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## **UPDATE ON EMPLOYEE CO-DETERMINATION RIGHTS WITHIN SUPERVISORY BOARDS**

IF THE NUMBER OF EMPLOYEES EMPLOYED BY A COMPANY EXCEEDS A CERTAIN THRESHOLD, THE LAW PROVIDES FOR THE ESTABLISHMENT OF A SUPERVISORY BOARD CO-DETERMINED BY EMPLOYEES. IN ACCORDANCE WITH ESTABLISHED CASE LAW, THE NUMBER OF EMPLOYEES IS DETERMINED BY TAKING INTO ACCOUNT PAST AND FUTURE DEVELOPMENTS ON THE BASIS OF REFERENCE PERIODS OF SEVERAL MONTHS. IN THIS WAY, RANDOM RESULTS DUE TO SHORT-TERM FLUCTUATIONS IN THE NUMBER OF EMPLOYEES AND FREQUENT CHANGES IN THE STRUCTURE OF THE SUPERVISORY BOARD ARE TO BE AVOIDED. IN A NEW DECISION, THE BAVARIAN SUPREME COURT (*BAYRISCHES OBERLANDESGERICHT - BAYOBLG*) HAS CONCRETIZED THIS CASE LAW AND STRENGTHENED THE POSITION OF COMPANIES. ([more...](#))