



Non-commercial partnership: Proof of representation by means of a company stamp - Company law

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London - www.grprainer.com/en conclude: In its judgment (Az.: XII ZR 35/11), the German Federal Court of Justice (BGH) stuck to its previous opinion on the disclosure of agency relationships at the time of the conclusion of long-term contracts. Thus, for the documentation of the authority to sign, even when concluding long-term rental agreements, adding a company stamp is sufficient. The signature of every GbR partner is not necessary for adhering to the requirements for written form. If the signatory adds an appendage to his signature which indicates that he alone is authorised to represent the partnership, then this would suffice.

In the case in question, a GbR had concluded a rental agreement for a duration of ten years. However, only one of the partners had signed. In addition, he had included the stamp of the partnership in the rental agreement. The stamp imprint guided the BGH's reasoning, according to which the authorisation to represent the partnership could be derived from this alone. In principle, a company stamp carries a legitimatising effect in legal relations. For this reason, the agreement between the GbR and the landlord was concluded effectively.

The partners of a GbR enjoy many freedoms when establishing and structuring their partnership. The partnership agreement is the central element for the economic activity. Formal requirements do not need to be adhered to in this connection. Partners should take care that the allure of this flexibility and the benefits arising from it do not become a negative factor. Financial risks in particular are often underestimated. That is why you should have a competent lawyer at your side from the beginning.

Legal problems that affect all parties involved can arise not only upon incorporation but above all when participating in business life. Questions of effective representation or liability should be settled at an early stage. The partners should not forget that they are responsible for all the partnership's liabilities with their private assets. A lawyer versed in company law can assist in drawing up the partnership agreement with a view to further legal issues.

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Pressekontakt

GRP Rainer LLP Lawyers Tax Advisors

Herr Michael Rainer
Hohenzollernring 21-23
50672 Cologne

grprainer.com/en
press@grprainer.com

Firmenkontakt

GRP Rainer LLP Lawyers Tax Advisors

Herr Michael Rainer
Hohenzollernring 21-23
50672 Cologne

grprainer.com/en
press@grprainer.com

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Anlage: Bild

