

Working Group Day 2018

March 2, 2018 // Frankfurt // Institute for Law and Finance



See you in Frankfurt!

Join the DAJV Working Group Day 2018

Each year in March the DAJV working groups convenes their Annual Working Group Day in Frankfurt which – alongside the Annual Conference – is the flagship event of the DAJV. These working groups are forums that foster an intellectual and practical exchange among lawyers from all professions. The working groups present and discuss current topics and cases of transatlantic relevance with recognized experts from the US and Germany. Our five working groups cover the following areas of law: 1) Arbitration/Litigation/Mediation, 2) Antitrust/Regulated Industries/Media, 3) Constitution/Legislation/Public Law, 4) Mergers & Acquisitions and 5) Tax. Each DAJV member may become a member of one or more working groups. The Working Group Day is open to interested persons. The event concludes with a reception and a festive dinner, along with a dinner speech by a special guest.



Christian A. Krebs, LL.M. (Harvard)
Partner, Jones Day
Coordinator of DAJV Working Groups



Venue

Goethe-Universität Frankfurt
Campus Westend, House of Finance
Theodor-W.-Adorno-Platz 3
D-60323 Frankfurt am **Main**

Program

March 2, 2018 // Frankfurt // Institute for Law and Finance

- **Pre-Conference**
DAJV Young Professionals invite students, law clerks and young lawyers to a special Pre-Conference program on March 2, 2018 // 9.00 a.m. - 12.30 p.m.
- **Working Group Day**
with panel sessions of DAJV Working Groups:
- **ALM (Arbitration, Litigation, Mediation)**
 - The New DIS Arbitration Rules: A new European option also for US parties?
 - Investment Arbitration, TTIP and NAFTA after the US/German Elections: Perspectives from both sides of the Atlantic in Times of Turmoil
- **ARIM (Antitrust, Regulated Industries, Media)**
Antitrust compliance – does it pay off?
Perspectives from the US and Europe
- **CLPL (Constitution, Legislation, Public Law)**
Do social media networks need to be regulated and what should a regulation look like? A legal comparison between Germany and the US

- **M&A (Mergers & Acquisitions)**
The Evolving Landscape of Foreign Direct Investment Control – Just another Thing to Deal with or the New Ice Age for Cross-Border M&A?
- **TAX (Tax Law)**
Do digitalization and tax structures of US corporate groups require a new thinking of traditional taxing concepts?
- **Reception & Dinner** 6.30 p.m. (end 10.00 p.m.)

Timeline

- 1.00 p.m. Check-In
- 1.45 p.m. Welcome Remarks
- 2.00 - 4.00 p.m. Session I
- 4.00 p.m. Coffee Break
- 4.30 - 6.30 p.m. Session II



Working Group Day 2018

Panel sessions of DAJV Working Groups

ALM I

Arbitration, Litigation, Mediation

The New DIS Arbitration Rules: A new European option also for US parties? [\(held in English\)](#)

„Good things come to those who wait“. This could be the motto of the new Arbitration Rules of the German Institution of Arbitration (*Deutsche Institution für Schiedsgerichtsbarkeit*, "DIS") which will enter into force on March 1, 2018, the day before this year's Working Group Day. While other institutions, especially those seated in Asia, update their rules on a very regular basis, the DIS waited 20 years to reform its Rules. Will this be a major reform that will increase Germany's attractiveness as a seat for international arbitrations? Will novel features like the new Annex dealing with mechanisms to render arbitral proceedings more efficient also attract US users?

Moderators

Dr. Alexandra Diehl, LL.M. (Suffolk)
Local Partner, White & Case, Frankfurt am Main

Dr. Rolf M. Winkler, LL.M. (Berkeley)
Partner, Haver & Mailänder, Stuttgart

Speakers

James Menz
Deputy Secretary General,
Deutsche Institution für Schiedsgerichtsbarkeit (DIS)

Dr. Mathias Wittinghofer
Partner, Herbert Smith Freehills, Frankfurt am Main

Timothy G. Nelson
Partner, Skadden, New York

ALM II

Arbitration, Litigation, Mediation

**Investment Arbitration, TTIP and NAFTA after the US/
German Elections: Perspectives from both sides of the
Atlantic in Times of Turmoil (held in English)**

„Will this ever come to an end and will it be a good end?“ This question is repeatedly asked in relation to the current status of the negotiations of the Transatlantic Trade and Investment Partnership TTIP. Donald Trump – not surprisingly – put TTIP on ice. The Trump administration also started renegotiations of the North American Free Trade Agreement NAFTA. It is unclear whether the current free trade/investment policy of the US embraces arbitration or not. At the same time the European Commission, this time surprisingly, goes ahead at full throttle: It fights hard for the establishment of a multilateral investment court. The establishment of such a new court system is corroborated by the UNCITRAL Commission which adopted a broad mandate for its Working Group III to develop a new mechanism for the resolution of investment disputes in 2017. Is all of this going into the right direction? How should a multilateral investment court look like?

Moderators

Dr. Alexandra Diehl, LL.M. (Suffolk)
Local Partner, White & Case, Frankfurt am Main

Dr. Rolf M. Winkler, LL.M. (Berkeley)
Partner, Haver & Mailänder, Stuttgart

Speakers

Monique Sasson
Of Counsel, Macci di Cellere Gangemi, Milano

Eckhard R. Hellbeck
Counsel, White & Case, Washington

Prof. Dr. Heribert Hirte
Member of Deutscher Bundestag, German Parliament

Prof. Dr. Stephan Schill, LL.M. (NYU)
Faculty of Law, University of Amsterdam

ARIM

Antitrust, Regulated Industries, Media

Antitrust compliance – does it pay off? Perspectives from the US and Europe (held in English) // (double block)

Antitrust compliance has become an integral part of companies' professional ethos. The damage for the company from public and private enforcement can be severe. Carefully designed systems aim at preventing infringements - but they cannot rule them out. Does voluntary cooperation with authorities pay off? Do antitrust compliance systems help companies to clarify violations and make use of principal witness regulations? Can they help to fulfill top management's duty of supervision? And looking at a recent decision of the German Federal Court of Justice - can compliance reduce fines? The panel will discuss the costs and benefits of compliance and look at the perspectives from Europe and the United States.

Moderators

Dr. Christa Pfeil-Kammerer, LL.M. (Bloomington)
Senior Government Director, Federal Cartel Office

Dr. Jens Peter Schmidt
Partner, Mayer Brown, Brussels

Speakers

Prof. Dr. Konrad Ost
Vice President, German Federal Cartel Office

Dr. Johannes Zöttl
Partner, Jones Day, Düsseldorf

Katia S. Colitti
Associate, Cleary Gottlieb Steen & Hamilton, Brussels

Dr. Olaf Christiansen, LL.M. (Dickinson)
Senior Vice President Corporate Legal Department – Integrity & Compliance, Bertelsmann

Dr. Manuel Kellerbauer
Member of the Legal Service, European Commission

Kai Hooghoff
Head of Competition Register for Public Procurement,
German Federal Cartel Office

CLPL

Constitution, Legislation, Public Law

Do social media networks need to be regulated and what should a regulation look like? A legal comparison between Germany and the US. (held in English) // (double block)

Do we need rules and regulations, to govern the digital space? Does the lack of a legal framework mean a lack of control of modern technologies? What effect do possible regulations have on fundamental democratic principles such as the freedom of speech? The working group Constitution, Legislation, Public Law plans to compare regulations and legal frameworks in Germany and the US regarding the enforcement of laws online. Emphasis will be put on the evaluation of the German "Netzwerkdurchsetzungsgesetz".

Moderator

Dr. Reinhard Müller

Editor-in-Chief for Zeitgeschehen and F.A.Z. Einspruch,
Frankfurter Allgemeine Zeitung

Speakers

Prof. Dr. Sebastian Müller-Franken

Chair of Public Law, Philipps-University Marburg

Prof. Felix Wu

Faculty Director, Cardozo Law School, New York

Prof. Dr. Christian Heinze, LL.M. (Cambridge)

Chair for Civil Law and Intellectual Property Law,
Leibniz University Hannover

Prof. Dr. Wolfgang Schulz

Director, Hans-Bredow-Institute for Media Research

M&A

Mergers & Acquisitions

The Evolving Landscape of Foreign Direct Investment Control - Just another Thing to Deal with or the New Ice Age for Cross-Border M&A? (held in English) // (double block)

Recent cross-border deals and rulemaking activity highlight an area that was long believed to slowly fade away but has an apparent come-back: foreign direct investment control. The recent acquisition of KUKA AG, the German high-tech robotics manufacturer by Midea, a Chinese company that reportedly has a strong backing by the Chinese government, caused an intense political debate on the restriction of foreign, in particular Chinese acquisitions of German technology companies. In fact, this debate heavily influenced recent amendments to the German Federal Foreign Trade Regulations. In addition to approval by the German authorities, KUKA also needed approval by the Committee on Foreign Investment in the United States (CFIUS) - to secure it, KUKA had sold its U.S. aerospace division to a U.S.-controlled party. In February 2017, the U.S. magazine Fortune raised the question whether the United States is now stopping allies from investing there and whether it already considers Germany as much of an adversary as China when CFIUS blocked

German chipmaker Infineon Technology AG's attempted takeover of its U.S. competitor Wolfspeed, a North Carolina-based maker of high-performance semiconductors. The key difference to other cases, such as Aixtron and most recently Biotest, where buyers were Chinese, was that a buyer from Germany, one of the U.S.'s closest and most powerful allies, could be a threat to national security. With its recently proposed regulation, the EU Commission responds to a request by France, Germany and Italy for rules on the screening of foreign acquisitions of sensitive technology and know-how. In the U.S., after a confidential Department of Defense report given to policymakers earlier in 2017 reportedly concluded that the U.S. must ramp up its screening of Chinese investments in U.S. technology companies to protect economic and national security, a bipartisan group of lawmakers recently introduced a bill significantly amending the CFIUS review process.



M&A

Mergers & Acquisitions

In light of these dynamic and from a transatlantic deal-making perspective far-reaching developments, we intend to discuss:

CFIUS – The recently introduced Foreign Investment Risk Review Modernization Act (FIRRMA) providing for a significant reform of the operation and mandate of CFIUS.

EU Proposed Regulation – The EU Commission's recently proposed regulation on screening foreign direct investment introducing for the first time an EU-wide screening mechanism for foreign direct investment.

German Federal Foreign Trade Regulations – The recent amendments to the German Federal Foreign Trade Regulations (Außenwirtschaftsverordnung) subject more M&A transactions to an approval requirement and provide for a more prescriptive approval process for foreign direct investments.

Deal practice – How do these legal frameworks interact and how do dealmakers accommodate for these requirements?

Outlook – What do we have to expect? What will be the impact on cross-border deal-making.

Moderators

Dr. Michael Fischer, LL.M. (Dickinson)
formerly General Counsel, Managing Director UBS Europe

Dr. Markus Nauheim, LL.M.
Partner, Gibson, Dunn & Crutcher, Munich

Speakers

Dr. Sylvia Baule
Deputy Head of Unit, DG Trade Unit B2 - Investment Protection,
European Commission

Judith Alison Lee
Partner, Gibson, Dunn & Crutcher, Washington

Dr. Jürgen Beninca, LL.M.
Partner, Jones Day, Frankfurt am Main

Dr. Horst Meyer
Vice President & Senior Corporate Legal Counsel,
Infineon Technologies

Jürgen Seitel
Deputy Head of Unit, Department VB1 Investment Controls,
Federal Ministry for Economic Affairs and Energy

Dr. Tobias Heinrich, LL.M.
Partner, White & Case, Frankfurt am Main

Tibor Kossa
Head of M&A for Germany and Austria, Credit Suisse

TAX

TAX LAW

Do digitalization and tax structures of US corporate groups require a new thinking of traditional taxing concepts? (held in German) // (double block)

What is the path towards a fair taxation of the Digital Economy within the EU? Shall the EU move on alone with an equalization tax to force US multinationals to pay their fair share of taxes in Europe? Or shall international tax rules allow the creation of a 'virtual' permanent establishment of a business with a significant digital presence in a territory and enhance the rules for the attribution of profits to them? And what will be the impact of the US tax reform which was just signed by Donald Trump?

Moderator

Dr. Alexander Schwahn

Partner, Freshfields, Hamburg

Speakers

Prof. Dr. Joachim Englisch

Chair for Public Law and Tax Law, University of Münster

Reed Carey

Counsel, Freshfields, New York

Pre-Conference // 9.00 a.m. - 12.30 p.m.

DAJV Young Professionals

East meets West – Intercultural Challenges in the M&A Process

Working on international transactions with bidders from countries all over the world offers numerous exciting opportunities for young aspiring lawyers. However, it also means facing multiple intercultural challenges on a daily basis. The workshop provides you with the key knowledge and practical tools needed to successfully bridge the culture gap. Following a short introduction to international M&A processes, participants will have the opportunity to represent bidders from the US and China in a challenging auction process competing for the acquisition of a German target. In addition, the lawyers of King & Wood Mallesons' Frankfurt office will share their first-hand experiences of how to turn cultural differences among colleagues into mutual advantages.

DAJV

Isabel Cagala

Head of DAJV Young Professionals

King & Wood Mallesons (KWM Europe)

Dr. Sandra Link, LL.M. (Columbia University)

Rudolf Haas, LL.M. (Virginia)

Hui Zhao

Venue

KWM Europe

Taunusanlage 17

60325 Frankfurt am Main

Registration

Please send your binding application stating the level of education or job title until 26th February 2018 to mail@dajv.de.

Evening Program // 6.30 p.m.

Reception and Dinner



Welcoming Remarks

Dr. Olaf Christiansen, LL.M. (Dickinson)
President, Deutsch-Amerikanische Juristen-Vereinigung e.V.

Dr. Rolf Friedewald
Managing Director, Institute for Law and Finance,
Goethe University Frankfurt

Dinner Speech

Guest Speaker

Dr. Lutz Raettig
Chairman of the Supervisory Board, Morgan Stanley
Member of the Board of Directors of the American Chamber of
Commerce Germany, Member of the Board of the German-
American Chamber of Commerce, New York

Registration

Online registration

Please register on our website or via XING Events at:

www.dajv.de/veranstaltungen-reader/events/dajv_fachgruppentag_2018.html

www.xing-events.com/DAJV_Fachgruppentag_2018

Contact

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Conference fees

Working Group Day including dinner

DAJV members

DAJV member	190,00 EUR
Government/academia/judges	110,00 EUR
Student/law clerk/doctoral candidate	60,00 EUR

Non-members

Person working at a DAJV corporate member	190,00 EUR
Individual person	220,00 EUR
Student/law clerk/doctoral candidate	70,00 EUR
Guest (dinner only)	60,00 EUR

