

## PRESS RELEASE

### The confidential nature of a company lawyer's work is now fully protected

#### Belgium modernises the company lawyer status and anchors legal confidentiality advice

Today (9 March 2023), the Belgian Parliament has approved the reform of the Law of 1 March 2000 establishing the Institute of Company Lawyers (IBJ-IJE). This reform strengthens and modernises the position and status of the company lawyer. In this way, the legislator has responded to requests from company lawyers and their employers to have complete certainty about the confidentiality of company lawyers' advice and the related preceding work. Indeed, company lawyers must be able to weigh up various scenarios and risks with freedom and in confidence without running the risk of being the subject of court filings. Furthermore, for a small but important group of company lawyers who have had to adopt self-employed status as board members, it is now also possible to be admitted to the IBJ-IJE, which means that their work is also covered by full confidentiality.

The legislative amendment modernising the existing Law on the status of the company lawyer anchors what has long been accepted in court decisions and proceedings: advice provided by a company lawyer registered with the IBJ-IJE is confidential and not subject to seizure or inspection by the judicial and administrative authorities. Moreover, from now on, not only the advice but also the request for advice, internal correspondence concerning that request, draft advice, and preparatory documents about the advice are all fully protected. The reform also, with a view to avoiding legal conflicts, anchors important aspects of the company lawyer profession, such as company lawyers' intellectual independence and the fact that they provide confidential advice on "the ascertainment of the legal position" of their company.

Thanks to this confidentiality, a company lawyer can express nuances and objections without the fear of this advice being used against their company. This reinforcement will further encourage the company's management and employees to seek quality legal advice from the company lawyer even faster and more often, and also provide all available information for this purpose. Not only does this make a company or organisation more vigilant about complying with its legal obligations, it will also be able to better and more strongly operate in the highly and often complexly regulated society. All this contributes to the sustainable law-compliant operation of companies, institutions and organisations.

*"The fact that a company lawyer's confidentiality was not conclusively protected by law created scope for legal uncertainty because, for example, in criminal cases, there was a risk that an investigating judge would disregard confidentiality in order to nevertheless use certain preparatory documents or opinions of a company lawyer and the judge would use them in a judgment against the company's interest. This uncertainty is now completely removed and all of a company's or organisation's rights and their exercise are safeguarded with this more enforceable confidentiality. We very much welcome this development,"* said Herman Van Hecke, IBJ-IJE Vice-President.

The Minister of Justice, Vincent Van Quickenborne, added: *"The legislation defining the status of company lawyers was over 20 years old and in urgent need of reform. The economic landscape is evolving at high speed and the regulations concerning companies have also become much more complex. Companies therefore need specialised internal legal guidance. It is important that company lawyers can*

#### IBJ IJE

Stuiversstraat 8 rue des Sols - B 1000 Brussels - Bruxelles –  
IBJ Law of 1 March 2000 - IJE Loi du 1er mars 2000  
T +32 2 512 74 33 - info@ibj.be - info@ije.be - w w w.ibj.be - w w w.ije.be  
RPR Brussels/RPM Bruxelles - BT W/ T VA : BE 0472 411 576



*work with intellectual independence and confidentiality, without their advice being used against companies in legal proceedings. With this law, we are now bringing clarity to this issue. The rules on discipline and penalties have also been adapted, because company lawyers not only have rights but also duties. Compliance with the code of ethics is essential. So, by expanding the mission of the Institute of Company Lawyers, it will be able to guide its members even better and represent their interests."*

### **Company lawyers under self-employed status as board members are no longer excluded from the IBJ-IJE**

Company lawyers, often the Chief Legal Officer, who are directors in their organisation and have self-employed status due to certain mandatory rules, can now also be admitted to the IBJ-IJE, which means that their work is now also covered by the IBJ-IJE's full confidentiality and code of ethics. This has not been the case until now.

*"By strengthening the status of company lawyers, Belgium is a forerunner in Europe and a source of inspiration for legislators in neighbouring countries because, unlike some of the countries around us, Belgium has already had a legal framework for the profession of company lawyer since 2000. This modernisation is the result of a thorough collaboration with Minister of Justice Vincent Van Quickenborne, his cabinet, and a task force from our Institute, first led by the previous Council and its Honorary President Marc Beyens and now by the current Council. I am therefore grateful to everyone for their contribution to strengthening the status of company lawyers, who can now contribute more than ever to the integrity of their company or organisation by more effectively complying with the law,"* concludes Els Steen, IBJ-IJE President.

### **More information:**

For constitutional reasons, the amendments to the [Act of 1 March 2000 establishing an Institute of Company lawyer](#) were split into two bills amending the Act of 1 March 2000, which have both been voted on by the Belgian Parliament's House on 9 March 2023. Two provisions relating to disciplinary penalties and costs of IBJ-IJE disciplinary proceedings were included in a separate bill and may still be discussed by the Senate if they wish to use this possibility within the statutory timeframe - so they have not yet been finally passed on 9 March 2023. The amendments enter into force 10 days after the publication of the law(s) in the Belgian Official Gazette. [Click here for a consolidated version](#) containing all the changes, and [click here to consult the parliamentary works](#).

### **On the IBJ-IJE and the profession of company lawyer**

The Institute of Company Lawyers (Instituut voor bedrijfsjuristen - Institut des juristes d'entreprise, in short IBJ-IJE), was established by the law of 1 March 2000 and has about 2200 members who, through their affiliation to the IBJ-IJE, bear the protected title of company lawyer and so are under the legally regulated status. The IBJ-IJE represents and protects the interests of the profession in general and company lawyers in particular, monitors and promotes quality, notably by organising and requiring continuing education and training. Company lawyers have a protected title and their legal opinions on behalf of the employer are confidential. Company lawyers are subject to their own code of ethics, which guarantees their intellectual independence and permanent education. As a professional order, the IBJ-IJE also has the power to take disciplinary measures if necessary. As an indispensable and dynamic network for its members, the IBJ-IJE aims to create connection and be a sounding-board, where experiences are exchanged and information regarding the latest legal trends and developments in the workplace are shared. Thus, in 2022, the IBJ-IJE organised more than 100 activities in cooperation with its partners and working groups.

The role and function of the company lawyer are unique. The company lawyer works in the service of a company and, as an internal collaborator, he or she is therefore particularly familiar with the organisation's sector, services and/or goods, processes, people and culture. So, from a legal perspective, the company lawyer contributes to the achievement

#### **IBJ IJE**

Stuiversstraat 8 rue des Sols - B 1000 Brussels - Bruxelles –  
IBJ Law of 1 March 2000 - IJE Loi du 1er mars 2000  
T +32 2 512 74 33 - [info@ibj.be](mailto:info@ibj.be) - [info@ije.be](mailto:info@ije.be) - [www.ibj.be](http://www.ibj.be) - [www.ije.be](http://www.ije.be)  
RPR Brussels/RPM Bruxelles - BT W/ T VA : BE 0472 411 576



of the organisation's mission. Precisely because the company lawyer works from within the company, he or she is best placed to provide highly effective and proactive legal advice. The company lawyer acts as both a business partner and a gatekeeper of the company's integrity. By fulfilling this public interest role, the company lawyer ensures that the company complies with the law and contributes to the rule of law.

For more information:

Julie Dutordoir

General Manager IBJ-IJE

+32 478 75 70 37

[Julie.Dutordoir@ibj.be](mailto:Julie.Dutordoir@ibj.be)

[www.ibj.be](http://www.ibj.be) / [www.ije.be](http://www.ije.be)

**IBJ IJE**

Stuiversstraat 8 rue des Sols - B 1000 Brussels - Bruxelles –

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