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Update from Germany
Key initiatives of the new German Government and Legal Changes to be observed

Deloitte Legal Webcast | May 08, 2025

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Speakers & Agenda

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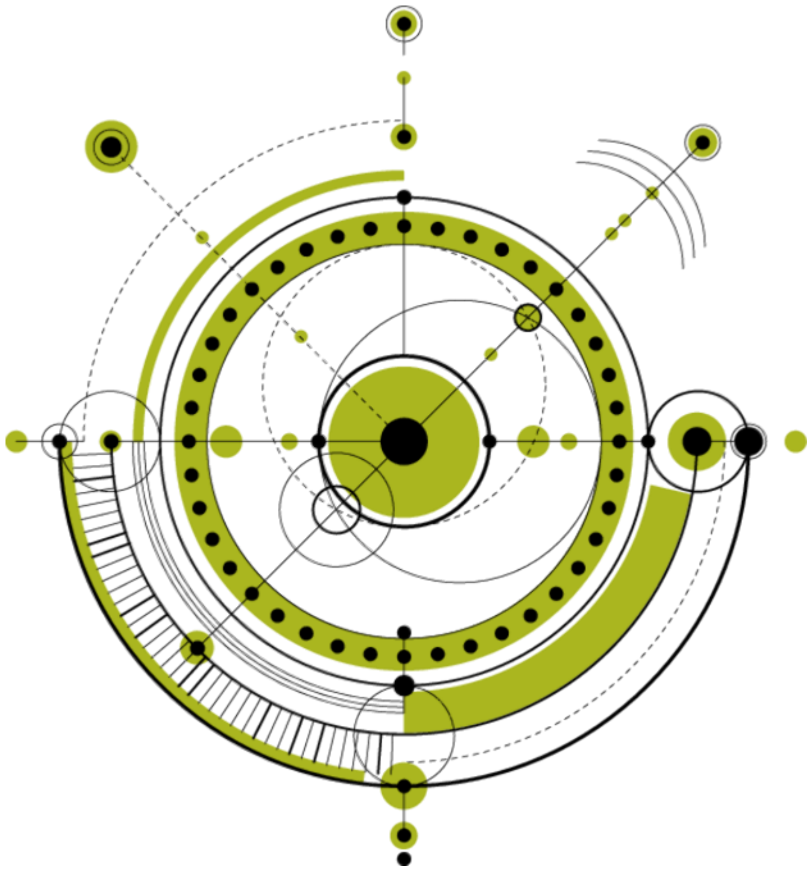

Key initiatives of the new German Government

German Government under the “Grand Coalition” of the conservative CDU/CSU and the center-left SPD

- Coalition agreement (“CA”) between the CDU, CSU and SPD

- **One month of intense negotiations, 16 working groups, 256 negotiators, 144 pages document**

- Parties have meanwhile given their consent

- **Friedrich Merz** (CDU) elected as **new German Chancelor** and **composition of new government with its Federal Ministers** and State secretaries

- Budgets to be determined in the next two months

Political and economic background of the Coalition Agreement

01 **Strong commitment to the social market economy**

02 **Deregulation and Bureaucracy reduction, Tax cuts**

03 **Investment in infrastructure, energy and new technologies**

Coalition agreement between the CDU, CSU and SPD

Tax policy and tax cuts

The CA provides for a reform of the tax system in order to strengthen Germany's economic competitiveness. **The aim is to reduce taxes and duties in order relieve the burden on companies and promote investment - although, like all of the coalition partners' proposals, this is still subject to funding.**

- **Starting on January 1, 2028, corporation tax is to be reduced by one percentage point in five stages.**
- In order to enable taxation that is neutral in terms of legal form, the Option model and preferential treatment of retained earnings in particular are to be improved to provide relief for all companies and entrepreneurs in Germany that are subject to income tax.
- **A special depreciation allowance of 30% on equipment investments for the years 2025, 2026 and 2027 also promotes at least short-term investments by companies.**
- The **solidarity surcharge remains untouched**.
- A **uniform VAT rate of 7%** is to apply in **restaurant and the catering sector**;
- The electricity tax is also to be reduced, initially by at least five cents per kWh.
- Increase subsidy rate and the assessment basis for the tax research allowance and simplification of the procedure
- Adherence to the global minimum tax; support for work at international level towards permanent simplifications
- Advocacy for a uniform corporate tax base at EU level

Coalition agreement between the CDU, CSU and SPD

Labor market policy

- **Overtime bonuses** that exceed the collectively agreed or collectively agreed full-time working hours are to become tax-free, and tax-free allowances are to apply to employees who continue to work voluntarily after reaching retirement age.
- The **commuter allowance** is to be increased to 38 cents as of 01.01.2026.
- A **reform of the Working Hours Act** is also being sought in order to create more flexibility for employees and employers. This should also include the possibility of weekly instead of daily maximum working hours.
- The **statutory minimum wage** should continue to be determined by the independent minimum wage commission; a minimum wage of **15 euros** is achievable for 2026.

- In order to counter the shortage of skilled workers in Germany, work permits for qualified skilled workers are to be significantly accelerated. To this end, a digital agency for the immigration of skilled workers - a "**work-and-stay agency**" - with a central IT platform is to be established with the involvement of the Federal Employment Agency as a single point of contact for foreign skilled workers, which will coordinate all processes relating to employment migration and the recognition of professional and academic qualifications and dovetail them with the structures in the federal states.

Coalition agreement between the CDU, CSU and SPD

Reducing bureaucracy and abolishing the Supply Chain Due Diligence Act

A central point of the CA is the reduction of bureaucracy in order to increase the efficiency of public administration and reduce the burden on companies.

- This includes the **digitalization of processes** and the **simplification of approval procedures**.
- The government plans to make practical checks to reduce bureaucratic hurdles mandatory for all ministries. **Bureaucracy costs for the economy are to be reduced by 25 percent (around 16 billion euros)**.
- The **national Supply Chain Due Diligence Act** (LkSG) is to be abolished and replaced by a law on international corporate responsibility that implements **the European Supply Chain Directive (CSDDD) in a low-bureaucracy** and enforcement-friendly manner. The reporting obligation under the LkSG is to be completely abolished immediately. The current statutory due diligence obligations will not be sanctioned until the new law comes into force, with the exception of massive human rights violations.
- The coalition wants to **support the EU Commission's "omnibus"** in order to significantly reduce the extensive requirements regarding the content of EU sustainability reporting, particularly for SMEs, and to postpone their initial implementation.
- An amendment and simplification is also planned for energy efficiency under the **Energy Efficiency Act and the Energy Services Act**. Energy efficiency targets should not hinder the flexibility of electricity consumption.
- A **one-stop store for business start-ups** will be introduced, which will bundle all applications and administrative procedures digitally and enable companies to be set up within 24 hours. This should make it easier for foreign investors to enter the market and reduce administrative hurdles.

Coalition agreement between the CDU, CSU and SPD

Infrastructure

Investment in infrastructure is a key component of the CA.

The aim is to comprehensively modernize the **transport infrastructure**, including the **expansion of rail and road networks**.

The expansion of **digital infrastructure** is also seen as crucial for economic development.

Prior to CA: Highly disputed change in the German Constitution (*Grundgesetz*) enabling the federal government

- **to make credit-financed investments in defense outside the "debt brake" of the Grundgesetz and**
- **to make credit-financed investments for infrastructure via the Special Infrastructure fund in the amount of EUR 500 billion to be used within 2025 – 2037**
  (Energy, Railways, Streets, School buildings, Hospitals etc.)

Infrastructure Future Act

To quickly satisfy the urgent investment needs with the funds from the Special Infrastructure fund for infrastructure at federal/state/local level, planning and approval, procurement and awarding of infrastructure projects from the special fund shall be regulated in an Infrastructure Future Act.

Plan to given lage investment projects an overriding public interest even outside of the special fund in order to enable prioritized implementation.

Coalition agreement between the CDU, CSU and SPD

Energy

- Goal of climate neutrality in Germany by 2045 and the **Paris Climate Protection Agreement**.
- Mainly by **Reducing CO2** and other greenhouse gases in Germany as well as offsetting negative emissions and certified CO2 reductions in non-European countries.
- **Promotion of renewable energies** - using all the potential of renewable energies (solar, wind, bioenergy, geothermal energy, hydropower) and innovative technologies - and ensuring an affordable and reliable energy supply.
- A package of measures is proposed to reduce energy prices and support the energy transition. The government plans to reduce the electricity tax to the EU minimum and extend the electricity price compensation until 2030.
- The **European Green Deal and Clean Industrial Act** are to be further developed and, in particular, lead to a combination of **competitiveness and climate protection**.
- Special relief (industrial electricity price) is to be introduced for energy-intensive companies that cannot be relieved in any other way within the scope of the possibilities under state aid law.
- The gas storage levy is to be abolished for all.
- The coalition is sticking to the **phase-out path for lignite by 2038** at the latest.
- An **investment fund for energy infrastructure** is to be set up to provide equity and debt capital for investments in energy infrastructure in conjunction with public guarantees and private capital.

Coalition agreement between the CDU, CSU and SPD

Technology and industries

- **Investments in artificial intelligence and digital technologies** in order to establish Germany as a leading location for technological developments.
- Introduction of a **German fund** to finance innovations and improve employee equity participation.
- **Administrative processes should be user-centered, digital and efficient**. The goal is a **fully digital administration** with application-free procedures. Open interfaces and standards will be promoted in order to strengthen digital sovereignty. The expansion of data centers will also be promoted, including integration into the power grid and the use of waste heat.
- As part of the digital infrastructure, the **nationwide expansion of fiber optic networks and mobile networks** is to be driven forward.
- **Future technologies such as artificial intelligence, quantum computing, robotics and microelectronics** are to be further promoted and advanced. This also includes the **creation of a legal framework, such as liability rules for AI, which are being examined at European level**.
- **Data protection is to be reformed** - in the area of data protection supervision by bundling responsibilities with the Federal Data Protection Commissioner - as well as within the framework of the GDPR by simplifying matters for SMEs and associations.

Coalition agreement between the CDU, CSU and SPD

The automotive and supplier industry

The **automotive and supplier industry** is emphasized as a key industry and job guarantor.

- **Technological openness**.
- No blanket statutory quota for the electrification of vehicle fleets. Review of CO2 reduction targets for heavy commercial vehicles and trailers will be brought forward. The planned measures to promote electromobility include
  - **Tax benefits for company cars** by increasing the gross price limit for **e-vehicles to 100,000 euros**
  - **Special depreciation for electric vehicles**
  - **Vehicle tax exemption for electric cars until 2035**
  - Support for low- and middle-income households to switch to climate-friendly mobility through funding from the EU Climate Social Fund
  - **Promotion of plug-in hybrid technologies (PHEVs) and electric vehicles with range extender (EREV)**
- The expansion of a **nationwide, user-friendly charging network and a fast-charging network for cars and trucks** will be accelerated. A **hydrogen charging infrastructure** for commercial vehicles shall also be established and zero-emission trucks will be exempt from tolls beyond 2026.
- The prerequisites for the regular operation of **autonomous driving** are to be created and the development of battery cell production, including raw material extraction, recycling and mechanical engineering, is to be promoted.

Coalition agreement between the CDU, CSU and SPD

Trade and foreign trade

Strengthening international trade relations and promoting investment.

- A pragmatic and rule-based trade policy is sought in order to strengthen Germany as a business location.
- The "**EU-only**" principle should apply to trade agreements. Further trade and investment agreements are to be concluded.
- An amended Foreign Trade and Payments Act is to be presented at national level in the near future. The review procedures are to be accelerated, simplified and made easier to apply.

FDI

- Foreign investments that conflict with national interests in critical infrastructure and strategically relevant areas should be effectively prevented. Critical components in German infrastructure must meet the highest security requirements. In future, only components from trustworthy countries may be installed in sensitive areas of critical infrastructure.
- Procedures in the area of competition and antitrust law shall be faster and more efficient; support for the effective enforcement of the Digital Market Act
- European sovereignty and security in European competition law, particularly in the area of merger control, are given greater consideration than before

Justice Location Strengthening Act

Justice Location Strengthening Act

Overview

Key data

- Law promulgated on October 7, 2024
- Entry into force on April 1, 2025
- Act aims to increase the attractiveness of ordinary jurisdiction in Germany for large and, in particular, international commercial disputes
- Adaptation to the business needs of the disputing parties through conceptual similarity to the principles of arbitration proceedings

Commercial Courts

- Possibility for the federal states *(Bundesländer*) to set up „Commercial Courts“ at the higher regional courts (*Oberlandesgerichte*)
- A maximum of one Commercial Court per federal state
- Possibility of limiting functional competence (e.g. Commercial Court only for M&A disputes)
- Jurisdiction starting from an amount in dispute of EUR 500,000.00
- Possibility of setting up "Commercial Chambers" as specialized first instance courts at selected regional courts (*Landgerichte*)

Adjustments with regard to the process

- Language of proceedings before the Commercial Courts can be English provided that both parties agreed to it
- Facilitates use of English documents and hearing of foreign witnesses
- Commercial Courts have jurisdiction as first instance; the only legal remedy is an appeal to the Federal Court of Justice (*BGH*), therefore simplifying the appeal process
- Protection of trade secrets in proceedings; similarity to the Trade Secrets Protection Act
- further changes to procedural law similar to the practices of arbitration

Fourth Bureaucracy Relief Act - BEG IV

Fourth Bureaucracy Relief Act - BEG IV

Overview

Key data

- Law promulgated on October 29, 2024
- Entry into force in large parts on January 1, 2025
- Act aims to reduce paper consumption in business by switching to digital alternatives and shortening retention periods for certain documents
- An indirect consequence of the new regulations are numerous simplifications for companies (i.a. company law, labor law, tax law)
- BEG I to III also contained procedural simplifications & digitization steps

Digitization

- Electronic notification of tax assessments by making them available for retrieval
- Text form for certain notifications from stock corporations
- Text form for voting by circulation at the GmbH
- Further formal simplifications in other areas (e.g. tenancy law: no written form requirement for commercial leases)

General facilitations

- Shortened retention obligations for accounting documents from ten to eight years
- With regard to remuneration-related resolutions for listed stock corporations, publication on the internet will be sufficient
- Central power of attorney database for tax consultants
- Forced auction of a GmbH share in the forfeiture proceedings can be carried out by a notary

Fourth Bureaucracy Relief Act - BEG IV and its impact on employers

Overview

Impact

- Since the reform of the German Law of Proof of Substantial Conditions Applicable to the Employment Relationship (NachwG) in August 2022, employers have been obliged to set out the essential terms of an employment relationship in writing and to hand them over to the employee in paper form
- Now, text form and electronic transmission, for example by email, is sufficient.
- Agreements on the termination of employment due to retirement no longer require written form

Written form

- Written form remains mandatory in the sectors specified in Section 2a of the Act to Combat Undeclared Work and Illegal Employment (SchwarzArbG), such as the construction industry and the catering industry
- The strict written form requirement for fixed-term employment contracts also remains in place
- Notice letters must continue to be in strict written form

EU Pay Transparency Directive (EU PTD)

EU Pay Transparency Directive (EU PTD)

Overview

Key Data

- The EU Pay Transparency Directive (EU PTD) came into force in July 2023; not yet implemented in Germany
- All EU member states must have implemented the EU PTD in national law by 7 June 2026
- Requirements
  - Pay Assessment
  - Early identification of risks and need for action
  - Overall Overview of costs in the context of corporate strategy for management
  - Annual reporting requirement for employers with more than 250 employees (100 – 249 employees every three years) on gender pay gaps

Necessary amendment of existing German regulations

- Assessment parameters for equal (value) work and pay
- Comparable employees: expansion of the group of people
- Those entitled to information: applicants and employees in an ongoing employment relationship, regardless of the size of the company
- Rights of the works council/staff council
- Sanctions

Challenges and Opportunities

Challenges

- Identification of risk areas requiring action
- Ensuring a clearly defined basis for comparison and objective, gender-neutral criteria for performance
- Integration of a pay audit process

Opportunities

- Boosting motivation and productivity
- Improved personnel budget planning
- Development of a positive corporate culture and enhancement of the company's attractiveness as an employer

Developments in the area of Employee participation in the SE

Developments in the area of employee participation in the SE

Overview

Background

- A mandatory component of the formation of a European Company (Societas Europaea – "SE") is the employee involvement (negotiation) procedure.
- Formation of a shelf SE without conducting the negotiation procedure is permissible if neither the SE nor the founding companies have employees
- Discussion in legal literature whether a retrospective negotiation procedure is required if the SE is economically activated
- Decision of the European Court of Justice („ECJ") on 16.05.2024 (Case No. C-706/22) after referral from the German Federal Labour Court („BAG")

Decision content

- Employee-less British holding SE became controlling company of a German co-determined Limited Liability Company („GmbH"), which was then converted into a limited partnership („KG"), which led to the elimination of co-determination
- Holding-SE was founded without conducting a negotiation procedure
- ECJ: there is no obligation on the part of the SE to retroactively carry out the negotiation procedure, although both the KG and its European subsidiaries employ employees
- Exception: abuse of the SE's legal form to the detriment of employees
- The BAG dismissed the group works council's appeal on 25.11.2024

Consequences and effects

- Based on the reasoning of the ECJ, a retroactive negotiation procedure will not be necessary in many cases of activation of a shelf SE, allowing for a co-determination-free holding company
- Yet to be determined by the courts in the future which cases would represent an abuse of rights
- The question remains whether the management can still voluntarily conclude participation agreements in case of activation of a shelf SE
- To be seen if the new German government will put legislative changes avoiding the circumvention of co-determination – within the boundaries of Europan law – on its agenda

Corporate Sustainability Reporting Directive - CSRD

Developments in the area of Corporate Social Responsibility

Transition of Sustainability Reporting in Germany

NEW

1 Current Legal Framework

Reporting entities

- Large Capital-market oriented companies with >500 Employees

Content

- ESG matters, anti-corruption and bribery inc. business model, concepts, risks

Reporting Standards

- No legally binding standards, no assurance requirement

2 Changes under CSRD (approx. 2025)

Reporting entities

- All large companies within the meaning of Section 267 HGB
- Listed SMEs

Extended scope of content

- Full ESG spectrum along entire value chain
- Impact and financial perspectives

Reporting standards

- Mandatory EU Standards (ESRS), external assurance required

3 Omnibus-Directive (approx. 2025)

Impacts on CSRD

- Postpones CSRD deadlines by 2 years
- Narrows CSRD´s scope
- Removes SMEs and smaller large companies from mandatory Reporting
- Removal of sector-specific ESRS

Also includes amendments to other Regulations/Directives:

- EU Taxonomy
- CDDD
- CBAM and more

Corporate Sustainability Reporting Directive - CSRD

Overview

Key data

- **EU Directive of January 5, 2023 with implementation deadline of July 6, 2024**
- **Not yet implemented in Germany (expected in 2025)**
- Directive is part of the Green Deal and is intended to close and supplement existing gaps in non-financial reporting
- Scope of the directive is reporting on ESG (environmental, social, governance)
- Reporting obligation is significantly expanded and now covers more companies
- **Gradual introduction from 2024 to 2028**

Content of the reporting

- The scope and content of reporting are determined in accordance with the European Sustainability Reporting Standards (ESRS)
- ESRS divides reporting topics into ten sub-areas (E1, E2, E3, E4, E5, S1, S2, S3, S4, G1)
- Reporting after conducting a materiality analysis to determine which topic standards are relevant for the report
- The overall aim is to provide outsiders with a clear picture of the impact of the companies on the aforementioned topics
- Part of the management report

Obligated parties of the reporting

- Size determined in accordance with accounting law
- Public interest entities (PIE) with more than 500 employees (financial years from January 1, 2024)
- Other large companies (financial years from January 1, 2025)
- Capital market-oriented SMEs (financial years from January 1, 2026); however, possibility of deferral until 2028
- Possibility of exempting individual companies from the reporting obligation within one group
- possibly also companies from non-EU countries obligated

Omnibus Package | Overview

European Commission proposes simplifying reporting and due diligence requirements in the Omnibus Package (I and II) draft proposal (26 February 2025)

CSRD

- Reporting requirements to only apply to large undertakings with >1,000 employees and either a turnover > €50m or a balance sheet total > €25m
- Postpone by two years the entry into application of the reporting requirements for large companies and for listed SMEs (wave 2 and 3)
- Commitment to revise ESRS in order to reduce number of data points
- No adoption of sector-specific reporting standards
- No requirement of reasonable assurance for CSRD reports
- Limitation on information that can be requested from the value chain (where VC <1,000 employees)

EU Taxonomy

- Mandatory reporting for companies with >1,000 employees and >€450m turnover
- Voluntary reporting for companies below €450m turnover threshold
- Simplifying reporting templates, leading to a reduction of data points by almost 70%
- Introduction of a materiality threshold (10%)
- Amendments to GAR for financial institutions
- Simplifying DNSH criteria for pollution prevention and control related to chemicals

CSDDD

- Postponing application phase by one year to 2028
- Limited due diligence obligations only for direct suppliers (Full ValueChain DD only in cases where the company has plausible information)
- Prolonging intervals between regular periodic assessment to up to five years
- Remove the EU civil liability conditions
- More narrow definition of stakeholders that must be involved in due diligence

CBAM

- Cumulative annual threshold of >50 t/year CBAM goods per importer required to report (and eventually compensate)
- Simplification of reporting requirements for companies remaining in scope
- Next steps include full review of CBAM and potential extension to further sectors/goods

Accessibility Improvement Act - BFSG

Further Developments in the area of Corporate Social Responsibility

Accessibility Improvement Act (Barrierefreiheitsstärkungsgesetz – BFSG)

Overview

Key data

- The BFSG implements the European Directive on accessibility requirements for products and services (European Accessibility Act, EAA)
- Aim: to enable people with disabilities to participate more equally in social and economic life
- The BFSG stipulates that certain products and services must be manufactured and distributed, offered and provided in a barrier-free manner in the future
- It will come into force in Germany on 28 June 2025 and will apply to all companies which deal with covered goods or provide covered services in Germany

Scope

- Manufacturers, importers, distributors, and service providers (except micro-entrepreneurs)
- Relevant products include, among others:
  - Hardware systems (including operating systems)
  - Certain self-service terminals (e.g., ATMs)
- Relevant services include, among others:
  - Telecommunications services
  - Elements of passenger transport services (e.g., websites, apps)
  - Consumer banking services (e.g., online banking)

Obligations/Sanctions/ToDo

- Goods and services concerned have to be discoverable, accessible and usable by people with disabilities in the usual way, without particular difficulty and, in principle, without outside assistance
- Sanctions:
  - Distribution bans
  - Fines
  - Warnings
  - Liability under competition law
- ToDos:
  - Clarify if the German subsidiaries fall within the scope of the BFSG and if so with which products/services
  - Ensure that sufficient measures and processes are in place to ensure (digital) accessibility in the context of customer interaction, in parti-cular check website

Overview of other selected topics

Further selected topics

Overview

Foreign Subsidies Regulation - FSR

- *New notification obligations for certain transactions involving third countries.*
- *Commission is granted a review period to determine whether third-country subsidies distort competition.*
- *Can lead to additional time and administrative effort between contract conclusion and execution.*

Treatment of Shareholder Loans

- *BGH: Order of suspension and order of reference dated 16.01.2025 - IX ZR 229/23*
- *May lead to fundamental changes to the treatment of shareholder loans extended to German corporations*

EU Product Safety Regulation

- *In force since December 13, 2024.*
- *Extends the product safety obligations for market participants.*
- *In addition to mandatory procedures to ensure product safety, companies are also subject to transparency and information obligations.*

Increase in the threshold values of the Size classes under commercial law

- *Change in threshold values due to increased inflation*
- *May lead to a lower classification*
- *Lower classification means fewer obligations under accounting law*

Q&A

Thank you very much

for your attention

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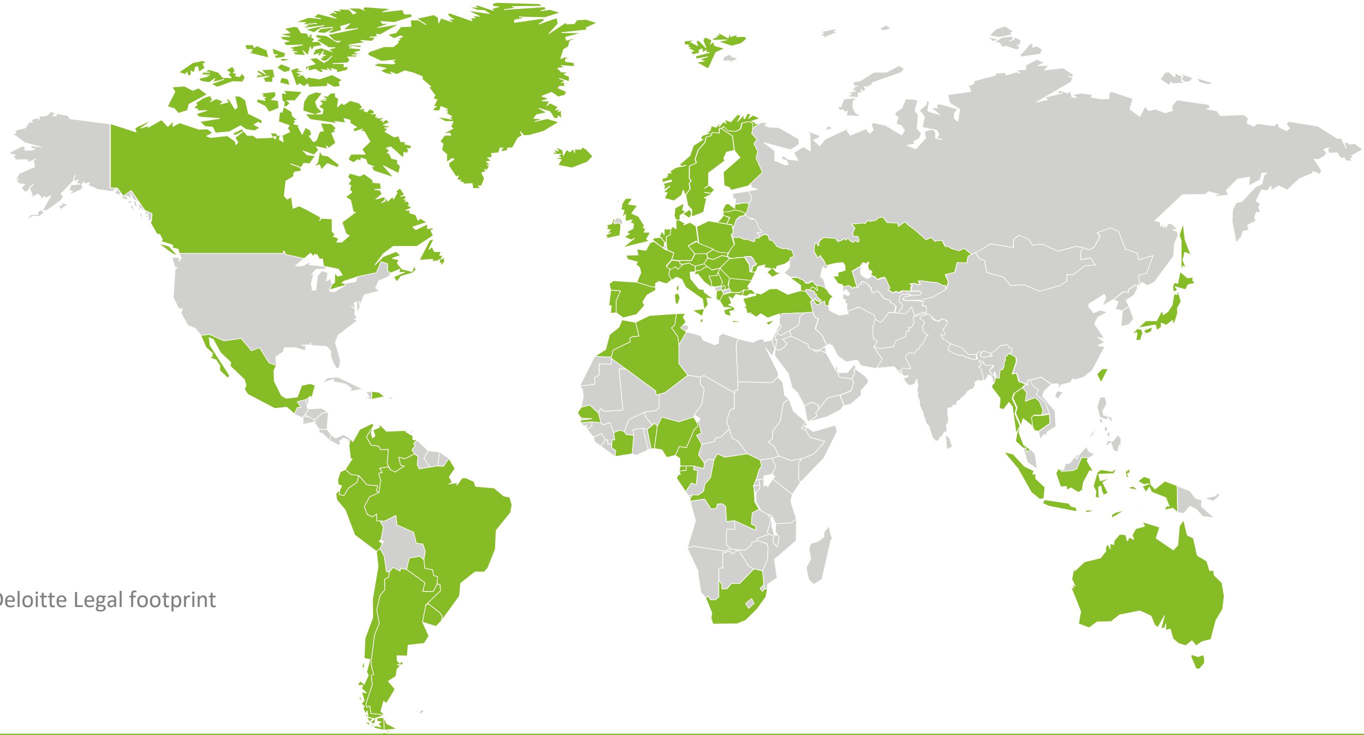

Key

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13. Cameroon
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16. Colombia
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19. Cyprus
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21. Dem Rep of Congo
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28. France
29. Gabon
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31. Germany
32. Greece
33. Guatemala
34. Honduras
35. Hong Kong SAR, China
36. Hungary
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38. Indonesia
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40. Italy
41. Ivory Coast
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43. Kazakhstan
44. Kosovo
45. Latvia
46. Lithuania
47. Malta
48. Mexico
49. Montenegro
50. Morocco
51. Myanmar
52. Netherlands
53. Nicaragua
54. Nigeria
55. Norway
56. Paraguay
57. Peru
58. Poland
59. Portugal
60. Romania
61. Senegal
62. Serbia
63. Singapore
64. Slovakia
65. Slovenia
66. South Africa
67. Spain
68. Sweden
69. Switzerland
70. Taiwan
71. Thailand
72. Tunisia
73. Turkey
74. Ukraine
75. Uruguay
76. United Kingdom
77. Venezuela

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