



Update

Momentum



Labour

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GERMAN SUBSIDIARIES IN PORTUGAL

EMPLOYEES' RIGHTS TO VOTE AND STAND AS CANDIDATES FOR THE SUPERVISORY BOARD OF THE PARENT COMPANY

(European Union Court of Justice ("ECJ") of 18 July 2017¹)

In this ruling, the ECJ decided that Articles 18² and 45³ of the Treaty on the Functioning of the European Union⁴ had to be interpreted as not precluding German legislation, which provides that the employees of a group of companies employed in subsidiaries located in the territory of other Member States **do not have the right to vote and to stand as candidates in elections for workers' representatives for the supervisory board of the parent company of the group (located in Germany).**

This decision is not only relevant to German, but also to Portuguese Law, since it covers similar situations in which parent companies have headquarters in Germany and subsidiaries in other countries, herein including Portugal.

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¹ Case C-566/15, Case Konrad Erzberger v. TUI AG, available at <http://curia.europa.eu/juris/document/document.jsf?text=&docid=192888&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=986136> (English version).

² Non-discrimination on grounds of nationality.

³ Freedom of movement for workers.

⁴ Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN> (English version).

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