

Business & Leadership

Europe

Florian Ufer: "Criminal proceedings abroad are often initiated on the basis of investigations conducted in Germany"



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In 2023, a formidable new team emerged in at the Munich office of Ufer Scharf, one that focuses primarily on commercial and criminal tax law. Florian Ufer and Jochen Feldle spoke to Leaders League about their successful track-record defending and advising clients throughout Germany, Europe and the USA.



UFER SCHARF x Leaders League

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LEADERS LEAGUE: At the beginning of 2023, the separation of name-partner Florian Ufer from Prof. Dr Christoph Knauer and the new merger with Scharf caused a stir in the German market. One year later, is your focus still on criminal tax law?

Florian Ufer: Our focus is and has always been primarily in the areas of commercial and criminal tax law. We see ourselves as genuine criminal defence lawyers and therefore specialize in the area of individual and corporate defence.

We expanded further last year and increased our expertise, particularly in criminal tax law. Our of-counsels are another asset. They are academics, former high-ranking representatives of the judiciary or have a law-enforcement background. They also have excellent international networks and enable us to cover all areas of white-collar crime.

Based in Munich, you are very active internationally and have ties to France: how did you go about building your international presence?

F.U.: We are mainly active in Germany, but numerous mandates now have an international dimension. We are therefore fortunate to be able to rely on a highly specialized network, which we maintain.

I regularly take part in events abroad, and recently gave a lecture to the French Bar Association on the subject of internal investigations and spoke at a conference on criminal tax law in Vienna. Professional international cooperation is particularly important to me, which is why I founded the GCLC international network of lawyers (Global Criminal Law Counsel) with numerous colleagues several years ago.

Which are the current challenges in criminal defense?

"For some time now, we have noticed that the number of so-called large-scale proceedings has been increasing."

F.U.: These are proceedings with numerous defendants and extensive, lengthy investigations. The matters are becoming increasingly complex and regularly have cross-border implications. Also, investigators and prosecutors are increasingly focusing on companies, which means that we are regularly representing corporate interests. The increasing complexity can be attributed to an ever-greater density of legislative regulation, particularly at European level, but also to aspects such as globalization and the international orientation of many companies. These developments are nothing new, but the effects are becoming increasingly noticeable and are creating new challenges, particularly in the area of commercial and criminal tax law.

The links to other areas of law are also increasing. For us criminal defense lawyers, it is essential that we understand these connections in order to comprehend interdisciplinary issues. This is the only way we can defend our clients in the best possible way. For example, defending companies under investigation by the antitrust authorities requires a profound understanding of antitrust law. Here we also work with specialized and highly qualified colleagues. The same applies to cross-border matters and cross-border investigations. We need to be familiar with bilateral treaties and EU law, especially because investigations often take place in many countries at the same time. Sometimes we have to become involved in a completely unfamiliar subject. The most prominent example is the so-called "diesel-scandal". We took on the representation of a car manufacturer and had to familiarize ourselves with a wide range of technical aspects.

Compliance proceedings in international corporations often also lead to criminal proceedings abroad on the basis of investigations conducted in Germany.

"It is essential that the defense counsel is quickly integrated into international teams of lawyers in order to provide the best possible service."

Cum/ex is a good example of this. We represent numerous defendants of different nationalities. Even though there have already been landmark rulings, we continue to work on individual defense strategies.

Why are VAT issues so challenging nowadays?

Jochen Feldle: VAT carousels often lead to particularly extensive proceedings: Numerous players from different EU member states and, on top of that, considerable amounts of damage. It is not uncommon for companies to be involved in such carousels without even being aware of it. In addition to the criminal law accusations, special tax law features must be taken into account here. If you do not understand the connections, this can have consequences that threaten your existence.

Accordingly, tailor-made advice on criminal tax law is necessary. Considerable tax damage often leads to an increased public interest. This can create a certain pressure on the investigating authorities. The international component is one of the reasons why EPPO was founded in 2021. It has already coordinated numerous investigations. Recently EPPO has uncovered a huge VAT carousel. The damage is said to be at least €80 million. A total of 21 defendants from seven European countries are being investigated.

How does EPPO contribute to the fight against white-collar crime?

J.F.: EPPO coordinates these procedures and is intended to make the fight against crime more effective. One advantage is certainly that the powers no longer end at the respective national borders. For criminal defense, this means that the already existing "superiority" of the state has become even greater. We may be confronted with the results of investigations from numerous European countries. This makes it all the more important to be able to fall back on a specialized network with many international colleagues. This enables us to defend our clients appropriately even in these proceedings and establish equality of arms.

Interview with

FLORIAN UFER Partner, **UFER SCHARF**

And **JOCHEN FELDLE** Counsel, **UFER SCHARF**