



© Herrenknecht AG



22nd Conference of the German International Construction Law Committee (Arbeitskreis Internationales Baurecht)

Thursday, November 18, 2021, 3:00 p.m. – 6:00 p.m., Weimar + Online

Supply Contracts for Mechanical and Plant Engineering – Fundamentals and Current Developments. Special Focus: The Global Supply Chain Crisis

To build, you need machines and plants. Such goods “made in Germany” enjoy an excellent international reputation. Many German machinery and plant manufacturers, often family-owned companies with a long tradition, are little known, but nevertheless world market leaders in their special field. Such “hidden champions” supply most of the machines and plants they manufacture abroad. At the same time, industrial companies based in Germany also buy high-quality goods from German and foreign manufacturers. In each case a supply contract is required. The law applicable to this contract is usually determined by the buyer. In many areas there are typical clauses for the allocation of responsibilities and risks. Due to the great importance of supply contracts for the construction industry, the International Construction Law Committee (AK Internationales Baurecht) of the largest German Association of Construction and Real Estate Law (ARGE Bau- und Immobilienrecht) is dedicating an event to this topic.

PROGRAM – ENGLISH PART OF THE CONFERENCE (times refer to German time)

- 3:00 p.m. **How to reduce Risks and manage Claims for Supply Contracts in the UK?**
Jahanara Hussain and Sean McCay (TLT, Manchester)
- 3:30 p.m. Break 3
- 3:40 p.m. **How to draft and interpret Clauses on Consequential Damages**
Ivana Panic (Schönherr, Belgrad)
- 4:10 p.m. **Time related Issues in the Supply Chain for complex engineering Projects**
Caner Anac (Kroll, London)
- 4:40 p.m. Break 4
- 4:50 p.m. **FOCUS SUBJECT: The Global Supply Chain Crisis – what Solutions are available?**
Moderators: Dr. Oleg Buruiana and Dr. Jan-Bertram Hillig
Discussion to include input from the following speakers:
Current Challenges for Plant Manufacturers Dr. Oleg Buruiana (Kahl Group, Hamburg)
Solutions – a Common Law / Irish Perspective Finola McCarthy (RDJ, Cork/Dublin)
Solutions – a Civil Law / German Perspective Justus Kraner (F. Graf v. Westphalen, Cologne)
Feedback from all conference participants welcome in real time
- 5:50 p.m. **Closing remarks**
by AK chairmen Dr. Jan-Bertram Hillig, Oliver Koos, Tobias Voigt and Dr. Jörn Zons
- 6:00 p.m. **Wrapping up of the event with opportunity to toast**

For the program of the German part of the conference (12:00 p.m.–3:00 p.m.), see page 2 of this flyer.



© Kahl Group



© Kahl Group

22nd Conference of the German International Construction Law Committee (Arbeitskreis Internationales Baurecht)

TIME: Thursday, **November 18, 2021**, 12:00 p.m. – 3:00 p.m. (Part 1, German),
3:00 p.m. – 6:00 p.m. (Part 2, English)

LOCATION: Online and Hotel Amalienhof | Amalienstr. 2 in 99423 Weimar (Tel.: +49 3643-5490)
For the physical well-being is provided: drinks, cake and snacks.

You can easily register by e-mail:
ak-international@arge-baurecht.com

If you have any question, please contact Marita Grabosch: +49 30 203907-7596

COST: None

CONFERENCE PROGRAMME RESPONSIBLE: Dr. Jan-Bertram A. Hillig

CPD: Certificate of attendance according to § 15 (German) FAO possible (subject to decision by the Chamber of Lawyers)

REGISTRATION:

Marita Grabosch
Phone: +49 30 203907-7596
E-mail: ak-international@arge-baurecht.com
or marita.grabosch@gsk.de

WEBINAR ORGANIZATION:

Lysette-Charlotte Schönert
Phone: +49 30 203907-7720
E-mail: lysette.schoenert@gsk.de

PROGRAM – GERMAN PART OF THE CONFERENCE (times refer to German time)

- 11:30 a.m. Virtual arrival and virtual greeting
- 12:00 p.m. Words of welcome and organizational matters
Dr. Jan-Bertram Hillig (Moderator und AK-Leiter) und Oliver Koos (AK-Leiter)
- 12:10 p.m. Aufgaben und Dienstleistungsangebot der Rechtsabteilung des VDMA: Lieferverträge im Fokus Alexandre Ratiu (VDMA, Frankfurt)
- 12:40 p.m. Überblick zu den Versicherungen des Maschinen- und Anlagenbaugeschäfts
Marcus Wojciechowski (Herrenknecht, Schwanau)
- 13:10 p.m. Break 1
- 13:20 p.m. Umgang mit „Fitness for Purpose“-Pflichten
Kristina Laewen und Katharina Baunach (Hogan Lovells, Frankfurt)
- 13:50 p.m. Software Klauseln und Escrow Agreements
Dr. David Kipping (Friedrich Graf von Westphalen, Köln)
- 14:20 p.m. Break 2
- 14:30 p.m. Lieferverträge von deutschen Maschinen- und Anlagenbauern gemäß Schweizer Recht
Dr. Bernd Hauck (Kellerhals Carrard, Basel)





© Herrenknecht AG



22nd Conference of the German International Construction Law Committee (Arbeitskreis Internationales Baurecht)

REGARDING THE CONFERENCE:

- The Conference will take place in **hybrid format**. You can participate in Weimar or online. Due to the corona situation, the number of places in Weimar is limited to 25*, so please indicate when registering whether you would like to come to Weimar or only participate online. If you come to Weimar, your vaccination or recovery certificate will be checked on site. A test is not sufficient.
* short-term changes will be communicated to the enrollees by e-mail if necessary
- All participants will receive (after their registration) a link to the event in due time before 18.11.2021.
- Please feel **free to** pass this invitation on to **colleagues** and lawyer friends who might be interested in the topics of the German International Construction Law Committee.
- Registration is possible until the beginning of the event.

The conferences organized by the German International Construction Law Committee take place every six months (as a rule on the **Thursday** before the conference of ARGE Baurecht).

TIPS:

On 19/20.11.2021 the German Association of Construction and Real Estate Law (ARGE Bau- und Immobilienrecht) will meet in Weimar and Online. Attendees who will travel to Weimar for the 18.11.2021 Conference can therefore stay in Weimar and take part in the ARGE meeting.

ATTENTION: The number of participants on site is also limited here. You can access the programme for this conference here: <https://arge-baurecht.com/veranstaltungen/tagungen>

FUTURE EVENTS:

The next Conference of the German International Construction Law Committee (AK Internationales Baurecht) is planned for **03.03.2022 (Amsterdam)**.

The German International Construction Law Committee has its own website:
<https://arge-baurecht.com> → Menu item "Events" → "AK Internationales Baurecht"
 On this website you can register in the list of interested persons. All interested persons receive invitations to the conferences, which take place twice a year.



LEADERSHIP OF THE GERMAN INTERNATIONAL CONSTRUCTION LAW COMMITTEE



Dr. **JAN-BERTRAM A. HILLIG** is a German lawyer and English solicitor with the commercial law firm GSK STOCKMANN in Berlin. He advises on real estate project developments and plant construction projects, often those with cross-border implications (inbound and outbound). He is the author of the chapter “Cross-Border Construction and Planning Contracts” in the commentary “Privates Baurecht” by Messerschmidt/Voit.

- **Phone:** +49 30 203907-0, **e-mail:** jan-bertram.hillig@gsk.de



OLIVER KOOS is a German lawyer and partner at the commercial law firm GSK STOCKMANN in Frankfurt/Main. He advises on private construction and architectural law, plant construction and project development. His practice focuses on project conception and the support of major construction projects. He is also a lecturer in real estate and construction contract law.

- **Phone:** +49 69 710003-174, **e-mail:** oliver.koos@gsk.de



TOBIAS VOIGT is a managing partner of CARNEADES LEGAL Rechtsanwälte Voigt und Kruse PartG mbB in Hamburg, specialising in international contract and claim management in plant construction as well as M&A. For more than 15 years he has been involved in complex plant construction projects worldwide. After working for IPM Ingenieurgesellschaft für Projektmanagement in Braunschweig and Bureau Veritas S.A. in Hamburg, he founded CARNEADES in 2006.

- **Phone:** +49 40 6364550-0, **e-mail:** Tobias.Voigt@carneadeslegal.com



Dr. **JÖRN ZONS** is a lawyer and partner in the law firm Friedrich Graf von Westphalen & Partner mbB in Cologne. His practice focuses on advising clients and contractors in German and international construction and plant engineering projects “from the cradle to the grave”, including dispute resolution. He is co-editor of Bock / Zons, Rechtshandbuch Anlagenbau.

- **Phone:** + 49 221 20807-0, **e-mail:** joern.zons@fgvw.de



© Herrenknecht AG



22nd Conference of the German International Construction Law Committee (Arbeitskreis Internationales Baurecht)

SPEAKERS AT THE CONFERENCE



CANER ANAC is a director in the Construction Disputes Expert Services at Kroll Advisory Ltd, London, UK. His focus of work is on dispute resolution, construction planning, and project management. He has been involved in time-related matters in all stages of large construction projects, mainly in the EMEA region. He has experience in forensic delay techniques to produce expert witness reports.



KATHARINA BAUNACH is a lawyer at Hogan Lovells International LLP in Frankfurt. She advises on large and complex infrastructure and energy projects and assists clients in protecting their interests in the project and before state courts and arbitration tribunals. She studied at the University of Bayreuth and obtained the additional degree “Wirtschaftsjurist (Univ. Bayreuth)”. She completed her legal clerkship in Würzburg, Aschaffenburg and New York.



Dr. **OLEG BURUIANA** is Head of the Legal Department of the KAHL GROUP in Reinbek / Hamburg. The group companies are leading international manufacturers of machinery, equipment and process technology for the food, beverage, chemical and pharmaceutical industries as well as biotechnology with customers in over 150 countries. His expertise covers, inter alia, corporate governance, international contract law and M&A.



Dr. **BERND HAUCK** is a Swiss and German lawyer. He is a partner at the Swiss law firm Kellerhals Carrard, where he heads the Construction and Real Estate Practice Group. He focuses on advising construction and planning companies, both on contract drafting and in the context of disputes before state courts and arbitration tribunals. He is also President of the Real Estate & Construction Commission of the International Young Lawyers’ Association.



JAHANARA HUSSAIN is a partner in the Projects, Infrastructure and Construction team at TLT LLP (UK) and specialises in transactional matters. She has been involved in numerous projects around the country and abroad. Jahanara’s work includes advising on procurement strategies, advising on risk profiles under contracts and drafting and negotiating agreements including large engineering and/or building contracts, consultants’ appointments and associated agreements.



22nd Conference of the German International Construction Law Committee (Arbeitskreis Internationales Baurecht)

SPEAKERS AT THE CONFERENCE



Dr. **DAVID KIPPING** is a specialist in intellectual property law and a partner in the law firm Friedrich Graf von Westphalen & Partner mbB in Cologne. In addition to advising and representing clients in IP matters, his practice focuses on IT law and research and development agreements. He regularly advises clients on software-specific aspects of plant construction contracts.



JUSTUS KRANER, a lawyer with the law firm Friedrich Graf von Westphalen & Partner mbB in Cologne, specialises in German and international construction and plant engineering projects, with a focus on the infrastructure sector. He regularly advises clients and contractors on construction, design and supply contracts. Mr. Kraner also supports his clients before state courts and arbitration tribunals.



KRISTINA LAEWEN, European Lawyer (Univ.) is a lawyer at Hogan Lovells International LLP in Frankfurt. She advises on infrastructure and energy matters and assists clients in particular in the context of large-scale plant construction projects with an international dimension, in project structuring and in negotiating contractual documents. She studied law and European law in Würzburg and Poitiers and completed her legal traineeship in Würzburg and New York.



FINOLA MCCARTHY Construction Partner at Irish law firm, Ronan Daly Jermyn, Finola advises on all types of construction and engineering projects both public and private sector from initial procurement through to dispute resolution. She is experienced in all principal forms of contract used in design build, EPC, construction, infrastructure and energy projects such as FIDIC, NEC, RIAI, IEI, government public works and several bespoke forms.



SEAN McCAY Sean is a partner in the Projects, Infrastructure and Construction team at TLT LLP (UK) and specialises in contentious matters. He is regarded as one of the leading construction and engineering lawyers in England. Sean has considerable experience in all forms of dispute avoidance/management and resolution particularly in the energy (including nuclear) and utilities, waste management and process engineering sectors.



22nd Conference of the German International Construction Law Committee (Arbeitskreis Internationales Baurecht)

SPEAKERS AT THE CONFERENCE



IVANA PANIC Partner in the real estate & construction practice at Austrian/Serbian law firm Schoenherr, office Belgrade, with more than 10 years of experience. She specialises in construction law, real estate law and arbitration in the CEE region. Ivana has advised on numerous construction-related matters in the CEE electricity sector (wind, solar, hydro, biomass and coal-fired plants) and she is acting as FIDIC trainer with the Serbian Association of Consulting Engineers.



ALEXANDRE RATIU is an in-house lawyer at the Mechanical Engineering Industry Association (VDMA) in Frankfurt am Main. He advises the approximately 3,300 European member companies on legal matters, primarily on cross-border issues. His main focus is on international contract and distribution law. He is involved in the drafting of model contracts and clauses at international level.



MARCUS WOJCIECHOWSKI is Head of Contracts and Legal Affairs, Traffic Tunneling Division, at Herrenknecht AG, Schwanau, Germany, the technology leader in the production of tunnel boring machines. The focus of his work is the drafting of complex machine supply contracts for major projects, especially in North America, Great Britain and the APAC region. He also handles disputes and insurance cases in an international context.



22nd Conference of the German International Construction Law Committee (Arbeitskreis Internationales Baurecht)

OVERVIEW OF TOPICS TO BE DISCUSSED AT THE CONFERENCE ON NOVEMBER 18, 2021:

- How does the VDMA provide legal support to its large and small members in their day-to-day business? How does the VDMA legal department and practicing lawyers work together? Beyond advising its members, what other services and opportunities for participation can members expect in the association and how does the VDMA legal department advocate for the interests of its members both nationally and internationally?
- Which insurances are required in mechanical engineering? How does the coordination between a contract manager and the insurer typically take place? What is the role of insurance brokers? How does this work at the contract negotiation and claims stage?
- Fitness for Purpose obligations – what are they? What should be taken into account when drafting plant construction contracts with regard to Fitness for Purpose obligations? What problems arise when agreeing Fitness for Purpose obligations under German law?
- Software is always required for the operation of modern machines and plants. What needs to be regulated in supply contracts with regard to software? What software and software maintenance obligations are common? What are escrow agreements for source codes and who offers such services?
- The applicability of Swiss law is often agreed in international machine and plant supply contracts. Should I be afraid of this? What are the main stumbling blocks and which points do I have to pay particular attention to?
- What are the typical risks in English law supply contracts? What are the typical disputes in an English law supply contract? Does the (mandatory) statutory adjudication under the Construction Act (UK) apply to supply contracts? How can risks be professionally “managed” so that the risk of litigation is reduced?
- In supply contracts the obligation to pay compensation is often limited to direct damages. In this case, there is no liability for indirect / consequential damages. But what are consequential damages? Does this dazzling legal term only cover very remote damage events? What results from the applicable law? How can a clear provision be made in the supply contract? Is it advisable for sellers to simply write into the contract “liability is assumed only to the extent that insurance cover exists”?
- What are the key points to consider while identifying critical delays in complex engineering and construction projects? What are the different types of conflicts arising from supply chain issues? How can delay analysis methods be used to identify the time-related impact of delays on the project?
- The global supply chain crisis: petrol shortages, truck driver shortages, wood and container shortages, closed Suez Canal, port queues, Brexit obstructions. How should these issues be considered when drafting supply contracts? What applies to supply contracts already entered into? What is the common law perspective? Are there hardship provisions from case law there (according to which the delivery period is extended and the purchase price is increased)? What solutions are conceivable under German law?