



# Brexit and the choice of law and jurisdiction clauses: views from **Germany, Ireland and Italy.**



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# 1. Welcome

## 2. The challenge

- The future legal and regulatory implications for cross-border transactions since the United Kingdom notified its withdrawal from the European Union are uncertain.
- Has the prospect of Brexit affected, or may it affect, the parties' choice of governing law and jurisdiction in cross-border transactions?

# Our panel

## CECILIA CARRARA

Partner, Legance

Cecilia has a significant experience in the field of national and international, commercial and investment arbitration proceedings, both institutional and ad hoc, acting both as counsel and as arbitrator, and is further active more generally in the field of international commercial litigation. She also focuses on mergers & acquisitions, extraordinary corporate transactions and commercial contracts. She is responsible for the Legance German desk, with a specific focus on German speaking countries and on Eastern Europe. Cecilia is also a member for Italy of the ICC International Court of Arbitration, of the ICC Commission and of the ICC Task Force on Emergency Arbitrator Proceedings.

## JOHN CRONIN

Partner, McCann FitzGerald

John has many years' experience in banking and corporate matters on a very broad range of transactions and projects. He provides legal and strategic advice to many corporate and financial institutions and State agencies. He is partner at McCann FitzGerald, charged with leading the firm's global relationships with international law firms and is head of our Brexit Group. John was the firm's Chairman from May 2008 to April 2015. He trained and qualified with McCann FitzGerald. After a stint with a UK magic circle firm, he became a partner in the firm's Finance Group in 1991 and, from 1991 until August 2002, he led their London office. John is a non-executive director of Kingspan Group PLC and is the current Vice-President of the British Irish Chamber of Commerce.

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## CHRISTOPH WOLF

Partner, Backer McKenzie

Christoph has worked on numerous public takeovers, initial public offerings (IPOs), capital increases and other corporate and capital markets transactions of listed and private companies. He advises issuers, banks and other market participants on capital markets and corporate law issues with a focus on transactional work. His main practice focus is on Capital Markets, Takeovers and Corporate Law. Christoph was admitted to the Frankfurt bar in 1998 and joined Baker & McKenzie's capital markets/corporate practice group in 2011. After having worked in private practice from 1998 to 2000, he joined Morgan Stanley Bank AG as legal counsel to the investment banking and capital markets divisions. He was Head of Legal for Germany and Austria at Morgan Stanley until summer 2011. He graduated from the University of Heidelberg in 1993 and passed his 2nd state examination in Berlin in 1998. He holds a Maîtrise en Droit from the University of Montpellier (1990) as well as an LL.M. degree from the London School of Economics (1991) and a doctoral degree in law from Humboldt University, Berlin (1998).

# A new approach to governing law...



## Governing law in cross-border transactions

- Do you think that parties to a cross-border transaction have changed or may change their attitude to governing law in contracts as a result of Brexit?
- Is the approach to governing law likely to be different depending on the type of agreements or transactions?



## Practical tips

- No “one-size-fits-all” approach
- What to monitor: issues that may arise and that parties should watch out for
- What should parties to cross-border transactions consider (short term vs medium/long term)?

## And jurisdiction clauses?



### Jurisdiction clauses in cross-border transactions

- Do you think that the choice of English courts as exclusive jurisdiction could become less popular?
- Are parties becoming more inclined to defer disputes to arbitrator panels?
- Is the approach to dispute resolution any different depending on the subject matter?



### Practical tips

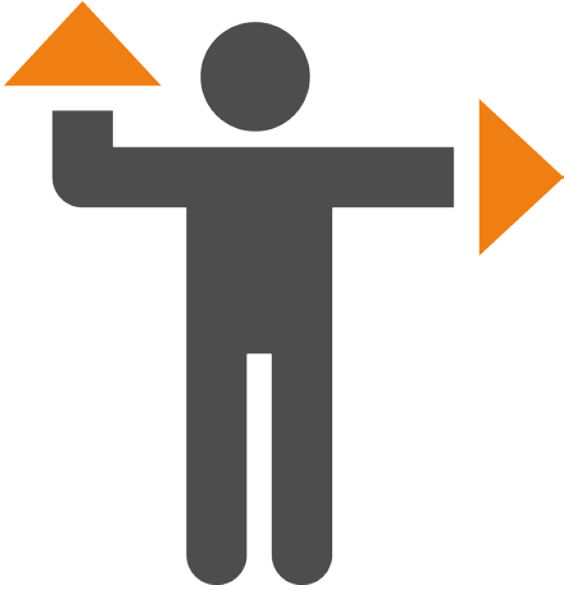
- Consider costs associated with a dispute resolution mechanism
- Enforceability of decisions
- Technical expertise

## Other jurisdictions on the rise?

- Do you think that your jurisdiction could benefit from the uncertainty arising from Brexit, and if so, how?
- Are there any initiatives in your jurisdiction to promote the use of local law and courts as an alternative to English law and courts?
- Are industry associations or professional bodies actively engaged in the debate?
- Is Brexit a common topic in your day-to-day work?



# Practical Law resources to help you navigate Brexit



## Brexit: the legal implications

A collection of resources on the legal implications of the UK's exit of the EU, including:

- A summary of the Article 50 negotiations, the scope of the withdrawal agreement and the UK and EU negotiating positions.
- An overview of the future UK-EU relationship and transitional arrangements, including a summary of UK and EU positions.
- Drafting for Brexit, including Brexit sample clauses.
- Practical Law survey report: the in-house approach to Brexit.

## Cross-border resource centre

Key resources for lawyers who practice cross-border, including jurisdiction-specific guidance and answers to Brexit-related questions on selected topics.

# Disclaimer

Nothing in this webinar shall be taken to constitute legal advice.



# Goodbye and thank you

A recording of the webinar and a copy of the slides will be circulated shortly