



# ECLA

## European Company Lawyers Association

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ECLA BULLETIN, March 2022

**Dear ECLA Members and Guests,**

It has been extremely reassuring, and frankly, surprising, to see Europe acting in such unity over the last month, standing up for democratic principles and against subversive agents. The only way forward is together.

**Legal Privilege**

### **Cour de cassation upholds lower court ruling, clarifies scope of legal professional privilege under French law**

The Cour de cassation definitively rejected the points raised in appeal by the French competition authority and held that **even if correspondence is not from or addressed to an attorney**, if the communication repeats a defence strategy put in place by the outside counsel, legal privilege must be extended to cover these communications.

[Read more](#)

## Company Culture

# The evolving roles and responsibilities of companies

Globally, businesses are considered to be the most trusted institutions, ahead of NGOs, governments and the media. Furthermore the public at large wants to see an activist mentality from company management, wanting a visible leader discussing public policy challenges with stakeholders. There have been numerous examples of companies having to address public pressure or having to address activist investor pressure over the recent decade that one could conclude that the role and responsibilities that companies as an institution hold before the public has transformed.

[Read more](#)

## Digitalisation

# Legal Departments on the Move - published!

We have published our latest study! Legal Departments on the Move gives a detailed look into the digitalisation journey across European corporate legal departments and provides for a concise and easy-to-access reference point.

The study has three major chapters covered:

- The current digitalisation status of legal departments
- The impact and influence of ESG projects for legal teams
- The effect of the ongoing COVID-19 pandemic

**The study can be downloaded for free below!**

[Download for free](#)

## M&A

# CMS European M&A Study 2022

This year's Study covers almost 500 share and asset deals on which CMS European offices advised in 2021. This is a record number of deals for one year and reflects the M&A boom in 2021. We observed that normal deal metrics applied in most of those transactions: a retreat from the particularly 'buyer-friendly' approach we found in 2020, and a return to more standard seller and buyer provisions. The increase in the use of locked boxes and the reduction of liability caps in 2021 might appear to indicate a more 'seller-friendly' environment, but this was counterbalanced by continued 'buyer-friendly' provisions still trending in certain areas, suggesting a return to the position prior to the pandemic.

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ESG

## Putting the 'S' in 'ESG' – a corporate guide

The 'Social' element of ESG has become increasingly important in recent years. This seeks to detail or assess how your company treats the people it interacts with, including employees, customers, suppliers, and local communities. CMS has put together a comprehensive lexicon on to explain the terms and phrases that are most important to understanding and taking action on the Social element of ESG.

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