with experts from our other service lines. In addition, we develop structuring possibilities prior to and in the course of insolvency.



Social security law

Our consulting services also include advice on social security aspects. They include fictitious self-employment, social security obligation, international assignment, and termination of employment relationships.

A practical example

WHEN THERE SHOULD BE NO EMPLOYMENT...

“Being a high tech company, my enterprise depends on the expertise of freelance workers. How can I hire such experts without employing them as employees?”

The engagement of freelance workers for the performance of a company's own projects always entails the risk that they will be involved in the company's business organisation and thus can trigger fictitious self-employment. Fictitious self-employment results in an unwanted social security obligation and in liability risks for the company and its management. Last but not least, whether a hired person has a status of an employee or a freelancer depends on the interaction of various factors.

Together with you, we develop the way of organising your collaboration with freelancers taking into account your interests and the interest of your business partner.

A practical example
FIT FOR WORK ABROAD

“In the future I plan to employ more German employees in our branch offices worldwide. I have already received comprehensive advice on the tax consequences of hiring German employees abroad. I do not need to take anything else into account, right?”

Never disregard either tax law issues or different (employment) contract structuring options, residence-law regulations and social security aspects that may be relevant to you in the context of international assignments. Every international assignment is different and should be thoroughly prepared. You should be well-prepared also in the reverse case scenario, i.e. when posting employees from your foreign branch offices to Germany.

We offer you comprehensive advice on and end-to-end coordination of both the ongoing and planned international assignments of your employees.

Employee data protection

Even though data protection is still a new field of law, it is not only since the entry into force of the EU General Data Protection Regulation that operational measures have been caught in a balancing act between the legitimate interests of an entrepreneur on the one hand and employee data protection on the other. In the context of employee data protection, this means the reconciliation of the questions of what are the limits of an employer's actions and when it violates the rights of the employees.

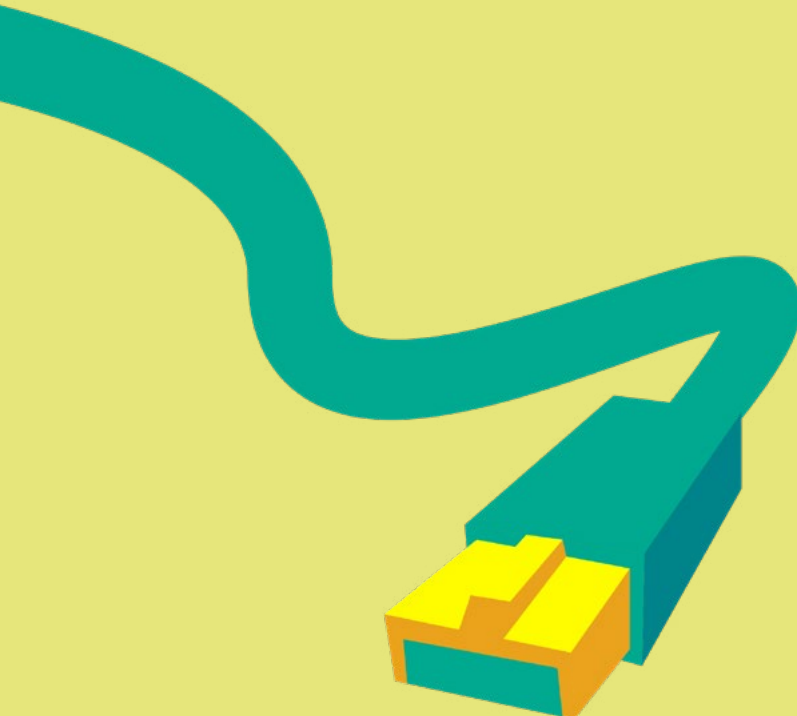
A practical example

BLIND DATE? NO GETTING TO KNOW EACH OTHER WITHOUT
PRE-EMPLOYMENT SCREENING

“Can I research job candidates online through search engines and on social networks?”

Employers may not obtain information that is not covered by their right to ask questions. This also applies to gaining information from publicly accessible sources. The situation is different with professional networks such as XING and LinkedIn, which employees use to present their profiles. Here, the legitimate interests of the job candidate are secondary to those of the potential employer.

We support you in processing the personal data of your employees and develop individual solutions for the handling of employee data in compliance with data protection laws in individual cases.



Your point of contact

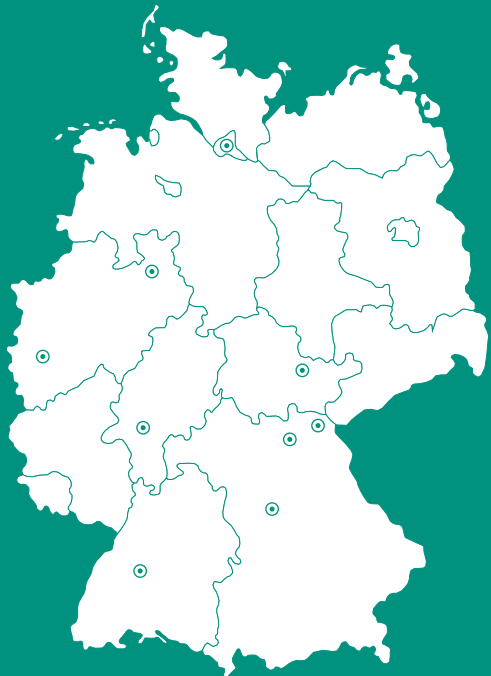


DR. MICHAEL S. BRAUN
Attorney at Law (Germany)
Specialist Lawyer in Labour Law
Business Lawyer (Univ. Bayreuth)
Partner

T +49 9281 6072 70
michael.braun@roedl.com

Our German locations of the Practice Group

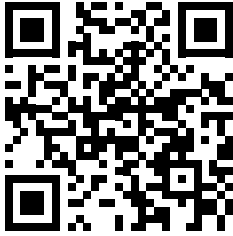
- Hamburg
- Jena
- Hof
- Kulmbach
- Nuremberg
- Stuttgart
- Eschborn
- Cologne
- Bielefeld



About us

Rödl & Partner – The agile caring partner for Mittelstand shaped world market leaders

www.roedl.com/about-us



Visit us!

www.roedl.com