

Cartels

**Enforcement, Appeals &
Damages Actions**

2025

13th Edition

Contributing Editors:

Euan Burrows & Denis Fosselard

Ashurst LLP

TABLE OF CONTENTS

Preface

Euan Burrows & Denis Fosselard
Ashurst LLP

Jurisdiction Chapters

1	Belgium Hendrik Viaene & Emilia Bonine McDermott Will & Emery Belgium LLP
16	Brazil Luciana Martorano Campos Mello Advogados
24	Cyprus Michael Kyriakides, Eleni Neoptolemou & Ioannis Seferlis Harris Kyriakides
31	European Union Fiona Garside, Irene Antypas & Jessica Bracker Ashurst LLP
68	Finland Ilkka Aalto-Setälä & Leo Rantanen Borenus Attorneys Ltd
77	France Sarah Subrémon, David Reingewirtz & Luca Nicco bureau Brandeis
89	Germany Sergej Bräuer & Dimitra Karakioulaki Debevoise & Plimpton
99	Indonesia Frederick Simanjuntak, Budhy Apriastuti Evita & Lazuardy Thariq Makmun Makarim & Taira S.
108	Japan Kagenori Sako, Yuichi Oda & Kosuke Yoshimura Oh-Ebashi LPC & Partners
116	Korea Kwang Hyun Back, Jee Hyun Oh & Si Yoon Lee Barun Law LLC
122	Malaysia Penny Wong Sook Kuan Rahmat Lim & Partners

133 Netherlands

Stefan Tuinenga, Sophie van Everdingen & Niels Wessel

Lindenbaum B.V.

145 Norway

Monica Syrdal & Heddy Ludvigsen

Advokatfirma Hjort AS

154 Pakistan

Maryam Sadruddin, Syed Shayan Ahmed & Hira Ahmad

LMA (Liaquat Merchant Associates) Barristers, Advocates & Corporate Legal Consultants

164 Singapore

Lim Chong Kin & Dr. Corinne Chew

Drew & Napier LLC

175 Switzerland

Dr. Felix Schraner, Dr. Maximilian Diem & Dr. Fabio Babey

IXAR Legal AG

192 Ukraine

Mariya Nizhnik & Anna Litvinova

Aequo

Germany

Sergej Bräuer
Dimitra Karakioulaki

Debevoise & Plimpton

Overview of the law and enforcement regime relating to cartels

The main competition law in Germany is the Act against Restraints of Competition (*Gesetz gegen Wettbewerbsbeschränkungen*, or ARC), which was last updated on 7 November 2023 by the 11th ARC amendment. In addition, Article 101 of the Treaty on the Functioning of the European Union (TFEU) is applicable, if trade between the Member States of the European Union (EU) may be affected. Moreover, EU Block Exemption Regulations (BER) such as the Vertical Block Exemption Regulation (Regulation (EU) 2022/720) are directly applicable, so that an agreement restricting competition may be exempted from the prohibition if it falls within the scope of a BER.

Section 1 ARC, which is largely harmonised with Article 101 TFEU, contains the general cartel ban. It forbids all agreements, concerted practices or decisions by associations of undertakings that have the purpose or effect of restricting competition. Cartels are not criminal offences under German law. Instead, cartels generally count as administrative offences, with one exception: bid rigging is a criminal offence under section 298 of the German Criminal Code and can be punished with up to five years in prison.

The German Federal Cartel Office (FCO) has published several guidelines on important aspects of public cartel enforcement, which are available (also in English) on the FCO's website (https://www.bundeskartellamt.de/EN/Information_Service/LegalFramework/Cartels/rechtsgrundlagen_Cartels_node.html#doc297922bodyText2). These include:

- leniency guidelines, in which the FCO provides guidance concerning the leniency programme under which it may grant immunity from or a reduction of an administrative fine by cooperating with the FCO and contributing to uncovering an anticompetitive behaviour;
- guidelines for the setting of fines in cartel administrative offence proceedings, in which the FCO lays down principles, in particular in respect of setting the amount of the fine; and
- de minimis notice, in which the FCO lays down the discretionary principles establishing when proceedings related to agreements of minor importance are not initiated, as long as they do not contain hardcore restrictions (such as price fixing, customer allocation or territory allocation).

The FCO mainly enforces the prohibitions in the ARC. In addition, federal states also have competition authorities that have jurisdiction to enforce competition law in regional cases (namely, where the conduct in question is limited to the territory of the respective federal state (section 48 ARC)).

The FCO has 13 decision divisions. Three of these focus exclusively on the cross-sector prosecution of cartels and hardcore restrictions. They are supported by a special unit, which mainly helps during investigations, especially in preparing and carrying out dawn raids.

The FCO can impose monetary fines on businesses or individuals for intentional or negligent breaches of the prohibition to restrict competition, under section 1 ARC. Fines on businesses can be up to 10% of the worldwide group turnover generated in the last financial year. The FCO may also order the disgorgement of the gained economic benefit and require the undertaking to pay a corresponding amount of money. There are no criminal sanctions for individuals, nor are there any disqualifications of directors resulting from sanctions for participating in cartels, except for bid rigging, which can be sanctioned with up to five years in custody. Fines for individuals for intentional participation in a cartel can be up to €1 million. In cases of negligent breaches, the maximum fine is €500,000. The FCO can only impose fines on directors, officers and certain senior employees. However, directors or officers can also be fined for failing to supervise, if lower-ranking employees have committed the cartel offence.

Moreover, competition law infringements are recorded in the competition register. Public contracting authorities are required to check the competition register before awarding a contract, and an entry in the competition registry may lead to exclusion from a contract.

Overview of investigative powers in Germany

The FCO can use any evidence that would be admissible in criminal cases to investigate a suspected infringement. This includes taking testimonies from witnesses and accused suspects, and asking companies for information. Witnesses can, however, refuse to testify if they might incriminate themselves. Accused suspects generally have the right to stay silent on the allegations that are being investigated. If they do choose to make a statement, it does not have to be accurate or complete. The FCO must inform witnesses and accused suspects of their rights to stay silent/not incriminate themselves when questioning them.

The FCO can also carry out dawn raids at offices and search private premises and objects. In order to do so, the FCO generally needs a warrant from a judge authorising such searches. Only in urgent situations can the FCO conduct these searches without a judicial warrant.

During dawn raids, the FCO and supporting investigators are authorised to:

- examine all books and business documents, irrespective of the form or medium they are available in, and obtain access to any information that is accessible by the person subject to the search;
- seal business premises, books and documents of any kind for the duration and to the extent necessary for the search; and
- request from all representatives or members of staff of the undertaking or association of undertakings information that might facilitate access to evidence, and explanations with regard to facts or documents that might be connected to the subject matter and purpose of the search, and record the answers.

If necessary, the FCO can use coercive force, as laid down in the Code of Criminal Procedure, to enforce its investigative powers. In addition, the FCO may fine individuals up to €100,000 and undertakings up to 1% of a group's worldwide turnover in the last financial year for certain conduct, such as failure to respond to a request for information, failure to surrender documents, failure to appear for questioning, refusing the examination of business documents or access to business premises, breaking a seal that has been affixed by officials, refusing to disclose information that could facilitate access to evidence, or not providing an explanation on facts or documents that might be connected to the subject matter and the purpose of the search.

The parties have a right to legal representation throughout the whole proceedings and should ask the officials to wait before beginning the search until their attorneys have arrived. While the officials are, in

principle, not obliged to do so, they are often prepared to wait for a certain time, in particular if they are allowed to move freely in the meantime and can already secure evidence, by, for example, sealing offices.

At the end of the search, the FCO is required to hand over a protocol and an inventory of seized objects. Companies may ask the officials to copy certain seized documents, in particular, if they are required for business operations, though the officials may refuse such requests.

Accused undertakings and natural persons have a right to be heard, which includes the opportunity to submit statements to the FCO. This also includes a right of access to the FCO files. However, only the lawyer of the accused suspect, and not the suspect itself, can have access to files, and the access can be denied or restricted if the investigation has not been formally completed and if access would endanger the investigation.

Overview of cartel enforcement activity during the last 12 months

In 2024, the FCO imposed fines totalling approximately €19.4 million on three companies and one individual. These fines were related to sectors including protective clothing, broadband devices and construction services. The FCO conducted a total of 11 dawn raids, three of which were carried out to assist other authorities. Seventeen companies reported sector violations through the FCO's leniency programme. Additionally, numerous tips were received from other sources. Currently, most cartel fine proceedings are based on information from sources outside the leniency programme. This includes the external reporting unit established under the Whistleblower Protection Act, which provides robust protection for whistleblowers. In addition, the President of the FCO, Andreas Mundt, mentioned that the FCO intends to make greater use of Artificial Intelligence (AI) to further increase its effectiveness in identifying collusive behaviour.

More specifically:

- On 10 October 2024, the FCO fined Strabag AG, Cologne €2.79 million for bid rigging in a 2017 tender for renovating Cologne's *ZooBrücke* bridge. Strabag and Kemna Bau Andreae GmbH & Co. KG had agreed to ensure Strabag's consortium won the contract by having Kemna submit a cover quote, for which Kemna received compensation. The investigation, initiated by an anonymous whistleblower tip, involved a dawn raid in September 2021 and cooperation with local authorities. The proceeding against Kemna's case was eventually discontinued as the company cooperated through its leniency programme, while Strabag also cooperated and settled, making the fine final.
- On 10 June 2024, the FCO imposed fines totalling almost €16 million on AVM Computersysteme Vertriebs GmbH (AVM) and one of its responsible employees for vertical price fixing with six electronics retailers. AVM, a leading German manufacturer of telecommunications and network technology products, engaged in agreements with retailers to set retail prices for its products, often demanding minimum retail prices above the recommended retail price. These practices were systematically recorded and monitored by AVM employees, who used special software and internal chat groups to ensure compliance. The proceedings were initiated following an anonymous tip and market indications, leading to searches in February 2022 and June 2023. No fines were imposed on the retailers, as the FCO's focus was on AVM's role in the price-fixing measures. The fines are legally binding, and the proceedings were concluded through a settlement.
- On 26 February 2024, the FCO concluded the proceedings and decided to tolerate Deutsche Fußball Liga's marketing model for selling media rights to Bundesliga and Bundesliga two matches from the 2025/26 season onwards. The joint selling of media rights, while restrictive, was tolerated under competition law due to its consumer benefits, such as enabling high-quality league-related products. The decision is subject to periodic reassessment, especially in light of recent judgments like the *Super League* case by the Court of Justice of the EU. The FCO has set guidelines under competition law for

the upcoming sale of media rights, ensuring that the rights are granted for a limited period, allowing for future reassessment of the legal situation if necessary.

- On 19 February 2024, the FCO fined Pfanner Schutzbekleidung GmbH, Koblach, Austria, €0.78 million for vertical price-fixing. Pfanner, along with an affiliate, sells high-quality functional and protective clothing in Germany through resellers and was found to have restricted these resellers in their pricing of various products, including trousers, jackets and helmets. The investigation began after a reseller disclosed these practices and cooperated fully. The illegal agreements, which lasted from early 2016 to late November 2021, required resellers to adhere to recommended resale prices and prohibited significant discounts, instead allowing only non-monetary promotions. The FCO used new powers it has under the 10th amendment to the ARC to investigate, with assistance from the Austrian Federal Competition Authority. Pfanner's cooperation and settlement agreement were considered mitigating factors in setting the fine, which is now final. No proceedings were initiated against the resellers involved.

Key issues in relation to enforcement policy

The FCO does not appear to have specific enforcement priorities. Instead, its recent activities indicate a balanced approach that addresses various types of infringements equally.

In recent years, the FCO has imposed sanctions on a range of horizontal anti-competitive arrangements, including price-fixing cartels, customer and market allocation schemes, bid rigging and the exchange of commercially sensitive information.

Key issues in relation to investigation and decision-making procedures

Structural shortcomings in FCO proceedings

In Germany, the FCO does not separate the bodies responsible for investigating and deciding on competition law cases. The same decision-making body that conducts the investigation also makes the final decision and, if necessary, imposes administrative fines. This dual role presents a structural flaw in public enforcement proceedings, which has led to observable drawbacks. Although the FCO is required to conduct investigations impartially and objectively, in practice, officials who initiate an investigation can exhibit a strong inclination to conclude the case with a finding of competition law infringement. The FCO now remains the competent prosecution authority even after an appeal against a fine decision, a role previously held by the General Public Prosecutor's Office.

The only form of internal review within the FCO is conducted by its litigation division. This review is limited to assessing whether the proposed decision would withstand judicial scrutiny and does not evaluate the quality or thoroughness of the investigative process or the evidence supporting the decision.

Protection of correspondence

German law safeguards correspondence with defence counsel from seizure and review by the FCO. However, this protection is limited to communications between external counsel and their client that directly pertain to the ongoing investigation and were created after the proceedings commenced. Correspondence predating the investigation or internal communications by in-house counsel are not protected.

Duration of investigations

There is no specific timeframe for investigating or deciding cases. The duration and depth of an investigation are tailored to the individual circumstances of each case. Consequently, proceedings can be protracted, often lasting several years.

Approval of investigative measures

Certain investigative measures, such as dawn raids, require prior approval from the district court of Bonn, where the FCO is based. This approval is typically granted if the FCO can demonstrate that the measure is likely to yield relevant evidence of a suspected competition law infringement. The evidentiary standards the FCO must meet to obtain a court warrant are relatively low.

Appealing investigative measures

Companies can appeal any investigative measures undertaken by the FCO. The district court of Bonn is the competent authority for hearing such appeals. In practice, these appeals are often futile, as the district court of Bonn generally defers to the FCO's broad discretionary powers in determining the scope and manner of investigations.

Leniency/amnesty regime

A participant in a cartel may benefit from the leniency programme, which is incorporated in sections 81h–81n ARC. The FCO operates a leniency programme similar to that of the EU Commission. The leniency guidelines are also available in English on the FCO's website (https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Leitlinien/Leniency_Guidelines_08_2021.pdf?__blob=publicationFile&v=6).

The guidelines outline the conditions for obtaining immunity from, or a reduction of, fines for leniency applicants involved in cartel activities. Leniency can only be granted upon application. A cartel participant can contact the FCO to initially declare its willingness to cooperate (marker) to be assigned a place in the queue for leniency that is granted in the order in which the applications are received. The marker can be placed verbally or in writing. The timing of the marker placement determines the rank of the application.

When placing the marker, the FCO requests basic information about the cartel, such as the type and duration of the infringement, the affected product and geographic markets, and the identities of those involved. The FCO also asks for clarification on whether leniency applications have been or are intended to be filed with other competition authorities. The FCO will then set a reasonable period within which an applicant shall submit its leniency application.

The FCO confirms in writing that a marker has been placed and that a leniency application has been submitted, including the date and time of receipt. For full immunity applications where the FCO lacks sufficient evidence to obtain a search warrant, the FCO will confirm that the applicant will be granted full immunity, provided they continue to fully cooperate. In other cases, the FCO will inform the applicant of their provisional ranking and eligibility for immunity or a reduction. A final decision on the reduction of the fine will be made at the end of the investigative phase, once the FCO can evaluate the received input in light of the established infringement.

During the proceedings, the FCO strives to maintain the confidentiality of the process and avoid revealing the identity of leniency applicants. Once a statement of objections is issued, the addressees have the right to access the case file, including leniency applications.

For leniency to be granted, an applicant must fulfil the following requirements:

- disclose its knowledge of and role in the cartel;
- end any involvement in the cartel, unless the FCO considers specific activities to be necessary to preserve the integrity of its investigation;
- genuinely, continuously and expeditiously cooperate with the FCO until the conclusion of the enforcement proceedings, in particular by providing all information and evidence related to the cartel, answering questions and making members of staff available for questioning; and
- while contemplating filing a leniency application:

- not destroy, falsify or conceal information or evidence; and
- not disclose either the contemplated leniency application or its contemplated content (disclosure to other competition authorities is not precluded).

The conditions for full immunity vary depending on whether the FCO already possesses sufficient knowledge of the cartel. The FCO will grant immunity to the applicant who meets the above requirements, is the first to submit evidence that allows the FCO to obtain a search warrant for the first time and has taken no steps to coerce other cartel participants to join or remain a member of the cartel. If the abovementioned requirements are met, but the FCO is already in a position to obtain a search warrant, the FCO will generally refrain from imposing a fine if the cartel participant is the first to submit evidence that makes it possible to prove the offence for the first time. Full immunity is not available to cartel ringleaders or those who coerced others into participating.

If immunity cannot be granted, the FCO may reduce the fine by up to 50% if the submitted information represents significant added value for the purpose of proving the offence. The reduction depends on the usefulness of the information and evidence and the point in time at which the leniency applications are filed.

Administrative settlement of cases

Fine proceedings can be concluded by reaching a settlement with the FCO, which can shorten and expedite proceedings. Settlement discussions can be initiated by both parties. If there is a general willingness to terminate the proceedings by settlement, the FCO informs the party of the facts or the infringement it is accused of and proposes an amount of fine that will not be exceeded if settlement is reached. A settlement necessitates statement of confession from the company or person wishing to settle in which they acknowledge the facts of the infringement and accept the fine up to the amount announced. Companies typically waive their rights to full access to the file and a complete statement of objections. A waiver of the right to appeal the FCO's final decision, however, cannot be part of the settlement declaration.

In return, a settlement declaration is considered a mitigating circumstance and the FCO may reduce the potential fine by up to 10%, in addition to any reductions granted under the leniency notice. Moreover, if an agreement is reached, the proceedings will be terminated with a short decision, which contains significantly less information than the detailed fine decision, making it more challenging for third parties to extract information pertinent to follow-on damage litigation. The FCO is generally bound by the settlement unless new facts emerge that justify reopening the case.

Third-party complaints

There are no legal requirements for lodging a complaint. Complaints can therefore be submitted by anyone and in any form. Even anonymous complaints are acceptable. However, a complaint should contain detailed information and specific allegations regarding the infringement and ideally be accompanied by copies of all relevant documents and files, as otherwise it is unlikely to prompt an investigation. The FCO has broad discretionary powers as to whether and how to react to a complaint.

In addition, the FCO has been operating an online whistleblower system since 2012, i.e., way before the Whistleblowing Directive (2019/1937/EU) was implemented. The whistleblower system enables to receive anonymous tip-offs about cartel law infringements and ensures the anonymity of informants while allowing for continuous reciprocal communication with FCO investigators through a secure electronic mailbox.

Civil penalties and sanctions

Competition law violations can result in administrative fines of up to 10% of the total group turnover generated in the last financial year. Unlike European law, the 10% limit is not a cap but the upper limit

of the fining range, i.e., reserved for the most serious competition law violations. Fines can also be imposed on individuals. This is, however, limited to directors, officers and certain senior employees of the companies. Fines against individuals can be up to €500,000 for negligent infringements and up to €1 million for wilful violations. As long as the violation is not bid rigging and therefore does not constitute a criminal offence, the individual is not banned from any professions or activities.

The FCO published guidelines for the setting of fines in cartel proceedings (https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Leitlinien/Guidelines_setting_fines_Oct_2021.pdf?__blob=publicationFile&v=5), in which it describes the method it uses to calculate fines. The FCO uses the turnover achieved from the infringement together with the group turnover to determine a baseline value, which then is adjusted to the particular case, taking into account all the aggravating and mitigating factors. The so calculated fine can be considerably higher or lower than the baseline value.

Moreover, competition law infringements are also recorded in the competition register. Public contracting authorities must check the competition register before awarding a contract, and an entry in the competition registry may lead to exclusion from a contract.

Right of appeal against civil liability and penalties

Decisions made by the FCO can be appealed before the Higher Regional Court of Düsseldorf. An appeal against a decision that imposes a fine has a suspensory effect. During the appeal process, new facts and evidence can be introduced. Generally, the court is open to economic expert evidence, although in some cases, it has claimed sufficient expertise to assess significant economic aspects independently.

Given its exclusive competence in hearing appeals against FCO decisions, the Higher Regional Court of Düsseldorf is highly specialised, and its decisions reflect deep knowledge and expertise in competition law. While the appeal process is generally effective and straightforward, it can also involve considerable effort and costs for the parties involved.

The Higher Regional Court in Düsseldorf is not hesitant to overturn or amend FCO decisions. It can significantly reduce the fine or annul the decision. Conversely, it is not bound by the FCO's calculation methods and can also significantly increase fines, and has done so in the past. Under certain conditions, decisions of the Higher Regional Court of Düsseldorf can be appealed to the Federal Court of Justice, but only on points of law. In recent years, the Federal Court of Justice has overturned several decisions by the Higher Regional Court of Düsseldorf.

Criminal sanctions

Cartels are not classified as criminal offences under German law. Instead, they are considered administrative offences. However, there is an exception for bid rigging, which is deemed a criminal offence under section 298 of the German Criminal Code and can result in a prison sentence of up to five years.

Cooperation with other antitrust agencies

The FCO has historically maintained a close working relationship with both US authorities and the European Competition Network (ECN).

Cross-border issues

The FCO is an integral part of the ECN, which provides a structured framework for cooperation among national competition authorities and between these authorities and the European Commission. The ECN+ Directive was implemented into the ARC with the goal of enhancing the effectiveness of cartel prosecution. Sections 50a *et seq.* ARC govern the cooperation between the FCO and other competition

authorities within the ECN, including the conduct of investigations on behalf of other competition authorities, service of documents, enforcement of decisions imposing fines and exchange of information.

The FCO also closely cooperates with competition authorities outside Europe, either on a bilateral basis or within international networks and institutions, such as the International Competition Network (ICN), the Steering Committee which Andreas Mundt, the President of the FCO, has chaired since 2013.

Historically, the FCO has collaborated with other national competition authorities, by requesting them to conduct dawn raids and secure evidence on its behalf. Similarly, the FCO has undertaken investigations at the request of other national competition authorities.

The FCO is bound by the principle of “*ne bis in idem*”, which prevents it from imposing sanctions for conduct that has already been penalised in other jurisdictions. However, adhering to this principle in practice can be challenging.

Developments in private enforcement of antitrust laws

Germany is one of the preferred forums for follow-on cartel damages litigation. Germany transposed EU Directive 2014/104/EU on antitrust damages actions through the ninth amendment to the ARC, which came into force on 9 June 2017. These changes have had a notable impact on the private enforcement of antitrust laws in Germany. The enhanced disclosure rules and extended limitation periods have facilitated an increase in litigation by making it easier for claimants to substantiate their claims and quantify damages. The new provisions have improved access to evidence and provided greater legal certainty for both claimants and defendants. The possibility of extensive disclosure and the presumption that a cartel infringement results in damages have encouraged settlements as a viable option to avoid protracted litigation. Furthermore, the limitation on cost liability for additional intervening third parties has reduced the financial risk associated with bringing claims, making the financial risk exposure more foreseeable. Overall, the Directive has strengthened the framework for private enforcement of antitrust laws in Germany, making it more claimant friendly.

Third parties can seek damages for losses caused by intentional or negligent breaches of German or EU competition laws. Both follow-on actions and stand-alone actions are permissible. Sections 33a to 33h ARC outline comprehensive rules for such damages claims. These provisions cover the binding effect of competition authority decisions, the pass-on defence, joint and several liability, limited liability for leniency applicants, settlements between claimants and cartelists, information disclosure and the statute of limitations.

To a limited extent, German law permits representative claims. Qualified consumer associations and qualified bodies from other EU Member States, as well as qualified business associations, can seek removal and injunctive relief. In addition, the possibility of collective actions for damages under antitrust law was introduced for small businesses and consumers following the implementation of the EU Directive on representative actions on 11 October 2023. Under this new framework, only qualified consumer associations and qualified bodies from other EU Member States can bring such actions. Such representative actions are, however, not available to larger companies.

Against this background, non-genuine class actions have a considerable practical significance. In such actions, potential claimants transfer their claims to a third party, which then brings the action based on the bundled claims in its own name and at its own expense. The Federal Court of Justice has generally deemed such bundling of claims admissible if certain requirements are met, though not specifically related to antitrust law, which has led to mixed rulings at the lower court level.

The District Court of Dortmund, affirming the admissibility of such class action collection, has referred the question to the European Court of Justice (ECJ) to determine whether the EU Cartel Damages Directive mandates the admissibility of such bundled claims. On 28 January 2025, the ECJ issued its preliminary

ruling. It held German legislation preventing group actions by assignment would be incompatible with EU law if no other procedure allows individuals to effectively bring their claims for compensation. National courts must determine whether such rules make it “impossible or excessively difficult” to exercise the right to compensation under EU law, based on (i) the absence of other effective collective redress mechanisms, and (ii) the impracticality of individual actions. The ECJ noted that while the complexity and costs of competition law cases favour collective redress, these factors alone do not make individual claims excessively difficult. If the conditions are met, national legislation can still regulate group action collection services to ensure quality and fair remuneration and prevent conflicts of interest and abuse.

Reform proposals

In November 2023, the Federal Ministry for Economic Affairs and Climate Action (BMWK) launched a public consultation process for the 12th amendment to the ARC. One of the proclaimed goals of the 12th amendment was to increase the effectiveness in proceedings for private enforcement of follow-on damages claims. However, even before the break-up of the German ruling coalition and general election in Germany, there were reports that the 12th amendment is unlikely to be introduced, as the ideas of the coalition partners were too far apart. It remains to be seen whether some of the ideas will be taken up again in the new legislative period.

**Sergej Bräuer**

Tel: +49 69 2097 5241 / Email: sbraeuer@debevoise.com

Sergej Bräuer is a counsel in the Frankfurt office of Debevoise & Plimpton LLP. Prior to joining Debevoise, he worked for renowned international law firms in Frankfurt, Stuttgart, and London.

Mr. Bräuer advises clients on the full spectrum of antitrust and competition matters as well as foreign direct investments. He has deep experience in cartel damages cases and complex merger control proceedings, including coordination of worldwide merger control filings and approvals.

In addition, his particular focus lies on cartel investigations and proceedings, compliance management, as well as complex distribution systems and cooperation agreements.

He has been recommended for antitrust law by *The Legal 500 Germany* and has been recognised by *Handelsblatt* and *Best Lawyers* for his work in competition and antitrust law.

**Dimitra Karakioulaki**

Tel: +49 69 2097 5288 / Email: dkarakioulaki@debevoise.com


Dimitra Karakioulaki is a corporate and litigation associate and a member of the Antitrust & Competition Group at Debevoise & Plimpton LLP.

Ms. Karakioulaki joined Debevoise in 2024, where she works from the Frankfurt Office. She has held various positions at academic institutes and non-governmental organisations across the United States and Europe, among them the Human Rights Institute at Columbia Law School and the Clooney Foundation for Justice.

Debevoise & Plimpton

Taunustor 1 (TaunusTurm), 60310 Frankfurt am Main, Germany

Tel: +49 69 2097 5000 / URL: www.debevoise.com



Global Legal Insights – Cartels provides analysis, insight and intelligence across 17 jurisdictions, covering:

- Overview of the law and enforcement regime relating to cartels
- Overview of investigative powers
- Overview of cartel enforcement activity during the last 12 months
- Key issues in relation to enforcement policy
- Key issues in relation to investigation and decision-making procedures
- Leniency/amnesty regime
- Administrative settlement of cases
- Third-party complaints
- Civil penalties and sanctions
- Right of appeal against civil liability and penalties
- Criminal sanctions
- Cooperation with other antitrust agencies
- Cross-border issues
- Developments in private enforcement of antitrust laws
- Reform proposals

globallegalinsights.com