

PRESS RELEASE

15 January 2009

State of Hessen wins Lawsuit against Privatisation

Eschborn / Frankfurt, 15 January 2009 - Luther Rechtsanwaltsgesellschaft has successfully represented the State of Hessen in landmark proceedings before the Federal Labour Court. Several employees had objected to their employment relationships being transferred from the State of Hessen to the university hospitals of Giessen and Marburg, suing for continued employment with the State of Hessen.

By operation of state law, the employees had been transferred from their employment with the State of Hessen to the Giessen and Marburg university hospitals, which were subsequently privatised, adopting the legal form of a German private limited company (GmbH), and the majority of the shares in which were then sold to Rhön Klinikum AG. In line with the judgment by the State Labour Court of Hessen, the Federal Labour Court has now confirmed that the transfer without a right of the employees to object has been valid (AZR 660/07).

The transaction was particular inasmuch as it was not a transfer of an undertaking by legal transaction, as defined in Sec. 613 a German Civil Code, but a transfer of employment relationships by operation of state law. The Federal Labour Court has held this procedure to be justified under constitutional law. This is the first time the Court has allowed state legislators to transfer the employment relationships of several thousand employees from state employment to employment with now private university hospitals – without a right of the employees to object.

Luther advised the State of Hessen on the privatization in 2005/2006.

On behalf of the State of Hessen:

Luther Rechtsanwaltsgesellschaft: Dr. Kathrin Pietras (Partner, Employment Law) and Dr. Thomas Gohrke (Partner, Constitutional Law).

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Brief Profile of Luther Rechtsanwaltsgesellschaft mbH

Luther is one of the leading German commercial law firms providing comprehensive services in all economically relevant fields of legal and tax consulting. The full-service law firm employs more than 280 lawyers and tax advisors and is represented at 13 German economic centres and at important investment locations in Europe and Asia with its five international offices in Brussels, Budapest, Istanbul, Shanghai and Singapore. Its clients include medium-sized enterprises and large corporations, as well as the public sector. Luther is part of the PMLG international group of law firms (www.pmlg.eu) and is the German member of Taxand, a worldwide network of independent tax firms (www.taxand.com).

Luther is a law firm with an entrepreneurial approach: our innovative awareness aspires us to provide our clients with customised legal advice that addresses individual needs and delivers the greatest possible economic benefit. Our lawyers and tax advisors have a solid understanding of interdisciplinary matters and a wealth of experience in collaborating on complex tasks.

Further information is available at: www.luther-lawfirm.com

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