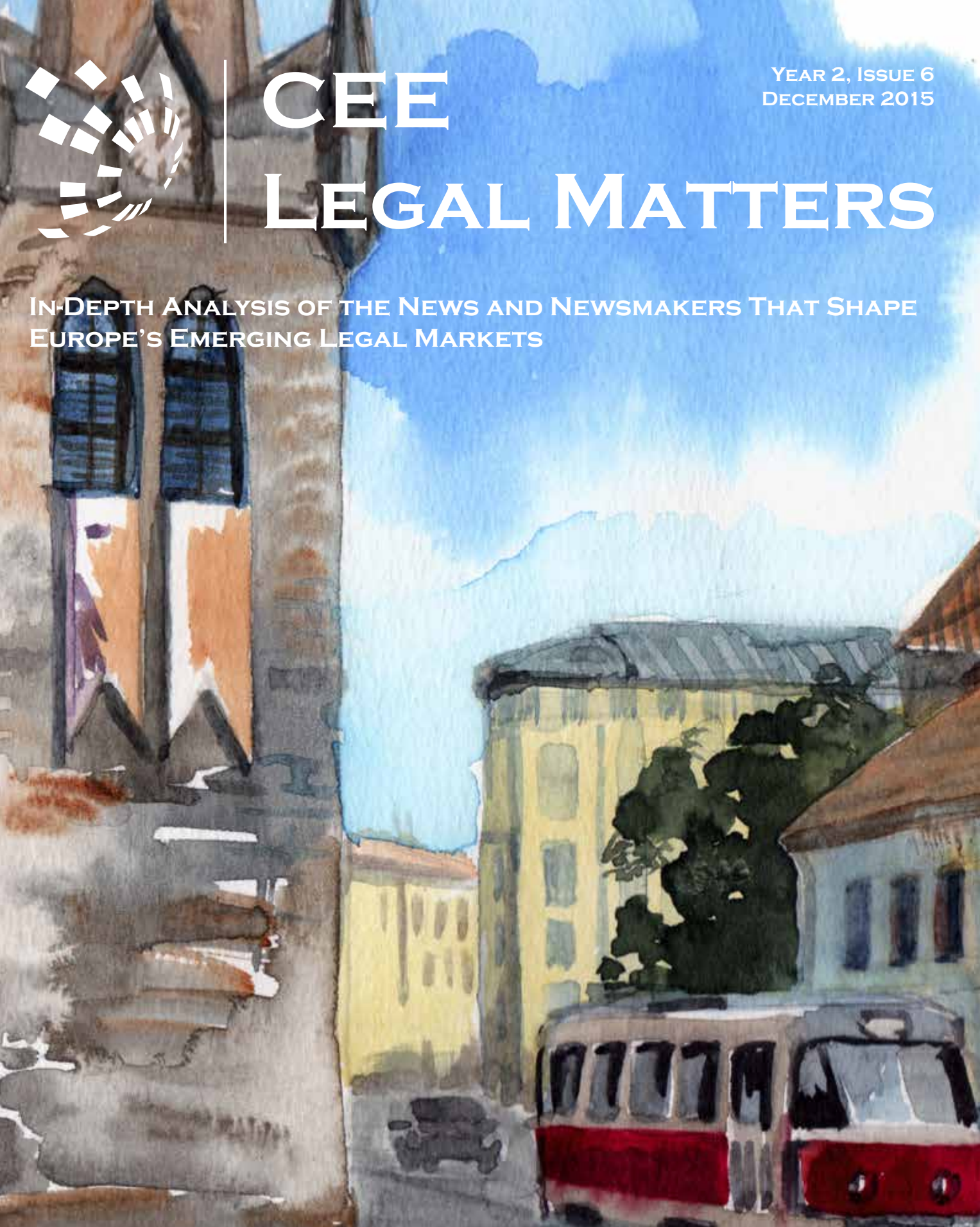
Year 2, Issue 6
December 2015

CEE Legal Matters

In-Depth Analysis of the News and Newsmakers That Shape Europe's Emerging Legal Markets



Istanbul, 6-7 October, 2016

2nd Annual CEE General Counsel Summit

Our successful 2015 GC Summit brought together over 100 Chief Legal Officers from across CEE for two days of meetings, professional development, networking, and fun. We are excited to announce that preparations for the second annual CEE Legal Matters General Counsel Conference are underway.

To learn more about how you can participate, please contact:

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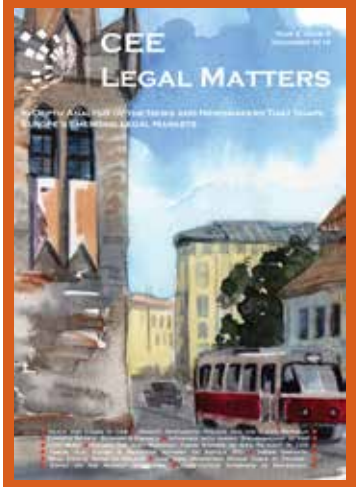

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Letters to the Editors:

If you like what you read in these pages (or even if you don't) we really do want to hear from you. Please send any comments, criticisms, questions, or ideas to us at:

press@ceelm.com

Editorial: A Powerful Service

I've been playing in a lot of (very) amateur tennis tournaments here in Prague this year, and I've enjoyed the competition, the friends I've made, the obvious increase in my own ability over the course of the year, and even, occasionally, bringing home a small trophy for my bookcase. It's been fun, and I'm already looking forward to the 2016 season, which will inevitably bring new friends, new challenges, and maybe, if I'm lucky, a few more good results.

I mention this to illustrate that … I'm a pretty competitive person. Both I and Radu are, in fact. Seriously competitive. Don't be fooled.

A few nights ago, over drinks with several senior law firm Partners from across CEE, one of them pointed out that there aren't many other (or any other) magazines covering the legal industry in CEE. Oh, there are (of course) some country-specific magazines and websites, almost inevitably publishing in the local language, and there are (of course) a number of global publications that touch on specific CEE markets once or twice a year, when they can pull their attention away from London, New York, or Shanghai.

But, he pointed out, when it comes to publications from CEE covering the legal industry in the region … it's just CEE Legal Matters.

Although our friend was only commenting on the reality of the situation, I nonetheless felt obliged to disabuse him of any notion that we were relying simply on the scarcity of other journals to find our place in the market. From the day we started CEE Legal Matters – indeed, from the day we conceived of CEE Legal Matters – we were competing. We were competing with the track record of other publications that had tried to do what we're doing and failed. We were, to some extent, competing for readers with the country-specific or global publications. We were competing with each other for ideas. We were competing with the lawyers of CEE for their time. And honestly, most of all, we were competing … with ourselves. This publication is a passion for us, and we spend more hours – more blood, sweat, and tears – than you might think to make sure that the content and style of both the CEE Legal Matters magazine and website is accurate, professional, readable, and correct.

It's easy to be only, but it's not enough. And, in almost every way that matters, your chief competition is always going to be yourself.

In fact, both my tennis and CEE Legal Matters have been getting better day by day, week by week, and month by month, throughout 2015. CEE Legal Matters, just like me with my tennis, has been getting stronger, better at hitting its targets and stabilizing its aim, (even) more tireless, able to do more things effectively in more ways, and undeniably more successful. Indeed, I've been told that, as a result of my success on the tennis courts of Prague in 2015 I'll be moved up a level in 2016. Based on our progress and growth this year, I have no doubt we'll continue to move up with CEE Legal Matters as well.

Still, wintertime is a time of (temporary) conclusions, and as my tennis season draws to a close next Saturday, this issue marks the final issue of the CEE Legal Matters magazine for 2015. And because both Radu and I are suckers for symmetry, we've chosen a picture of a tram going through the streets of Prague for the cover of our final 2015 issue, just as a photo of a tram on the streets of Budapest graced the cover of our first 2015 issue. I could write 40 words about the significance of trams and urban infrastructure, or wax poetic on the strange elegance of this most European form of transportation, but the simple truth is, the Czech Republic is one of our two market spotlights in this issue, and … we liked the pictures.

There's a lot of good stuff in this issue, from a Round Table conversation of Czech law firm marketing and business development experts, to a report on the recent Real Estate boom in Poland, to an analysis of the changing fortunes of international law firms vs. regional law firms in CEE, to Expat on the Market interviews with the Managing Partner of Kinstellar and a Partner at Clifford Chance, to a fascinating break-down of Baker & McKenzie's work on the just-reported Kofola IPO in Poland and the Czech Republic. And, as always, the ever-larger Table of Deals, enormous On the Move section, full Experts Review (on Banking/Finance), and much more. Flip through it. Stop. Read. Enjoy.

I, for one, will get back to work. (And maybe occasional daydreams of a better backhand).

Merry Christmas and Happy New Year to all our readers, everywhere.

David Stuckey

Guest Editorial: The Balkans – Once Again Europe's Hot Spot!

When I reached the age of four, I remember my father making a selfless but nevertheless hard decision to stop his PhD studies in nuclear physics at the Massachusetts Institute of Technology in the USA in order for our family to be reunited and live under one roof in Slovenia, which, at the time, still formed a part of the former Yugoslavia. Years later, I learned that it was due to the fact that my mother did not want to leave her position as a judge in Slovenia and relocate. This brings me to the issue of gender equality in the legal profession, which seems to have come, in my view, to the communist East long before it came to the capitalist West. In our firm, for example, half of the lawyers are women, including at the Partner level, and we only realized that this was some sort of an achievement when we spoke with colleagues working for other Western international firms, where gender equality is a hot topic and firms are still striving for change and parity between the sexes.

Reaching the end of high school, I had decided to study law – only to be confronted by my father's huge disappointment, as he was at that time convinced that science was the only truly cross-border occupation that any young Eastern intellectual should pursue. This was the time when the legal profession in the Adriatic was more or less limited to dispute resolution, with litigation as the only alternative. I still think of him often when I am boarding airplanes from London to Belgrade, from Tokyo to Ljubljana, in relentless closing of cross-border deals. If only he lived to see the days when advisory and transactional legal services represent two thirds of all bigger law firms' work in CEE, most of it with some sort of international element. In only 20 years, the landscape of legal practice in SEE has changed dramatically, with leading law firms growing from sole practitioners to full service business providers, expanding not only with multiple practice groups, but also by opening offices in other countries in the region. From a Managing Partner's perspective, a new legal development trend in the Adriatic has been identified. Although Eastern law firms, in the first 20 years after the Berlin Wall was brought down, saw only investments flowing in from the West, we now work daily with colleagues from the rest of CEE. Only yesterday, I closed an M&A transaction for a Polish investor; last month I represented Czech banks in an acquisition-financing deal in Slovenia; and tomorrow I will work on a Slovak investment in Croatia. It is definitely not something anybody could have predicted ten years ago. Therefore, I strongly believe CEE Legal Matters has come along at the most pivotal time and will play a crucial role in the unique process of the CEE law firms and clients' networking.

Last month I read that 250,000 refugees arrived in Slovenia, a small nation of 2 million people, on the so-called Balkan route. The European Commission's autumn 2015 economic forecasts calculate that the expected three million refugee arrivals by the end of 2016 will produce increases in annual GDP growth ranging from 0.2 to 0.5 per cent in EU countries affected by the crisis. So-called "transit" countries like Hungary and Slovenia – which refugees are moving through – will see small growth gains because of the stimulus effect of increased state spending. But, unfortunately, a downturn of economic prosperity for old and new Europeans is a sobering fact that we are all facing. Not a single business lawyer can ignore the human catastrophe that follows the river of people meandering through the Macedonian, Serbian, Croatian, and Slovenian fields. This will sooner or later affect our daily work life – and to some extent it already has. At our recent regional partners meeting in Ljubljana, partners from our Belgrade office decided not to drive up, as the uncertainty of new fences being built between Slovenia, Croatia, and Serbia and the effect of the crisis on what used to be a four-hour drive made them choose instead to fly. And, of course, this effect will not stop in CEE, since most of the refugees are on their way to the Western members of the EU. As I am writing this article, a fence between Slovenia and Austria, two Schengen states, is also being built, which is not only changing the landscape aesthetically but is also bringing European Union treaties back to the table. This process is unlikely to facilitate the tremendous efforts of unifying legal differences in the region's jurisdictions, which would otherwise ease cross-border business endeavors.

What the consequences of the latest refugee crisis will be is yet to be seen, but tensions between the Adriatic countries, two of them being EU member states already, are again on the rise. And tensions are never good for business. As an eternal optimist, I am sure that countries in SEE will overcome these challenging times. I am looking forward to seeing what the years ahead of me will unveil and am very grateful for the opportunity to live in such interesting historical times in Europe's hot spot, where everything seems possible. In a positive way.

Uros Ilic, Managing Partner, ODI Law Firm

Write to us

If you like what you read in these pages (or even if you don't) we really do want to hear from you!

Please send any comments, criticisms, questions, or ideas to us at: **press@ceelm.com**

Letters should include the writter's full name, address and telephone number and may be edited for purposes of clarity and space.

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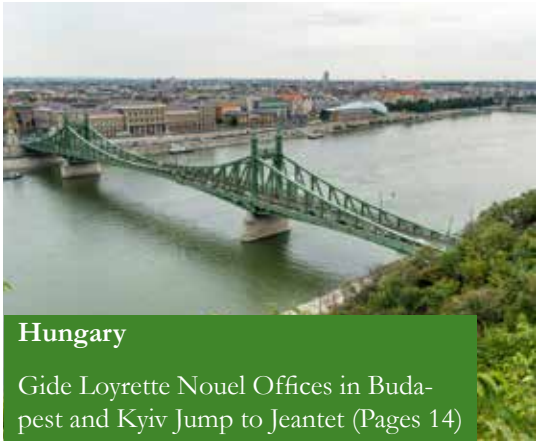

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Legal Ticker: Summary of Deals and Cases

Full information available at: www.ceelegalmatters.com

Period Covered: October 15 - December 10, 2015

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
23-Nov	Allen & Overy; Dechert	Dechert advised the Republic of Albania on its successful issuance of Notes due 2020, with the joint lead managers, Deutsche Bank and J.P. Morgan, represented by Allen & Overy.	EUR 450 million	Albania
23-Nov	Freshfields; Popovici Nitu & Asociatii	Freshfields advised Hewlett-Packard Company on its global division into two separate listed companies – the largest division of a technology company ever. Popovici Nitu Stoica & Asociatii advised on Romanian matters related to the split.	N/A	Albania; Austria; Bosnia and Herzegovina; Czech Republic; Estonia; Hungary; Latvia; Lithuania; Moldova; Poland; Romania; Russia; Serbia; Slovakia; Slovenia; Ukraine; Turkey
29-Oct	Fellner Wratzfeld & Partner	Fellner Wratzfeld & Partner successfully advised atms Telefon-und Marketing Services GmbH on the acquisition of "sms.at" mobile Internet services gmbh from Up to Eleven Digital Solutions GmbH.	N/A	Austria
29-Oct	Fellner Wratzfeld & Partner; SCWP Schindhelm	Fellner Wratzfeld and Partner advised UniCredit Bank Austria on the sale of The Mall to an international syndicate of buyers. SCWP Schindhelm advised the buyers.	N/A	Austria
5-Nov	Danler; Schoenherr	Schoenherr advised Austrian pharmaceutical wholesaler Jacoby GM Pharma on its merger with L. Kogl Pharma. The Fischer family – the previous owners of Kogl – were advised by the Danler law firm in Innsbruck.	N/A	Austria
5-Nov	Brandl & Talos	Brandl & Talos secured an acquittal on behalf of a board member of Kommunalkredit, following six years of criminal proceedings.	N/A	Austria
9-Nov	Benn-Ibler; CMS	CMS advised Allianz Real Estate Germany and various investors within the Allianz Group on their acquisition of the "Haus an der Wien" property in Vienna from two companies belonging to the SIGNA Group. The SIGNA Group was advised by Austria's Benn-Ibler law firm.	EUR 94 million	Austria
9-Nov	Brandl & Talos; Freshfields; Latham & Watkins	Brandl & Talos advised Sportradar and primary Sportradar shareholder Carsten Koerl on the acquisition of financing from, among others, Revolution Growth. Sportradar shareholder EQT VI was advised by Freshfields Bruckhaus Deringer. Revolution Growth was advised by Latham & Watkins and Switzerland's Homburger law firm.	N/A	Austria
12-Nov	Schoenherr; Willkie Farr & Gallagher; WT Tautschnig Rechtsanwaltsgesellschaft	Schoenherr, alongside Willkie Farr & Gallagher, advised premier specialty chemicals company Albemarle Corporation on the sale of its Tribotecc metal sulfides business to Treibacher Industrie. Treibacher was represented by WT Tautschnig Rechtsanwaltsgesellschaft.	N/A	Austria
13-Nov	Herbst Kinsky	Herbst Kinsky advised Heliovis AG throughout its Series C financing round with what the firm calls "prominent foreign investors."	N/A	Austria
27-Nov	Schoenherr	Schoenherr advised Austrian football club SK Rapid Wien and the crowd-investing platform CONDA on their crowd-investing Rapid InvesTOR project.	N/A	Austria
3-Dec	Fiebinger Polak Leon	Fiebinger Polak Leon oversaw the Austrian elements of the German industrial group ADCURAM's acquisition of the building components division of the Haas Group.	N/A	Austria
4-Dec	Graf & Pitkowitz	Graf & Pitkowitz advised the Lukoil Lubricants Group on the merger of its holding company in Amsterdam with Lukoil Lubricants International Holding GmbH in Vienna.	N/A	Austria
4-Dec	Jones Day; Schoenherr; Taylor Wessing	Taylor Wessing Vienna advised the shareholders of Austria's K+K Hotel Group on the sale of its holding and operating companies to a joint venture of Goldman Sachs and Highgate Hotels. The buyers were advised by Jones Day (London office) as lead counsel, with Schoenherr advising on matters of Austrian law.	N/A	Austria
8-Dec	Brand Rechtsanwalte; Clifford Chance; Lawentus; Bock Fuchs Nonhoff Rechtsanwalte	Clifford Chance advised CACEIS Bank Deutschland GmbH on the sale of an office building on Brehmstrasse, in Vienna, with Brand Rechtsanwalte advising on Austrian law matters. The buyer – the Warburg-HIH Invest Real Estate GmbH property investment management company, in Hamburg – was advised by Lawentus, with Bock Fuchs Nonhoff Rechtsanwalte advising on Austrian law matters.	N/A	Austria
5-Nov	Dorda Brugger Jordis; Schoenherr; Wolf Theiss; Cechova & Partners; Jadek & Pensa; Held Berdnik Astner & Partner; Rautner	Dorda Brugger Jordis (DBJ) advised DIY superstore bauMax on the October 31, 2015 dispossession of 67 of its stores in Austria, Slovakia, Czech Republic, and Slovenia. Graz-based Investor Supernova – represented by Held Berdnik Astner & Partner – will become the new owner of the bauMax properties in Slovakia and Slovenia and will lease the properties to OBI – which was represented by Wolf Theiss. DBJ collaborated with Cechova & Partners in Slovakia and Jadek & Pensa in Slovenia for help in those jurisdictions. Polish construction materials chain Merkury Market also acquired 18 of the stores, all in the Czech Republic. The Rautner firm advised Merkury Market on that acquisition. Schoenherr advised the banks financing the bauMax group.	N/A	Austria; Czech Republic; Slovakia; Slovenia
6-Nov	bpv Hugel; Schoenherr; Ban, S. Szabo & Partners	Szabo Kelemen & Partners and bpv Hugel advised on Hungarian and Austrian aspects, respectively, of Cemex's sale of its operations in the two countries. The buyer, the Rohrdorfer Group, was assisted by Schoenherr with Ban, S.Szabo & Partners advising on Hungarian matters.	EUR 160.1 million	Austria; Hungary

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
17-Nov	Clifford Chance; Wolf Theiss	Wolf Theiss advised the Australian insurance company QBE on the sale of its Ukrainian business to Canadian Insurer Fairfax. Clifford Chance advised Fairfax on the deal.	N/A	Austria; Ukraine
4-Dec	Sorainen	Sorainen Belarus acted as local counsel for the International Finance Corporation on the extension of a loan to the Alutech Group of Companies.	EUR 15 million	Belarus
24-Nov	AstapovLawyers	AstapovLawyers International Law Group advised private investor Alexander Chernyak on his acquisition of CarPrice, and provided additional advice on CarPrice's expansion into Kazakhstan, Belarus, and Azerbaijan.	N/A	Belarus; Russia
19-Oct	Kinstellar	Kinstellar advised APS Holding on the acquisition of an unsecured consumer-loan portfolio from a leading Bulgarian consumer credit institution.	EUR 50 million	Bulgaria
13-Nov	Boyanov & Co	Boyanov & Co., acting pro bono, advised the Save the Children International in relation to the migrant refugee crisis that is expanding in Europe.	N/A	Bulgaria
8-Dec	Allen & Overy; Boyanov; Shearman & Sterling; Spasov & Bratanov	Allen & Overy, working with Spasov & Bratanov, advised Alpha Bank A.E. on the acquisition of its Bulgarian Branch by Eurobank Egasias S.A.'s subsidiary in Bulgaria, Eurobank Bulgaria AD. Shearman & Sterling and Boyanov acted for Eurobank.	N/A	Bulgaria
9-Dec	Dimitrov, Petrov & Co.	The Dimitrov, Petrov & Co. Law Firm was selected to assist Google and YouTube in Bulgarian legal matters with a special focus on privacy, data protection, ICT law, and regulatory issues.	N/A	Bulgaria
27-Oct	Avellum Partners; Kinstellar	Avellum Partners in Ukraine, and Kinstellar in Bulgaria, the Czech Republic, Hungary, Romania, Serbia, Slovakia, and Turkey, advised Bayer AG on issues related to the global spin-off of Bayer MaterialScience AG, which now operates under the Covestro AG brand as an independent entity.	N/A	Bulgaria; Czech Republic; Hungary; Romania; Serbia; Slovakia; Turkey; Ukraine
2-Dec	Divjak, Topic & Bahtijarevic; Mamic, Peric, Reberski, Rimac Law Firm	Croatia's Divjak, Topic & Bahtijarevic law firm advised the Zagreb Stock Exchange on the November 26, 2015 Share Subscription Agreement it entered into with the EBRD. The Mamic, Peric, Reberski, Rimac Law Firm advised the EBRD.	N/A	Croatia
26-Nov	Hogan Lovells; Kasaroglu; PeliFilip; Porobija & Porobija; Slaughter & May; Tuca Zbarcea and Asociatii;	Slaughter & May was global counsel to General Electric and Hogan Lovells was global counsel to Alstom on the former's purchase of the latter's power and grid businesses. Tuca Zbarcea and Asociatii advised General Electric and PeliFilip advised Alstom on the deal in Romania. In Croatia, lawyer Zrinka Knezic from the Porobija & Porobija law firm advised General Electric, while sole practitioner Tamara Musnjak-Spisic advised Alstom. In Poland, Alstom was advised by Hogan Lovells, and the Kasaroglu law firm advised Alstom in Turkey.	EUR 12.4 billion	Croatia; Poland; Romania; Turkey
20-Oct	Allen & Overy; White & Case	White & Case advised Mid Europa Partners on its acquisition of the remaining 50% in Walmark. The acquisition of a 100% stake saw the Walach family, Walmark's previous owner, exit the business. The Walach family was advised by Allen & Overy.	N/A	Czech Republic
30-Oct	Allen & Overy; White & Case	White & Case advised the global investment firm Rockaway Capital on its acquisition of Netretail Holding B.V. and Heureka from Naspers. Allen & Overy represented Naspers.	EUR 200 million	Czech Republic
10-Nov	Genesia; Linklaters; White & Case	White & Case, working together with the Czech investment banking boutique Genesia, advised the owners of Czech Republic-based CGS Holding on its acquisition by Swedish industrial giant Trelleborg. Linklaters advised Trelleborg on the deal.	EUR1.16 billion	Czech Republic
17-Nov	Noerr; Vyskocil, Kroslak and Partners	Noerr advised AB Neo on the acquisition of the Czech feed manufacturer Bodit Tachov s.r.o. from the private individuals who founded the company. Vyskocil, Kroslak and Partners advised the sellers.	N/A	Czech Republic
18-Nov	CMS; DLA Piper	CMS advised Papyrus on the acquisition of the Czech paper merchant OSPAP a.s. from PaperlinX Netherlands Holdings B.V. PaperlinX was advised by DLA Amsterdam.	N/A	Czech Republic
30-Nov	Dvorak Hager & Partners	The Dvorak Hager & Partners law firm successfully represented juwi s.r.o. in several cases before the High Court in Prague against operators of photovoltaic plants.	N/A	Czech Republic
8-Dec	Kinstellar	Kinstellar advised ECE European City Estates on the successfully completed acquisition of buildings in Prague, Olomouc, and Liberec, in the Czech Republic, from the Terranova group.	N/A	Czech Republic
16-Nov	Noerr	Noerr advised Chiltern International as local counsel in Germany, the Czech Republic, Hungary, and Poland on its acquisition of Theorem Clinical Research from the Nautic Partners private equity firm.	N/A	Czech Republic; Hungary; Poland
11-Nov	BSJP; DLA Piper; Fest & Partner; Luther, Giese & Partner; Pepeliaev Group; Popovici Nitu Stoica & Asociatii	Luther Rechtsanwaltsgesellschaft advised Immofinanz on the sale of its logistics portfolio to Blackstone and coordinated several CEE law firms advising Immofinanz on related local law matters, including Fest & Partner In Hungary, Popovici Nitu Stoica & Asociatii in Romania, the Pepeliaev Group in Russia, BJSP in Poland, and Giese & Partner in the Czech Republic and Slovakia. DLA Piper advised Blackstone on Romanian matters.	EUR 536 million	Czech Republic; Hungary; Poland; Romania; Slovakia; Russia
3-Nov	Heymann & Partner Rechtsanwalte; Wolf Theiss	The Warsaw and Bucharest offices of Wolf Theiss advised Pfisterer Holding AG in connection with its acquisition of 100% of the shares in Lapp Insulators Holding GmbH. German law advice was provided by Heymann & Partner Rechtsanwalte.	N/A	Czech Republic; Poland; Romania; Ukraine

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
17-Nov	Dentons; Noerr	Noerr advised Saint-Gobain on the sale of its building materials distribution businesses in the Czech Republic and Hungary to the Slovak building materials distribution company In Group. Dentons advised financing banks Ceska Sporitelna, Unicredit Czech Republic and Slovakia, and Erste Bank Hungary.	N/A	Czech Republic; Poland; Romania; Ukraine
19-Nov	Alianciaadvokatov; Wolf Theiss	Wolf Theiss advised PPF Banka on the refinancing of facilities for the P1 Industry Park Project in Bratislava, owned by the international property fund AlfaGroup – which was advised by Slovakia's Alianciaadvokatov firm.	N/A	Czech Republic; Slovakia
20-Nov	Dvorak Hager & Partners	Dvorak Hager & Partners advised Gerflor on the acquisition of a distribution company in both the Czech Republic and Slovakia.	N/A	Czech Republic; Slovakia
13-Nov	Ellex (Raidla Ellex); Slaughter & May	Slaughter and May advised Eesti Energia Aktsiaselts on its recent intermediated tender offer and issue of 2.384% notes due September 2023. Raidla Ellex advised Eesti Energia on matters of Estonian law. The new note issue represents the first ever benchmark Eurobond transaction for Eesti Energia.	EUR 500 million	Estonia
13-Nov	Ellex (Raidla Ellex); Rask	Raidla Ellex advised the East Capital Baltic Property Fund AB in the sale of the Nurmenuku shopping center to Adfectio Capital. The Rask law firm advised Adfectio Capital on the deal.	EUR 6.52 million	Estonia
16-Nov	Cobalt	Cobalt advised Export Development Canada in the sale and transfer of loans originally made to EA Jet Leasing Ltd. to Osauhing Transpordi Varahaldus, and on the collateral established to secure the transferred loans.	N/A	Estonia
16-Nov	Cobalt	Cobalt Estonia advised Rakuten in an investment into Lingvist.	EUR 7.4 million	Estonia
16-Nov	Cobalt	Cobalt's Estonia office advised SMBC Aviation Capital and Falko Regional Aircraft Limited as local counsel in carrying out SMBC Aviation Capital's sale of five Embraer aircraft to Falko Regional Aircraft Limited – two of which are registered in Estonia.	N/A	Estonia
4-Dec	Sorainen; Varul	Sorainen Estonia advised Olympic Casino Eesti on its acquisition of a 100% shareholding in Estonian casino operator MC Kasiinod and its fully-owned subsidiary Oma & Hea from AS Alexela Entertainment. Varul advised MC Kasiinod on the deal.	N/A	Estonia
10-Dec	Aivar Pilv Law	The Aivar Pilv Law Office successfully represented Madis Metsis, a former professor of the Technical University of Tallinn, and Ain Langel, the sole owner and member of board of the company Lanlab, in a criminal proceeding before the Estonian Supreme Court.	N/A	Estonia
16-Nov	Glimstedt	Glimstedt advised Senuku Prekybos Centras in purchasing K-rauta Baltic stores from the Finnish retailer Kesko.	N/A	Estonia; Latvia
16-Nov	Sorainen	Sorainen advised OpusCapita on selling all business operations serving local markets in the Baltic States to BaltCap.	N/A	Estonia; Latvia; Lithuania
26-Oct	Cabinet Gregoire; Drakopoulos; Squire Patton Boggs	Drakopoulos and Squire Patton Boggs represented the Intrakat Group in a major construction dispute with Vinci Construction – which was represented by Cabinet Gregoire.	N/A	Greece
3-Nov	Drakopoulos	Drakopoulos successfully represented Daimler in trademark litigation requesting that a former Mercedes-Benz Hellas distributor cease and desist from any and all further use of Daimler's "Mercedes" and "Smart" trademarks.	N/A	Greece
6-Nov	Drakopoulos	Drakopoulos assisted GTech and Scientific Games – both manufacturers of Video Lottery Terminals and casino software – in their successful application for Greek manufacturer licenses.	N/A	Greece
20-Nov	Drakopoulos	Drakopoulos successfully represented the Apopsi Group and the Dimitra Institutes of Training and Development in litigation against the Greek State.	N/A	Greece
22-Oct	Baker & McKenzie; Dentons	Dentons advised GDF Suez on the sale of 99.93 per cent stake in its universal gas trading company in Hungary – GDF SUEZ Energia Magyarorszag Zrt. – to the state-owned gas distributor Fogaz Zrt, advised by Baker & McKenzie.	N/A	Hungary
28-Oct	Kapolyi Law Firm	Kapolyi Law Firm advised FHB Commercial Bank, one of the joint lead managers in MFB Hungarian Development Bank's bond listing.	HUF 200 billion	Hungary
9-Nov	bpv Jadi Nemeth	BPV Jadi Nemeth successfully represented ALD Automotive Hungary and K&H Autopark Kft (a subsidiary of the KBC Group) in securing merger clearance from the Hungarian Competition Authority for ALD's acquisition of K&H's fleet management and motor vehicle operative leasing portfolio.	N/A	Hungary
9-Dec	Kapolyi Law Firm; Monori Law	The Kapolyi Law Firm advised private individual Tamas Gyorgy on his acquisition of 85.6 percent of shares in the Villanyi Szarsomlyo wine producer. The sellers were assisted by the Monori Law firm.	EUR 7 million	Hungary
29-Oct	Cobalt; Vilgerts	Cobalt and Vilgerts persuaded the Latvian Supreme Court to refuse to recognize and enforce provisional measures ordered in a Lithuanian court against clients Riga International Airport and airBaltic.	EUR 58 million	Latvia
29-Oct	Sorainen	Sorainen's Latvia office helped event organiser Liva Jaunozola register the word and figure trademarks Andele Mandele and Peru Medibas.	N/A	Latvia

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
5-Nov	Sorainen	Sorainen's Latvia office advised the German entrepreneur Ralf-Dieter Montag-Girmes, who was accepted by the Latvian government as a financial investor for the national aviation company airBaltic.	N/A	Latvia
10-Nov	Sorainen	Sorainen's Latvian office advised Minsterejas Projekti on its purchase of several properties in Riga to be used for manufacturing.	EUR 750,000	Latvia
19-Nov	Ellex (Klavins Ellex)	Klavins Ellex advised Blackstone Real Estate Partners Europe IV on acquisition of a real estate portfolio in Latvia from Norwegian Obligo Investment Management AS.	N/A	Latvia
23-Nov	Ellex (Klavins Ellex)	Klavins Ellex advised Primera Air Nordic SIA on an aircraft leasing transaction which resulted in a Boeing 737-700 aircraft being added to the Latvian operator's fleet on October 26, 2015.	N/A	Latvia
20-Oct	Ellex (Valiunas Ellex); Sorainen	Valiunas Ellex advised lead managers Barclays, BNP Paribas, and HSBC on Lithuania's successful October 2015 issuance of 10 and 20–year Eurobonds. Sorainen advised Lithuania on the issuance.	EUR 750 million	Lithuania
28-Oct	Cobalt	Cobalt advised Libera Exosculatio in obtaining a licence as an electronic money institution.	N/A	Lithuania
2-Nov	Varul	Varul Lithuania advised the Lithuanian archiving company Dokdata on negotiations with Reisswolf regarding two master franchise agreements in the field of document archiving and destruction.	N/A	Lithuania
4-Nov	Sorainen; Triniti	Sorainen and Triniti advised on the acquisition of a 100% shareholding in the sports-betting company Orakulas by the Olympic Entertainment Group.	N/A	Lithuania
11-Nov	Tark Grunte Sutkiene	Tark Grunte Sutkiene advised Affidea (formerly known in Lithuania as Medea) on the merger of four of its group companies in Lithuania into a single entity.	N/A	Lithuania
23-Nov	Sorainen	Sorainen advised Deeper Fishfinder on a range of matters, including start-up financing, ongoing international expansion, and other everyday legal matters.	N/A	Lithuania
4-Nov	Allen & Overy; BDK; CMS; Ganado Advocates; Sayenko Kharenko; White & Case	Allen & Overy advised London-based Infracapital on its acquisition of 100% of the Slovak utility company GGE a.s. from Slovakian privately-held conglomerate Grafobal Group. Additional legal advice to Infracapital was provided by BDK (on Serbian and Montenegrin due diligence), Sayenko Kharenko (on the Ukrainian carve-out), and by Ganado Advocates (in Malta). White & Case advised Grafobal on the deal, and CMS advised the financing banks.	N/A	Malta; Montenegro; Serbia; Slovakia; Ukraine
8-Dec	Vujacic	The Vujacic law office advised the EBRD and KFW Ipex-Bank on due diligence performed in connection with a project financing of a wind farm in Krnovo, Montenegro, and assisted in the drafting and negotiation of security documents.	EUR 98 million	Montenegro
20-Oct	Greenberg Traurig	Greenberg Traurig represented Orlen Upstream in connection with its entrance into a definitive merger agreement pursuant to which it acquired all the outstanding shares of common stock of NASDAQ-listed FX Energy.	N/A	Poland
21-Oct	Gessel	Gessel advised Casus Finanse on its sale of a 100% stake in BPO Management to Arteria S.A.	EUR 890,000	Poland
21-Oct	Clifford Chance; Domanski Zakrzewski Palinka	DZP and Clifford Chance advised Medcom on its entrance into a strategic partnership with Mitsubishi Electric Corporation (MELCO), under which MELCO is to invest and purchase 49%of shares in Medcom.	N/A	Poland
26-Oct	Clifford Chance; Kurek Kosciolek I Wojcik	Clifford Chance advised Hillwood Europe in a joint-venture acquisition with 7R Logistic S.A., advised by the Kurek Kosciolek i Wojcik law firm.	EUR 30 million	Poland
27-Oct	CMS	CMS persuaded the Regional Court of Warsaw to reject the class action brought by clients of AXA Zycie Towarzystwo Ubezpieczen S.A..	N/A	Poland
29-Oct	Gessel	Gessel advised Lux Med on its purchase of a property at ul. Elblaska in Warsaw.	N/A	Poland
30-Oct	GFKK; White & Case	Poland's GFKK firm advised the 3S Group in connection with the acquisition of medium-term financing by ING Bank Slaski SA – which was advised by White & Case.	N/A	Poland
4-Nov	White & Case; Weil, Gotshal & Manges	White & Case advised a consortium of banks consisting of Bank Zachodni WBK S.A., Bank BGZ BNP Paribas S.A., Bank Gospodarstwa Krajowego, Bank Polska Kasa Opieki S.A., and mBank S.A. on the financing in the form of a revolving credit of up to PLN 700 million for Eurocash S.A. Eurocash was advised by Weil, Gotshal & Manges.	PLM 700 million	Poland
4-Nov	Allen & Overy; CBRE; Greenberg Traurig; Kochanski, Zieba & Partners	Kochanski, Zieba & Partners advised a fund managed by Griffin Real Estate on the acquisition and financing of the Raiffeisen Business Center in Warsaw. The seller, Invesco Real Estate, was advised by CBRE and Greenberg Traurig, and Griffin's acquisition was financed by Bank Gospodarstwa Krajowego, which was represented by Allen & Overy.	N/A	Poland
5-Nov	Barczak Jurczak Witucki Safjan; Kochanski Zieba & Partners	Kochanski Zieba & Partners secured a win for Ringier Axel Springer Polska in the Polish Supreme Court in a case brought by the former acting manager of Osrodek Rozwoju Edukacji (Center for Education Development), represented by Barczak Jurczak Witucki Safjan.	N/A	Poland
6-Nov	Crido Legal;	The Crido Legal firm advised a company of the KRUK Group in antitrust proceedings relating to the acquisition of control over the Presco Investments company.	N/A	Poland

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
9-Nov	Gessel;	Poland's Gessel law firm represented the owners of Apteki Gemini in the acquisition of an unspecified percentage of shares by Warburg Pincus, a leading global private equity firm.	N/A	Poland
9-Nov	CMS	CMS advised on the initial public offering of the Wittchen luxury accessory and leather goods retailer and the introduction of its shares to trading on the Warsaw Stock Exchange.	EUR 12.9 million	Poland
9-Nov	Norton Rose Fulbright; Weil, Gotshal & Manges	Norton Rose Fulbright advised the banks providing financing for Ciech S.A. to refinance its existing debt. Ciech was advised by Weil.	EUR 373 million	Poland
10-Nov	Dentons; DZP, Paul Hastings	Dentons advised Bank Pekao SA on financing the acquisition of the 5-star Sheraton Warsaw Hotel by a Benson Elliot, Walton Street Capital, and Algonquin joint venture from Host Hotels & Resorts. DZP – in cooperation with Paul Hastings – advised Benson Elliot and Walton Street Capital on the pan-European hotel portfolio acquisition.	EUR 420 million	Poland
11-Nov	CMS; Miro Senica	CMS advised long-standing client Asbud Group on the acquisition of land for development in Warsaw.	N/A	Poland
20-Nov	Allen & Overy	Allen & Overy advised PKO Bank Hipoteczny S.A. on the establishment of its covered bonds.	N/A	Poland
20-Nov	BSWW Legal & Tax; Hogan Lovells	BSWW Legal & Tax advised Fujitsu Technology Solutions with respect to negotiating and concluding a lease agreement with GTC UBP Sp. z o.o. Hogan Lovells advised GTC UBP on the deal.	N/A	Poland
26-Nov	Allen & Overy; White & Case; Wistrand	White & Case advised a consortium of banks that included Bank of America Merrill Lynch, Deutsche Bank, Goldman Sachs International, Santander GBM and Societe Generale Corporate & Investment Banking on the issuance by PZU Finance AB (publ) of registered bonds.	EUR 350 million	Poland
27-Nov	Wardynski & Partners; Wiewiorski	Wardynski & Partners advised a consortium of banks on financing granted to the Work Service Group. Work Service was represented by Wroclaw-based law firm Wiewiorski.	EUR 43.3 million	Poland
27-Nov	Clifford Chance; Dentons	Dentons advised LaSalle Investment Management on the acquisition of Futura Park, a shopping center in Wroclaw, Poland from the IRUS European Retail Property Fund. Clifford Chance advised the IRUS Fund.	EUR 27 million	Poland
27-Nov	Dentons; Hogan Lovells	Dentons advised Fortis Nowy Stary Browar Sp. z o.o. on the sale of the Stary Browar Commerce, Art and Business Center in Poznan, Poland, to Deutsche Asset & Wealth Management, acting on behalf of its German fund grundbesitz europa. Hogan Lovells advised Deutsche Asset & Wealth Management.	EUR 290 million	Poland
30-Nov	CMS; Crido Legal; Sitarz & Wspolnicy	Crido Legal advised Astris on the construction of a class A office building in Krakow, consisting of approximately 13,000 square meters of usable floor area. The general contractor was advised by Sitarz & Wspolnicy. The investment was co-financed by Bank Ochrony Srodowiska, which was advised by CMS.	N/A	Poland
30-Nov	Baker & McKenzie; Hogan Lovells	Hogan Lovells advised the German open fund managed by Warburg-HIH Invest Real Estate GmbH on its acquisition of the Dubois 41 office building in Wroclaw, Poland, from the Nacarat real estate developer, which is part of the French Rabot Dutilleul Group. Baker & McKenzie advised Nacarat on the deal.	N/A	Poland
2-Dec	CMS; Gateley	CMS advised Amica Wronki S.A. on the purchase of the entire issued share capital of The CDA Group Limited from its shareholders. The shareholders – three individuals – were represented by the Gateley law firm.	EUR 34.4 million	Poland
3-Dec	Wardynski & Partners	Wardynski & Partners, acting pro bono, is representing the heir to one of the defendants in the notorious communist-era "Meat Scandal" in an action brought against the Polish Treasury for return of confiscated property.	N/A	Poland
3-Dec	Clifford Chance; Gessel	Gessel advised Danwood SA on new term loans it obtained from Bank Pekao SA. Bank Pekao was advised by Clifford Chance.	N/A	Poland
4-Dec	Allen & Overy; Dentons	Dentons advised Polish energy giant Tauron Polska Energia S.A. on a bond issue. Allen & Overy advised Bank Handlowy w Warszawie S.A., Bank of Tokyo-Mitsubishi UFJ (Polska) S.A., Bank Zachodni WBK S.A., Caixabank S.A. (Spolka Akcyjna) Oddzial w Polsce, Industrial and Commercial Bank of China (Europe) S.A. Oddzial w Polsce, ING Bank Slaski S.A., and PKO BP S.A. on the matter.	EUR 8.7 billion	Poland
7-Dec	Gleiss Lutz; Greenberg Traurig; Allen & Overy	Gleiss Lutz and Greenberg Traurig advised Luxembourg-based Atlantik S.A., an indirect controlling shareholder of Pfleiderer Grajewo S.A., on the Pfleiderer Group's corporate reorganization and on Pfleiderer Grajewo's share capital increase to finance it. Allen & Overy advised Commerzbank International S.A. as the agent and the Luxembourg branch of Commerzbank Aktiengesellschaft as security agent of the lenders of Atlantik S.A.	EUR 172.7 million	Poland
7-Dec	K&L Gates; Kochanski Zieba Partners	K&L Gates represented the Polish state on an ICSID Additional Facility Arbitration related to a claims that it had acted with bias in improperly levying taxes and sanctions on the claimant's company. Kochanski Zieba & Partners represented the claimants – Vincent J. Ryan, Schooner Capital LLC, and Atlantic Investment Partners LLP.	N/A	Poland
7-Dec	Dentons	Dentons advised BGZ BNP Paribas in connection with two loans granted to Asbud Centrum in order to finance the purchase of two pieces of real estate.	PLN 54.75 million	Poland

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
8-Dec	KKLW	The KKLW law firm represented the Gulermak heavy industry construction and contracting company in proceedings before the Polish National Chamber of Appeals in a case involving the public service contract for the construction of a second metro line in Warsaw.	N/A	Poland
8-Dec	DJBW; Gessel	Gessel advised funds from Resource Partners on a majority buyout of shares from a group of former and current employees of Poland's Golpasz S.A. industrial feed manufacturer and supplier. Golpasz was advised by DJBW.	N/A	Poland
8-Dec	Weil, Gotshal & Manges; WKB	WKB assisted Polski Koncern Naftowy Orlen S.A., and its subsidiary Euronaft Trzebinia sp. z o.o., on the sale of railway assets to PKP Cargo S.A. and its group company PKP Cargotabor Uslugi sp. z o.o. Weil advised PKP Cargo on the transaction.	PLN 250 million	Poland
9-Dec	Dentons; KKLW	Dentons advised Bank Zachodni WBK, acting as lender in relation to a financing to a member of the Futureal Group. The KKLW firm advised the borrower.	PLN 84 million	Poland
9-Dec	Clifford Chance; Gide Loyrette Nouel	Clifford Chance advised Bank Polska Kasa Opieki S.A. on the financing of the purchase of 100% of shares of SMT Software Services from SMT S.A. by a subsidiary of Polish Enterprise Fund VII. Enterprise Investors was advised by Gide Loyrette Nouel.	N/A	Poland
20-Oct	Tuca Zbarcea & Asociatii; Wolf Theiss	Tuca Zbarcea & Asociatii advised Interbrands Marketing & Distribution on its acquisition of Europharm Holding, a local drug distribution company owned by UK drugmaker GlaxoSmithKline, advised by Wolf Theiss	N/A	Romania
21-Oct	bpv Grigorescu Stefanica	bpv Grigorescu Stefanica advised on the opening of a new DIY store of the German retail chain Hornbach, in the Romanian town of Sibiu.	N/A	Romania
28-Oct	CBRE; Dentons	GLL Real Estate Partners, advised by Dentons and CBRE in Romania, and by Norton Rose Fulbright and Colliers in the UK, announced two further recent acquisitions on behalf of its GLL Pan European Fund.	EUR 27 million	Romania
29-Oct	Bondoc & Asociatii	Bondoc & Asociatii advised Immigon on the sale of land plots in the Romanian cities of Sibiu, Satu Mare, Dragomiresti Vale, and Oradea.	N/A	Romania
9-Nov	Musat & Associates	Musat & Associates obtained the initiation of insolvency procedures of Asesoft International in order to recover a debt owed to the firm's client, Transas Marine International.	RON 100 million	Romania
11-Nov	bpv Grigorescu Stefanica; Bulboaca & Asociatii	bpv Grigorescu Stefanica advised Otto Broker de Asigurare on investment it attracted from the private equity firm The Foundations 1.0 SEE (TF1). The private equity firm was advised by Bulboaca & Asociatii.	EUR 4 million	Romania
12-Nov	Vilau | Associates	Vilau | Associates successfully defended Aeroportul International Timisoara – Traian Vuia S.A. (AIT), in an appeal brought by Carpatair S.A. before the Bucharest Court of Appeal of the Romanian Competition Council's decision on the airport's behalf concerning an alleged abuse of dominant position.	N/A	Romania
18-Nov	Nestor Nestor Diculescu Kingston Petersen; PeliFilip	Nestor Nestor Diculescu Kingston Petersen advised Globalworth Real Estate Investments Ltd on its acquisition of the second building in the Green Court Bucharest project from Skanska. PeliFilip advised Skanska on the deal.	EUR 47 million	Romania
8-Dec	Pop & Partners; Tuca Zbarcea & Associatii	Romania's Pop & Partners law firm advised P3 on its lease of an 81,000 square meter logistics hub at the P3 Bucharest park to leading European retailer Carrefour. Tuca Zbarcea & Associatii advised Carrefour on the agreement to lease the complex.	N/A	Romania
21-Oct	CMS	Acting on behalf of Allianz, CMS Russia and CMS Zurich won a major reinsurance recovery action against the Swiss reinsurer Infrassure.	N/A	Russia
26-Oct	Skadden	Skadden advised Roust Trading Limited on a U.K. court-sanctioned scheme of arrangement to restructure two series of eurobonds.	N/A	Russia
30-Oct	AGP Law Firm	The AGP Law Firm in Russia successfully defended BMW Rusland Trading in the Arbitrazh Court of Moscow against a subrogation claim filed by an unnamed insurance company.	N/A	Russia
2-Nov	Cleary Gottlieb; Skadden	Cleary Gottlieb represented Lenta in a public offering of global depository receipts dually-listed in London and Moscow.	USD 275 million	Russia
3-Nov	Ashurst; White & Case	White & Case advised Naspers Limited, the South African-based global Internet and media company, on its investment in Avito, the leading online classifieds platform in Russia. Ashurst advised Avito on the matter.	USD 1.2 billion	Russia
4-Nov	Debevoise & Plimpton; Hogan Lovells	The London and Moscow offices of Debevoise & Plimpton advised the NLMK Group on a 4-year pre-export finance facility for a total of USD 400 million. The banks arranging and bookrunning the facility were advised by Hogan Lovells.	USD 400 million	Russia
11-Nov	Egorov, Puginsky, Afanasiev and Partners	Egorov, Puginsky, Afanasiev and Partners won a tender to represent the interests of the Severnaya Verf (Northern Shipyard) shipbuilding plant in St. Petersburg, which is part of the United Shipbuilding Corporation.	N/A	Russia
16-Nov	YUST	Russia's YUST law firm successfully represented the interests of Bayer AG in the International Council for Commercial Arbitration at the Chamber of Commerce and Industry of Russia in its dispute with Trehgornaya Manufaktura OJSC.	N/A	Russia
16-Nov	Goltsblat BLP	Goltsblat BLP acted for Ilya Naishuller, director, scriptwriter, and producer of the science-fiction film Hardcore, in relation to a transaction contemplating the sale of rights to the movie to STX Entertainment.	N/A	Russia

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
23-Nov	Kachkin & Partners	Kachkin & Partners successfully represented the interests of the Cres Group in a dispute with the SK management company.	N/A	Russia
23-Nov	Vegas Lex	The Vegas Lex firm completed its work for the Delovaya Sreda project, which intends to build a comprehensive technological infrastructure for Russian small businesses.	N/A	Russia
24-Nov	Debevoise & Plimpton	The Hong Kong and Moscow offices of Debevoise & Plimpton advised the Russia China Investment Fund in its investment in TutorGroup.	N/A	Russia
2-Dec	YUST	Russia's YUST law firm successfully persuaded Russia's Federal Anti-Monopoly Service that an unnamed company was unfairly competing against its client, the Slavyanka Confectionery Plant, by copying its labels and product appearance.	N/A	Russia
4-Dec	Jus Aurem	The Jus Aureum law firm successfully applied to the Arbitrazh Court of the City of Moscow to levy a penalty against a company that had not satisfied its debt to the firm's client – the Sovinteravtoservis transport company.	RUB 100,000	Russia
7-Dec	Pepeliaev Group	The Pepeliaev Group successfully challenged the cadastral evaluation of the premises of the Central Children's Store before the Moscow City Court.	N/A	Russia
3-Dec	Jankovic Popovic & Mitic	JPM advised Delta Holding and Delta Sport on the sale of buildings in Belgrade to Banca Intesa Beograd.	N/A	Serbia
30-Nov	BDK Advocati	BDK advised Iron Mountain on the acquisition of Iron Trust d.o.o. from private individuals Toma Bilic and Panagiotis Xydas.	N/A	Serbia
16-Nov	Jankovic Popovic & Mitic	JPM advised the French company Atalian on legal due diligence related to its intended takeover of Mopex.	N/A	Serbian
12-Nov	BDO Legal; CMS; Giese & Partner; Wolf Theiss	Wolf Theiss advised the Czech-based CLEEM Group, a major European producer of sales supporting products, on its acquisition of the SILFOX Group from Silfox GmbH and Silfox Holding GmbH in a cross-border distressed sale. CMS advised on German-law aspects of the deal. The sellers were represented by insolvency trustee Leonhardt Rattunde, and advised by BDO Legal and Giese & Partner.	N/A	Slovakia
30-Nov	Sajic	The Sajic law firm agreed to advise SHP Celex on the implementation of regulations involving labor relations.	N/A	Slovakia
26-Oct	Karanovic & Nikolic; Linklaters; ODI; Odvetniki Selih & Partners	ODI advised a consortium of banks on the cross-border syndicated financing of the Don Don group – which was advised by Odvetniki Selih & partners. Karanovic & Nikolic and Linklaters were also involved in the financing deal.	EUR 60 million	Slovenia
29-Oct	Maja Petric; Miro Senica	Miro Senica advised Switzerland's Micro-Motor on the sale of a 51% share to Kolektor. The buyer was assisted by solo practitioner Maja Petric.	N/A	Slovenia
29-Oct	CMS; Miro Senica	Miro Senica advised the French Corum Asset Management investment fund on a retail acquisition from the Supernova Group – which was assisted by CMS Ljubljana.	N/A	Slovenia
3-Nov	CHSH Cerha Hempel Spiegelfeld Hlawati; Jadek & Pensa	CHSH Cerha Hempel Spiegelfeld Hlawati advised Switzerland-based Agri Holding AG on its acquisition of 100% of the shares in the Slovenian company Istrabenz Hoteli Portoroz from the Slovenian company Istrabenz Turizem. Istrabenz Turizem was advised by Jadek & Pensa.	N/A	Slovenia
10-Nov	ODI	ODI Law advised Adria Airways – Slovenia's national airline – on its cooperation with the Nordic Aviation Group, an airline newly established by the Estonian Government.	N/A	Slovenia
30-Nov	Rojs, Peljhan, Prelesnik & Partners; Schoenherr; Selih & Partners	Schoenherr advised the Slovenian Sovereign Holding, d.d. on the privatization of Slovenia-based Paloma, d.d. The transaction was performed by means of a share capital increase by third-party investor Abris Capital Partners. Paloma was advised by Selih & Partners, and Abris was represented by Rojs, Peljhan, Prelesnik & Partners.	EUR 15 million	Slovenia
30-Nov	Rojs, Peljhan, Prelesnik & Partners; Schoenherr	Rojs, Peljhan, Prelesnik & Partners advised Avtotehna d.d. with respect to the sale of its subsidiary Avtera d.o.o. to Janus Trade. Janus Trade was represented by Schoenherr.	N/A	Slovenia
22-Oct	Paksoy	Paksoy was Turkish counsel to a consortium including Aktau Uluslararasi Havalimani A.S. (the Aktau International Airport) and ATM Grup Uluslararasi Havalimani Yapim Yatirim ve Isletme Ltd. Sti in relation to the loan facility granted by the Development Bank of Kazakhstan to the borrower's consortium for the modernization of the airport's departure and arrival runways.	N/A	Turkey
27-Oct	Moral Law Firm; Paksoy	Moral Law Firm advised Koksal Hologlu and other shareholders of the Romatem Group in acquiring PearlBridge's stake in Romatem. Paksoy advised the sellers.	N/A	Turkey
28-Oct	Clifford Chance (Yegin Ciftci Attorney Partnership); Linklaters	The Yegin Ciftci Attorney Partnership and Clifford Chance advised the International Finance Corporation and the EBRD in connection with their equity investment in Finabanka A.S. – which was advised by Linklaters.	N/A	Turkey
4-Nov	Clifford Chance (Yegin Ciftci Attorney Partnership); YukselKarkinKucuk	The Yegin Ciftci Attorney Partnership – the Turkish firm associated with Clifford Chance – advised the shareholders of Millenicom Telekomunikasyon A.S., on the sale of 100% stake in the company to EWE Enerji. YukselKarkinKucuk advised EWE on the acquisition.	N/A	Turkey
4-Nov	White & Case; Yarsuvat & Yarsuvat	White & Case advised Mid Europa Partners on its acquisition of a 100% shareholding in Customer Management Center from ISS, advised by Yarsuvat & Yarsuvat.	N/A	Turkey

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
9-Nov	Baker & McKenzie (Esin Attorney Partnership)	The Esin Attorney Partnership – the Turkish member firm of Baker & McKenzie International – advised Vaillant Saunier Duval Iberica in its squeeze-out of the remaining shareholders of Turk Demir Dokum Fabrikalari.	N/A	Turkey
10-Nov	Serap Zuvin Law Offices; Turunc	Turunc advised Charlesbank Capital Partners on Turkish aspects of its acquisition of a controlling interest in Plaskolite. The Serap Zuvin Law Offices advised Plaskolite on Turkish aspects of the deal.	N/A	Turkey
13-Nov	Moral Law Firm; YukselKarkinKucuk	Turkey's Moral Law Firm advised Esta Gayrimenkul – a subsidiary of Astas Holding – on a loan received from Akbank T.A.S. for the re-financing of an existing loan. Akbank was advised by YukselKarkinKucuk on the deal.	EUR 200 million	Turkey
30-Nov	Clifford Chance (Yegin Cifti Attorney Partnership); White & Case	White & Case advised Zorlu Enerji on the combined refinancing of a portfolio of existing power plants and financing of the development of the new Kizildere III geothermal project belonging to its subsidiary Zorlu Dogal, in the Aegean Region of Turkey. The financing was arranged by a syndicate of Turkish banks consisting of Akbank, Garanti Bank, Is Bank, and the Industrial Development Bank of Turkey. Clifford Chance, along with the Yegin Ciftci Attorney Partnership, advised the banks on the deal.	USD 815 million	Turkey
30-Nov	Baker & McKenzie (Esin Attorney Partnership); Fora & Sanli Law Firm	The Esin Attorney Partnership advised Metro Properties Gayrimenkul Yatirim A.S. on the sale of the M1 Meydan Merter shopping mall in Istanbul to Bahcelievler Gayrimenkul – a real estate company jointly owned by Mesturkuaz and Ziylan Group. The Ziylan Group was represented by the Fora & Sanli Law Firm, while Mesturkuaz relied on its in-house counsel.	N/A	Turkey
7-Dec	Moral Law Firm;	Moral Law Firm advised Borusan EnBW Enerji Yatirimlari ve Uretim A.S.on its acquisition of 99.95% of an unidentified Ankara-based Turkish energy company.	N/A	Turkey
29-Oct	Asters	Asters announced that it acted as pro bono advisor in connection with the donation of the private collection of Igor Dychenko to the state-owned Mystetskyi Arsenal museum complex.	N/A	Ukraine
30-Oct	DLA Piper	DLA Piper advised the shareholders of Pharma Start on the sale of a 100% stake in the company to Acino Pharma.	N/A	Ukraine
3-Nov	Antika Law Firm	Ukraine's Antika Law Firm successfully defended the interests of Energobank PJSC in liquidation in a dispute over the recognition of a loan agreement obligation as terminated, recovery of funds from the bank, and recognition of the pledge agreement as terminated.	USD 1.3 million	Ukraine
13-Nov	Sayenko Kharenko	Sayenko Kharenko acted as legal counsel to the EBRD on arranging a syndicated working capital loan to the Industrial Group ViOil, Ukraine's major sunflower oil producer and exporter.	USD 40 million	Ukraine
16-Nov	Asters	Asters acted as legal counsel to the International Finance Corporation in connection with committed and anticipated facilities to Astarta.	USD 35 million	Ukraine
19-Nov	Aequo; CMS; Taylor Wessing; Willkie Farr & Gallagher	CMS in Kyiv advised Horizon Capital on the sale of its stake in Ciklum to George Soros's Ukrainian Redevelopment Fund LP (URF). The URF also acquired a portion of the stake from the current majority shareholder, Majgaard Limited. Taylor Wessing in London advised Majgaard Limited on the deal, and Willkie Farr & Gallagher in New York advised the URF.	N/A	Ukraine
23-Nov	Sayenko Kharenko	Sayenko Kharenko acted as a Ukrainian legal advisor to Commerzbank AG, the consent solicitation agent, in relation to solicitation of consent by PJSC Commercial Bank PrivatBank's noteholders for the restructuring of the bank's Eurobonds due in September 2015.	USD 200 million	Ukraine
26-Nov	DLA Piper	DLA Piper advised the British company Crown Agents on an agreement with the Ministry of Health of Ukraine related to the procurement of medicines under a special, state-finance program.	EUR 30 million	Ukraine
30-Nov	DLA Piper	DLA Piper advised Bomond Group on obtaining a preliminary lease with the Central Universal Department Store in Kiev.	N/A	Ukraine
2-Dec	Aequo	Aequo advised MTS on the extension of its strategic partner market agreement with Vodafone and the expansion of its scope in Ukraine.	N/A	Ukraine
4-Dec	Avellum Partners	Avellum Partners acted as Ukrainian legal counsel to ING Bank N.V. in connection with a secured pre-export revolving loan facility to Myronivsky Hliboproduct Group.	USD 100 million	Ukraine
7-Dec	Sayenko Kharenko	Sayenko Kharenko acted as legal advisor to Avangardco Investments Public Limited on the restructuring of its outstanding Eurobonds.	USD 200 million	Ukraine
8-Dec	Aequo	Aequo advised the EBRD on a diagnostic assessment and restructuring of the Deposit Guarantee Fund, a Ukrainian bank resolution agency.	N/A	Ukraine

Full information available at: www.ceelegalmatters.com

Period Covered: October 15 - December 10, 2015

Did We Miss Something?

We're not perfect; we admit it. If something slipped past us, and if your firm has a deal, hire, promotion, or other piece of news you think we should cover, let us know. Write to us at press@ceelm.com

On the Move: New Homes and Friends

Gide Loyrette Nouel Offices in Budapest and Kyiv Jump to Jeantet

Paris-based Partners Francois D'Ornano and Karl Hepp de Sevelinges – both long-time CEE practitioners – have led the Budapest and Kyiv offices of Gide Loyrette Nouel Partners in leaving the firm for French law firm Jeantet.

D'Ornano, who joined Gide in 1997, specializes in mergers and acquisitions and the financing of real estate projects, as well as in commercial lease law and construction law. He opened and heads the Budapest office which now joins Jeantet, and opened Gide's Belgrade office (which now operates as independent firm Maric, Malisic & Dostaniche, acting as Gide's exclusive correspondent in Belgrade).

Hepp de Sevelinges specializes in corporate/M&A and advises industrial companies, retail groups, financial institutions and funds in France and across Eastern Europe. He joined Gide in 1999 and opened and managed the firm's Kyiv office in the Ukraine from 2006-2011, before leaving to briefly take charge of the firm's New York office (2011-2012).

The news of the move of Gide's Budapest and Kyiv offices follows shortly after Akos Kovach, the former Managing Partner of Gide's Budapest office, left for Hogan Lovells, and the entire team which joined Gide in Kyiv from Beiten Burkhardt in January 2014 – including Co-Managing Partner Julian Ries – left for Integrites.

With the addition of D'Ornano, Hepp de Sevelinges, and the Gide teams in Kyiv and Budapest, Jeantet makes a grand entrance into CEE. In an email sent to clients, Budapest-based Ioana Knoll-Tudor, formerly of Gide, reported being "happy and proud" to announce that she "joined the Jeantet law firm as a Local Partner of the Jeantet Budapest office, together with the entire team of Gide Hungary."

Knoll-Tudor concluded her message by writing that, "with this move, Jeantet is considerably reinforcing its position in Central Eastern Europe with the addition of a team of more than 30 lawyers" – an understatement, to say the least, as the firm previously had no CEE presence of any kind.

When contacted by CEE Legal Matters, D'Ornano, Hepp de Sevelinges, and Gide Loyrette Nouel declined to comment. Jeantet did not respond to several requests for comment.

Liniya Prava Signs Cooperation Agreement with Edwin Coe

Russia's Liniya Prava Law Firm has executed a cooperation agreement with England's Edwin Coe Law Firm to – in the words of Liniya Prava – "provide qualified legal advice on projects where English law is to be applied." Edwin Coe's Russia and CIS Practice is headed by Partner Nick Neocleous, who specializes in cross-border dispute resolution.

According to Liniya Prava, Edwin Coe's 150+ lawyers "include experienced Russian speaking advisors having a deep understanding of legal and economic realities of Post-Soviet states."

The firm claims that the combination will increase the range of services offered by both firms and result in lower prices, among other benefits.

Lavrynovych & Partners and BPPA Enter Into Ukraine-Austria Cooperation Agreement

Lavrynovych & Partners has announced the opening of a representative office in Vienna, operated by the Austrian Brandstetter, Baurecht, Pritz & Partner law firm.

The formal announcement was made during an official September 24, 2015, diplomatic reception at the Embassy of Ukraine in the Republic of Austria, which was attended by the members of the Parliament, various diplomats, and other public figures.

The firm explains that, as a result, firm clients will be able to acquire expert advice and legal assistance regarding their activities on the territory of the Republic of Austria. The firm also claims that, "in turn, without any difficulties the clients of the Austrian office will be able to receive an expert support in protecting and securing their interests in Ukraine."

In response to an inquiry from CEE Legal Matters, Lavrynovych

& Partners PR Manager Tetyana Korchynska explained that "now Brandstetter, Baurecht, Pritz & Partner Rechtsanwalte represents Lavrynovych & Partners in Vienna and our offices in Kyiv [and] Odesa will now represent BPPA in Ukraine."

Merger of Two Bankruptcy/Restructuring Boutiques in Poland

Two Polish firms – Zimmerman & Partners Law Offices and FilipiakBabicz – have merged, resulting in what they call "a new entrant on the market – Zimmerman Filipiak Restructuring SA." According to a statement released by the new firm, the merger came as a response "to changes in the market for the restructuring and bankruptcy proceedings that take place after January 1, 2016."

The statement by the firm announced that "the greatest value for customers will be a unique team of experienced experts headed by Peter Zimmerman and Patrick Filipiak, co-authors of the new law [on] restructuring. We guarantee a unique combination of vast legal knowledge and experience with the competence of financial and capital."

The new firm has offices in both Warsaw and Poznan.

New Disputes Boutique Spins Off from Karanovic & Nikolic in Serbia

The Mihaj, Ilic & Milanovic Law Firm – describing itself as "one of the first dispute resolution boutiques in the region" – has opened its doors in Belgrade. The firm was founded by former Karanovic & Nikolic lawyers Nemanja Ilic, Senka Mihaj, and Marko Milanovic.

According to a statement released by the firm, "by combining unique depth of knowledge, business-savvy approach and extensive experience in Serbia, Montenegro, and throughout the region, Mihaj, Ilic & Milanovic ... is at the cutting edge of leading commercial and corporate dispute resolution."

The firm will specialize in Arbitration, Litigation, Insolvency & Restructuring, Labor Disputes, White Collar Defense & Criminal Proceedings, Civil Enforcement Proceedings, Constitutional Appeals & ECHR, Commercial Offenses, Misdemeanor, and Administrative Proceedings.

In that same statement, Ilic, Mihaj, and Milanovic offer their thanks to "our colleagues and friends at Karanovic & Nikolic, whom we wish every success in the future."

CEE Attorneys Network Adds Baltic Member

On November 2, 2015, Lithuania's SKV Law law firm became a member of the CEE Attorneys network of law firms already operating in the Czech Republic, Poland, and the Slovak Republic.

"Expanding our network and adding another member has an impact not only on the scope of our operation, but I see it primarily as a kind of positive feedback on a long-term and demanding process of building the international network of law firms which we have recently started," said Zdenek Tomicek, Partner of Tomicek Legal, a founding member of the CEE Attorneys network.

Inga Kostogriz-Vaitkiene, Partner of SKV Law, commented that: "By joining CEE Attorneys we confirm our ambition to provide clients with services of the highest level in Central and Eastern Europe. Thanks to our international reach we are able to provide legal services in cross-border projects in more than 10 languages, ensuring our clients long term and indisputable competitive advantage. Together with colleagues from the CEE Attorneys network we form a team of lawyers with extensive knowledge and a wide range of expertise, who understand very well local conditions and specific needs of clients operating in Central and Eastern Europe."

The CEE Attorneys network is growing rapidly. Just launched in March of this year by Tomicek Legal in the Czech Republic and Fox Martens in Slovakia, the network expanded to three countries in June with the addition of the SPP Legal Szmigiel & Papros law firm in Warsaw. SKV Law is the network's fourth member, and its first in the Baltics.

Cathay Associates Launched with 9 CEE Members

The Cathay Associates network of law offices, which was launched by China's Kejie Law Office in September 20015, reports nine CEE members. The network was initiated to offer global coverage, with a special focus on China and cross-border matters.

The CEE members are: Drazic, Beatovic & Partners in Belgrade

and Podgorica, Dvorak Hager & Partners in Bratislava and Prague, BWSP Hammond Bogaru & Associates in Bucharest and Chisinau, Varnai & Partners in Budapest, Bozo & Associates in Pristina and Tirana, Kolcheva, Smilenov, Koev and Partners in Sofia, RE-Structure in Vienna, Kijewski Gras in Warsaw, and Benko i Partneri in Zagreb.

According to a Cathay Associates announcement, the network expects to expand to 40 firms by the end of 2016, covering major countries and regions across five continents with new member firms expected from Bombay, Dubai, Hong Kong, Istanbul, Jakarta, and Singapore in Asia; Amsterdam, Brussels, Frankfurt, Geneva, London, Milan, and Moscow in Europe; Los Angeles, Mexico City, New York, San Francisco, and Toronto in North America; Buenos Aires and Sao Paolo in South America; Johannesburg and Maputo in Africa; and Melbourne, Sydney, and Wellington in Oceania.

He Jie, the Managing Partner of the Kejie Law Office, serves as Global Chairman of Cathay Associates and on the global management committee. Rupert Varnai and Pascal Demko, two European co-founders of the network who are also the foreign legal counsels of Kejie Law Office, serve as Global Chief Executive Officer and Global Managing Partner, respectively.

Siwik commented: "Our new law firm will combine the depth of experience and training of traditional, 'big firm' lawyers with the cost-effective service and flexibility of a modern boutique. We act for public contracting entities and bidders and have a particular focus on the infrastructure, energy, and real estate sectors."

Mediterranean Firm Opens Office in Ukraine

The law firm of Michael Kyprianou & Co has opened a Kyiv office. The firm, which was founded in 1991, consists of approximately 80 professionals located in three offices in Cyprus, two in Greece (in Athens and Thessaloniki), one in Malta – and now one in Ukraine.

According to a statement released by the firm, "the Ukrainian office provides legal services in Ukrainian and Cyprus law with a focus on corporate law, international tax planning, currency control, intellectual property, real estate, [and] immigration, as well as litigation and arbitration."

The Kyiv office is headed by Ukrainian lawyer Dmitry Perevozchykov, who started his career as a Junior Associate at AstapovLawyers in 2012, then moved to Chalas & Partners in March 2013. Perevozchykov specializes in international tax planning and corporate law and claims experience in corporate structuring of holding companies for Ukrainian market players in banking, finance, agriculture, insurance, IT, intellectual property, and natural resources. He graduated from the Kyiv-Mohyla Academy with a Master's Degree in Law in 2012.

New Boutique in Warsaw

November 6, 2015 saw the launch of Bierc Siwik & Partners: a new boutique in Warsaw that will focus on real estate and construction, public procurement law, infrastructure, and energy. The two co-founders and Managing Partners of the new firm are Artur Bierc and Robert Siwik.

Bierc was previously the Founder and Managing Partner of AB LEGAL – an independent full-service law firm located in Warsaw that he set up in 2008. His prior experience includes working as an Attorney at Law with BPH TFI SA and as a Lawyer with P. Soroka, M. Kedzierska, P. Skoworodko, I. Soroka - Notariusze and with Soroka Radcy Prawni. He has also been a Board Member of REF Okecie SA, RTW Sp. z o.o., REF Sp. z o.o., and FSN Sp. z o.o.

Siwik was an Associate with Jara Drapala & Partners from January 2009 to September 2015, preceded by one year as an Associate with e|n|w|c and one year in the same role with Kwasnik i Glowacka Radcowie Prawni. Siwik is the co-founder and a Member of the Management Board of the Polish-Austrian Lawyers Association (PALA) – a bilateral association open to all lawyers from Poland and Austria with a specific interest in the other's legal system. Since 2014 he has also been the Chairman of the Public Procurement Commission at the Polish – German Chamber of Industry and Commerce. Siwik's clients include the Saferoad Group, Porr Polska Infrastructure, and the RMA Group.

Everlegal Opens Doors in Kyiv

On November 25, Everlegal officially announced its launch on the Ukrainian legal services market as a full service law firm.

The new firm starts with four partners, two of which come from the Ukrainian office of Clifford Chance (which itself went independent of its Magic Circle parent several weeks later). Yevheniy Deyneko will be Everlegal's Managing Partner. Deyneko, who specializes in Corporate and M&A, Competition Law, and Commercial Law, was a Counsel with Clifford Chance, where he worked for over three years. Before that he worked as a Senior Associate for CMS for almost five years, as an Associate for Chadbourne & Parke for almost three years, for KPMG for a little over one year, and for B.C. Toms and Co. for one year.

Everlegal Partner Andriy Olenyuk, who focuses on Banking and

Finance and Competition law, also joins from Clifford Chance, where he was a Senior Associate. He joined Clifford Chance as an Associate in 2009 and worked for Magisters as a Junior Associate before that.

The third Partner, Andriy Porayko, was the Managing Partner of the L.A. Group Law Firm. He worked as an Associate, Advocate for the Stolitsa Group between 2011 and 2014, as a Litigation Associate for the Legal Department of the Ministry of Defence of Ukraine between 2008 and 2011, and as a lawyer for Time LLC between 2006 between 2008.

The fourth Partner, Afanasiy Karlin, specializes in White Collar Crime. He was the Managing Partner of Belegal before joining Everlegal.

Clifford Chance Kyiv Completes Transition to Independent Redcliffe Partners

As it announced it would last summer, Clifford Chance's Kyiv office has now formally been re-established as an independent law firm and begun operating as Redcliffe Partners.

Redcliffe is managed by Partner Olexiy Soshenko, former head of Clifford Chance Kyiv's finance practice, and the firm's leadership includes Partner Dmytro Fedoruk (who was Head of M&A at Clifford Chance Kyiv), recently-hired Partner Rob Shantz, and newly-promoted Partner Sergiy Gryshko.

According to a Redcliffe Partners statement, the firm "will maintain a Best Friends Agreement with Clifford Chance, one of the world's pre-eminent law firms, to enable us to combine local market knowledge, technical excellence, and international reach and thereby deliver to clients what they value most."

The firm also announced that it will focus primarily on Antitrust, Banking & Finance, Corporate/M&A, Debt Restructuring, and Insolvency, while "investing into capabilities in International Arbitration and Litigation." Its sector-focused groups will include Agribusiness, Financial Institutions, Energy, Pharmaceuticals, FMCG & Retail, TMT, and Infrastructure.

Shantz, an American attorney, joins Redcliffe to lead its Corporate Practice. He has more than 19 years of experience in Central and Eastern Europe, most recently as the Head of the Legal Practice at PwC Ukraine, and, before that as a tax and legal Partner with KPMG Ukraine. He graduated from the University of Michigan Law School.

Gryshko will lead Redcliffe's Dispute Resolution team. He joined the firm from CMS Cameron McKenna and has over 13 years of experience in Dispute Resolution and International Arbitration.

Other new additions of significance include Corporate/M&A lawyer Zoryana Sozanska-Matviychuk and Finance/Capital Markets lawyer Dmytro Orendarets, both of whom join as Counsel.

"This is an exciting step for us and for our team," said new Redcliffe Managing Partner Olexiy Soshenko. "We see plenty of opportunities to further expand our capabilities and create rewarding long term career paths for our people. Building on terrific client relations and an excellent team, we fully intend to remain a top legal practice in Ukraine."

Clifford Chance's departure from Ukraine makes it the third international firm in recent years to withdraw from the country, following Schoenherr's decision to do so earlier this year and Chadbourne's departure in 2014. Clifford Chance's withdrawal also comes just a few weeks after the Kyiv office of Gide Loyrette Nouel jumped to new CEE entrant Jeantet (see page 14 in this feature).

Former Kinstellar Lawyers Launch New Firm in Budapest

A team of four lawyers from Kinstellar has left the Budapest office of that regional firm to establish DKKR Partners. The four – Daniel Kaszas, Nora Deme, Dorothy Kereszty, and Levente Rovid – will all be Partners in the new firm.

Kaszas joined the office in 2000, and became a Counsel with Kinstellars when it took the Hungarian office over from Linklaters upon Links' 2008 withdrawal from Budapest.

Deme joined Linklaters in 2007 as an Associate (a title she still held with Kinstellar at the time of her departure). Prior to joining Linklaters she worked for Luther Attorneys at Law – which was affiliated with Ernst & Young at the time – as a Junior Associate between December 2003 and May 2007.

Kereszty started at Gide Loyrette Nouel in October 2007 as a Trainee and joined Linklaters in 2008 as a Junior Associate, a title that she held later with Kinstellar until November 2011 when she was promoted to Associate.

Rovid was the last to join the Kinstellar team, having worked as an Attorney-at-law with Bird & Bird before joining Kinstellar in October 2014. Before that he worked for Ernst & Young as a Senior Tax Advisor between 2006 and 2009, as an Investment Promotion Counsel for the Hungarian Ministry of Economy and Transport between 2003 and 2005, and as a Junior Legal Counsel for T-Systems Dataware between 2001 and 2003.

Summary Of Partner Lateral Moves

Date covered	Name	Practice(s)	Joining	Moving From	Country
24-Nov	Karyna Sazanovich	Corporate/M&A	IPM-Consult Group	Sysouev, Bondar, Khrapoutski Law Office	Belarus
7-Dec	Karin Pomaizlova	IP/TMT	Taylor Wessing	B-Legal CZ	Czech Republic
27-Oct	Takura Kawai	Corporate/M&A	Dentons	CMS	Poland
30-Oct	Pawel Pietkiewicz	Dispute Resolution	Greenberg Traurig	White & Case	Poland
30-Oct	Daniel Kaczorowski	Dispute Resolution	Greenberg Traurig	White & Case	Poland
2-Nov	Lukasz Hejmej	Dispute Resolution	Baker & McKenzie	White & Case	Poland
2-Nov	Sebastian Pabian	Dispute Resolution	Baker & McKenzie	White & Case	Poland
3-Nov	Peter Zimmerman	Insolvency/ Restructuring	Zimmerman Filipiak Restructuring SA	Zimmerman & Partners Law Offices	Poland
3-Nov	Patrick Filipiak	Insolvency/ Restructuring	Zimmerman Filipiak Restructuring SA	FilipiakBabicz	Poland
10-Nov	Artur Bierc	Real Estate	Bierc Siwik & Partners	AB Legal	Poland
10-Nov	Robert Siwik	PPP/Infrastructure	Bierc Siwik & Partners	Jara Drapala & Partners	Poland
11-Nov	Gregor Ordon	Banking/Finance	K&L Gates	Wolf Theiss	Poland
11-Nov	Adrian Jonca	Tax	K&L Gates	Wolf Theiss	Poland
17-Nov	Tomasz Manicki	White Collar Crime	Linklaters	White & Case	Poland
4-Dec	Jaroslaw Grzywinski	Real Estate	Chadbourne & Parke	FKA Furtek Komosa Aleksandrowicz	Poland
26-Oct	Evgenia Teterevkova	Corporate/M&A	Dentons	Borenius	Russia
3-Nov	Nemanja Ilic	Dispute Resolution	Mihaj, Ilic & Milanovic Law Firm	Karanovic & Nikolic	Serbia
3-Nov	Senka Mihaj	Dispute Resolution	Mihaj, Ilic & Milanovic Law Firm	Karanovic & Nikolic	Serbia
3-Nov	Marko Milanovic	Dispute Resolution	Mihaj, Ilic & Milanovic Law Firm	Karanovic & Nikolic	Serbia
19-Nov	Zuzana Simekova	Life Sciences	Dentons	Allen & Overy	Slovakia
6-Nov	Dmitry Perevozchykov	Corporate/M&A	Michael Kyprianou & Co	Chalas & Partners	Ukraine
26-Nov	Yevheniy Deyneko	Corporate/M&A; Competition	Everlegal	Clifford Chance	Ukraine
26-Nov	Andriy Olenyuk	Banking/Finance	Everlegal	Clifford Chance	Ukraine
26-Nov	Andriy Porayko	Dispute Resolution	Everlegal	L.A. Group Law Firm	Ukraine
26-Nov	Afanasiy Karlin	White Collar Crime	Everlegal	Belegal	Ukraine
7-Dec	Olexiy Soshenko	Banking/Finance	Redcliffe	Clifford Chance	Ukraine
7-Dec	Dmytro Fedoruk	Corporate/M&A	Redcliffe	Clifford Chance	Ukraine
7-Dec	Sergiy Gryshko	Dispute Resolution	Redcliffe	Clifford Chance	Ukraine
7-Dec	Rob Shantz	Tax	Redcliffe	PwC Ukraine	Ukraine

If you have any information about major acquisitions, lateral moves, office closings, or other developments of significance in a CEE legal market, please contact us at press@ceelm.com.

Confidentiality is guaranteed.

Summary Of In-House Appointments And Moves

Date covered	Name	Company	Moving From	Country
11-Nov	Johannes Turk	Allianz Group	Skandia	Austria
19-Nov	Sujith George	HPI (Associate General Counsel for MEMA, CEE&I Region including Russia)	HP	Dubai
5-Nov	Moonika Kukke	Eesti Energia	Glimstedt	Estonia
24-Nov	Luiza Oprisan	N/A	Kanal D (Head Of Legal)	Romania
19-Oct	Timur Khasanov-Batirov	Dr Reddy's Laboratories Ltd	DTEK (Ukraine)	Russia
9-Dec	Elena Ryzhkova	Gazprom Neft (Head of Legal Department)	Pepeliaev Group	Russia
26-Oct	Ali Ilicak	PwC Turkey (Director of Competition & Regulations)	(Promoted)	Turkey
19-Nov	Dara Gill	HPE (VP & Associate General Counsel, CEE&I, Russia, and MEMA)	HP	United Kingdom

Summary Of New Partner Appointments

Date Covered	Name	Practice(s)	Firm	Country
9-Dec	Jens Winter	Labor	CMS	Austria
19-Oct	Alena Naatz	Corporate/M&A	White & Case	Czech Republic
3-Nov	Vojtech Chloupek	IP/TMT	Bird & Bird	Czech Republic
7-Dec	Marketa Cvrckova	Corporate/M&A; Real Estate	Taylor Wessing	Czech Republic
11-Dec	Ladislav Chundela	Corporate/M&A; Real Estate	White & Case	Czech Republic
11-Dec	Pavel Cizek	Energy	White & Case	Czech Republic
3-Nov	Piotr Dynowski	IP/TMT	Bird & Bird	Poland
8-Dec	Piotr Sadownik	IP/TMT; PPP/Infrastructure; Dispute Resolution	Gide Loyrette Nouel	Poland
11-Dec	Bartosz Smardzewski	Capital Markets	White & Case	Poland
11-Nov	Ioan Roman	Dispute Resolution	Maravela & Asociatii	Romania
30-Oct	Mikhail Suvorov	Corporate/M&A	Cleary Gottlieb	Russia
8-Dec	Ali Osman Ak	Corporate/M&A; Dispute Resolution	Gide Loyrette Nouel	Turkey

Other Appointments

Date Covered	Name	Firm	Appointed to	Country
27-Oct	Iva Basaric	Babic & Partners	Equity Partner	Croatia
30-Oct	Marcin Studniarek	White & Case	Office Executive Partner at White & Case (Warsaw)	Poland
30-Oct	Michal Subocz	White & Case	Head of Warsaw Dispute Practice	Poland
3-Dec	Anton Zhdanov	AstapovLawyers	Head of Moscow Office	Russia

Full information available at: www.ceelegalmatters.com

Period Covered: October 15 - December 10, 2015

Legal Matters: The Buzz

The Buzz

The Buzz is a short summary of the major and relevant topics of interest in Central and Eastern Europe, provided by those best positioned to know: law firm partners and legal journalists/commentators on the ground in each CEE country.

Austria

"Intense movement in the banking sector, with others likely to follow"

A lot of movement in the banking sector was reported by Willibald Plesser, Partner and Co-Head for CEE/CIS at Freshfields. According to Plesser, the topic of HETA remains very hot. Despite the fact that matters between BayernLB [which Freshfields represented in the dispute] and HETA (former Hypo Alpe Adria), "have reached a partial settlement, there are still many creditors out there trying to get their money from HETA or the State of Carinthia. This has set off a wave of instructions of both Austrian and foreign law firms. A number of law suits have already been filed against HETA and Carinthia, including a large number of claims against HETA before the courts of Frankfurt."

The banking sector is looking at other potential moves, as UniCredit has announced a substantial restructuring of its operations in Austria, with its CEE business likely to be transferred to Milan. At the same time, there are rumors that Raiffeisen was planning to change its structure (in particular, a potential merger of so-called "sector banks" was reported), while in Poland the exit of Raiffeisen seems to be on hold due to regulatory requirements. Erste is selling off NPL portfolios, and the owners of BAWAG seem to be looking for a potential exit – although Plesser noted how difficult it was to sell a bank in the region these days. The general feeling seems to be that the Austrian market is, at the moment, highly competitive and over-banked, and some of the moves above would reflect the difficulty resulting from that.

Aside from banking, compliance issues "are all over the place" with the Volkswagen case being just one of the ongoing issues in a practice area which is rapidly growing these days.

Plesser pointed to other promising practice areas. The first was Disputes, where a number of arbitrations have already popped up, and others are likely to follow, all revolving around breaches of investment treaties by states. Some of these disputes result from recent pieces of legislation on fixed-rate conversions of Swiss franc loans (such as in Hungary, Croatia, or potentially Poland). The second potentially growing practice is Private Equity. Plesser explained that there is "substantial ongoing activity in the market," not only from the classic investment funds that have been active in the region for a long time but also from pension funds (e.g., Canadian or Australian funds) who are looking around the region for long term investments in the infrastructure sector.

Bosnia and Herzegovina

"Legal updates abound, complemented by several big projects keeping the market on its toes"

Bosnia and Herzegovina's legislators have had a fruitful period, according to Emina Saracevic, Partner at SGL - Saracevic & Gazibegovic Lawyers, with several notable legal updates being passed recently.

Specifically, a new labor code entered into force at the end of August with a lot of work pending to harmonize it with internal acts of companies (such as rulebooks and employment agreements where applicable), all to be completed by February 2016. According to Saracevic, the main goal of the new piece of legislation is to "abolish unfounded employee benefits that primarily existed in the public sector, and create a positive environment in the private sector with the market dictating employment terms and conditions rather than number of post-communist relicts that were complicating business and employment in general."

A new law on companies was published in December and is due to come into force on December 22, 2015, closely following the new law on foreigners which came into force on November 25. This law introduced a blue card framework, and many of the legal updates reflect an overall drive to harmonize national legislation with EU legislation, according to Saracevic.

On the business side, several power plant developments are keeping the market excited, with the Government seeking to set up several strategic partnerships in 2016. The top bids at the moment, for a total project value of EUR 1 billion, are coming from Chinese companies.

At the same time, several infrastructure projects are developing quickly, both in terms of highways and railways, and that will likely continue to keep the market busy into the first half of 2016.

Estonia

"Regulatory work heating up"

Against the background of the Big 4 law firms entering the legal services market at both local and international levels, "news items number 1 and 2 in terms of what is most discussed in the legal market in Estonia is the merger between Cobalt and Borenius," according to Risto Agur, Managing Partner of KPMG Legal Estonia. The main question is whether the teams "will be able to make the merger work, as 1+1 might not always make 3, or even 2, in a small market like Estonia," explained the KPMG Partner. "Making synergies work is always the tricky part in such mergers so the market is now looking at it to see how it will play out," he concluded.

In terms of what's actually keeping lawyers busy in the country, Agur said that "while there does not seem to be a lot of M&A work going on in Estonia, regulatory, and in particular financial regulatory work is picking up considerably." Agur explained that much of that work is coming from EU-driven regulations with financial institutions, in particular, "struggling to meet the new regulations that are coming into play (e.g., the Fourth AML Directive, MiFID2, etc.) which keeps lawyers rather busy." Aside from banks, Agur pointed to 30 or 40 entrepreneurs in the lending market in Estonia that are "going through extensive preparations to meet new requirements arising from the Creditors and Credit Intermediaries Act that, in broad terms, resemble regulations on banks despite them only operating as lending businesses (and not raising deposits from the public like banks)." Despite the flow of regulations, Agur reported that the market is seeing a number of new potential financial institutions looking to set up in Estonia.

Latvia

"Tax and a bit of politics to talk about in Latvia"

According to Eva Berlaus, Office Managing Partner of Sorainen in Latvia, Tax is the buzzing topic in Latvia. "Our Government is adopting the budget for next year and it is coming up with creative solutions to increase tax revenue," Berlaus commented, while explaining that the regulators have set themselves an interesting challenge within the ongoing tax overhaul: "Try to be the most competitive jurisdiction in terms of taxes in the EU, while raising more funds."

One aspect of the tax overhaul is the tax on micro-companies in Latvia, which would increase in 2016. Furthermore, there are plans to make companies from a number of industries ineligible for the micro-company tax regime. At the same time, a solidarity tax will be introduced. Berlaus explained that for the last few years salaries past EUR 4,000 per month were exempted from additional social security payments (for any part above EUR 4,000). The rationale behind the approach was that the social security services that the state can provide are finite and, past the value of the taxes due on a salary of that level, there are no services that the state can provide to match the value. Subject to considerable discussions, that concept will be replaced, not by taxing above the threshold as a social security tax, but as a "solidarity tax."

The Sorainen Managing Partner mentioned that "the Government might be falling," but clarified that it is really just a matter of tensions within the governing coalition at this stage and that it's not clear how things will work out.

Romania

"Socio-politics raising question marks for lawyers"

According to Octavian Popescu, Partner at Musat & Asociatii, the intense activity of the National Anticorruption Directorate (DNA) and of the Directorate for Investigating Organized Crime and Terrorism (DIICOT) in the recent period is one of the main recurring points of discussion among lawyers, especially litigators, from both purely legal and socio-political perspectives, and even from a business angle.

In this context, Popescu pointed out that criminal procedure is commonly discussed among practitioners in Romania and passed through the lens of fundamental rights, which these days tend to be increasingly blurry lines.

Bucharest, November 5, 2015: Bucharest sees third day of protests at University Square against Romanian corruption in the aftermath of the Colectiv Club fire. (*Image source: Creative Lab/Shutterstock*)

He explained that, against the background of emotional reactions to recent tragedies in Paris and Bucharest [where 60 people died as a result of an October 30 fire in a popular nightclub – "Colectiv" – which demonstrated serious flaws in the safety checks conducted by authorities, generating significant criticism], increased demands are being placed on the state to deliver quick and dramatic changes, leading to a temptation to push limits that would not be felt in calmer times. Popescu suggested that important questions are being raised about how the law is applied and interpreted in these circumstances – reflected in a realignment of the penal procedure practice with direct implications for the right to defense.

Last but not least, Popescu said that the topic of professional advertising is again in the spotlight within the Bar Association, and he said that it is critical to achieve a balance when it comes to regulations on the matter within an ever-more dynamic and continuously modernizing profession.

Turkey

"Where's the market going?"

One of the favorite topics of conversation among lawyers in Turkey these days is about the legal market landscape overall, explained Gonenc Gurkaynak, Managing Partner of ELIG, Attorneys-at-Law. Specifically, the common question is whether the market is getting bigger or not. Gurkaynak's view is that, on the litigation side, things are definitely looking up, which he linked to increased confidence as "litigation is taken more seriously in Turkey and there is less of a fear of corruption disrupting the process." A positive sign of this phenomenon is the increased involvement in litigation cases from what the ELIG Managing Partner described as the "institutional firm side" since these are the players who will have hard policies in place giving guidance "on the way things are handled."

The story is a bit less optimistic on the transactional side, with Gurkaynak explaining that between the increased degree of turbulence in Turkey and the decreased levels of freedom, the country is registering fluctuations on the volume of deals. "Many potential investors are feeling insecure and are in a wait-and-see mode," he said. What is going on at the moment are usually small and mid-sized deals that leave less room for transactional lawyers to show their talents.

Gurkaynak explained that a number of foreign law firms in Turkey have positioned themselves as only carrying out transactional or banking/finance work. "While it might be the way to go in other countries, in Turkey it is a much more difficult approach with most local firms, including us, taking the full service firm approach, since it is easier to hedge if one practice area turns out to be not as hot within a specific period. International firms might then tend to have all their eggs in one basket, making their lives more difficult," Gurkaynak said.

He concluded by comparing the environment to that of other Middle Eastern countries: "I think people are comparing Turkey with the markets of Abu Dhabi or Dubai, where many firms are performing well in a 'transactional mode'-only scenario, but our capital markets are smaller and the level of finance work is simply not the same – there just isn't the same amount of loose money floating around as in those markets. Yes, there are other benefits, including a generally more stable and predictable legal environment in relative terms, but it does not change the fact that the volume of transactions is, at this point in time, low, both in terms of volume and value."

Ukraine

"A fruitful November"

The month of November was a busy one for Ukrainian legislators, with a total of 12 pieces of legislation being passed, according to Tatiana Timchenko, Partner and Director for Ukraine at Peterka & Partners. Many of the bills were required by the EU to simplify accession to the EU market and the visa regimes for Ukraine, and, Timchenko said, if passed in their current form, "they will bring about revolutionary changes for the legal market."

One of the most important updates in Timchenko's view is that of the labor code. "The previous one hailed from a Soviet heritage and was extremely protective of employees and trade unions," she explained. The new one, which has not yet been finally adopted, while still keeping an overall protective-of-employees approach, will significantly diminish the role of trade unions. In addition, should the new Code come into force, single mothers will no longer be 100% immune to dismissal, as in several situations such dismissals will be possible (e.g., in case of liquidation of an enterprise). Other changes will include a notice period decrease from two months to one, the statute of limitations increased to one year from three months, paid leave increased to four weeks, and the establishment of a requirement to formalize any agreement in written form. Perhaps the most controversial new provision, in Timchenko's view, is an anti-discrimination provision for gay people, which prompted protests in front of the Parliament.

Timchenko described the month as a "fruitful one for the Parliament," with notable pieces of amended legislation addressing state registration of businesses and NGOs, state registration of property rights to immovable property, an extension of the moratorium on the sale of agriculture land, the introduction of a new electronic system for public procurement meant to make tenders more transparent, and amendments to key provisions of the tax code (which she described as "perhaps one for which the whole business world is holding its breath"). The tax code seems to have been altered every year recently, and even now two draft bills are in discussions: one from the Government, and a "more business-friendly" one from the Parliament

Timchenko summed it all up as "a lot of material for newsletters, client alerts, and a lot of work for all lawyers in the country."

We thank the following for sharing their opinions and analysis:

- Risto Agur; Managing Partner; KPMG Legal Estonia
- Eva Berlaus; Managing Partner; Sorainen
- Gonenc Gurkaynak; Managing Partner; ELIG, Attorneys-at-Law
- Willibald Plesser; Partner and Co-Head of The CEE/CIS Region; Freshfields
- Octavian Popescu; Partner; Musat & Asociatii
- Emina Saracevic; Partner; SGL - Saracevic & Gazibegovic Lawyers
- Tatiana Timchenko; Managing Partner; Peterka & Partners

Filling the Gap: Regional Firms Stepping Up in CEE as International Firms Turn Away

In the decade or so after the Berlin Wall came down – and in a few select cases even before the German pick-axes began to swing – international law firms (ILFs) flooded into CEE, eager to participate in the big profits accompanying the region's awkward transition to a market economy. Especially at first, local law firms were woefully unprepared to compete, and had neither the capacity nor the skills to offer modern and highly-skilled services Western investors required.

Times, it can be said, have changed. And while many ILFs find themselves more interested in the larger economies of the Far East, Middle East, or Africa, the quality of local offerings has significantly increased – leading not only to stronger independent firms, but to the rapid rise of CEE-based Regional law firms. We decided to take a closer look at this phenomenon.

ILFs Are Picking Up and Moving On

By this point the news that another international firm has decided to close an office in CEE and retract one of its tentacles from the region is no longer surprising. Indeed, stories of such withdrawals have become common-place.

Here's a quick run-down of some of the more notable departures:

- Freshfields withdrew from the Czech Republic (2002)
- Freshfields withdrew from Hungary (2007)
- Linklaters pulled out of Romania, Hungary, the Czech Republic, and Slovakia (all 2008)
- Clifford Chance pulled out of Hungary (2009)
- Freshfields withdrew from Slovakia (2009)
- Simmons & Simmons pulled out of Russia (2009)
- DLA Piper pulled out of Bulgaria (2011)
- Beiten Burkhardt pulled out of Poland (2012)
- Skadden Arps pulled out of Austria (2013)
- Beiten Burkhardt pulled out of Ukraine (2013)
- White & Case left Bucharest (January 2014)
- Gide Loyrette Nouel left Bucharest (February 2014)
- Norton Rose left Prague (May 2014)
- Hogan Lovells left Prague (June 2014)
- Chadbourne & Parke left Kyiv (October, 2014)
- DLA Piper left Istanbul (November 2014)
- White & Case left Budapest (April 2015)
- Eversheds left Prague (January 2015)
- Gide Loyrette Nouel left Budapest (November 2015)
- Gide Loyrette Nouel left Kyiv (November 2015)
- Clifford Chance left Kyiv (December 2015)

Some ILFs, concededly, are swimming against the tide – primarily in Turkey, which in recent years has proven irresistible to firms such as Clifford Chance, Baker & McKenzie, DLA Piper, Chadbourne & Parke, and Allen & Overy. Though even by the Bosphorus the bloom may be off the rose, as DLA Piper concluded its relationship with YukselKarkinKucuk and withdrew from turkey last year – a mere four years after arriving. Rumors abound that other international firms may follow suit before long as well.

Regardless, of the 17 law firms with significant CEE footprints, only one has opened an office in CEE outside of Turkey since 2009 – Eversheds, which opened up in Romania in 2011. In that same time, those same firms have shut the doors to 13 offices in the region.

Your Loss is Our Gain

While the ILFs pull back from CEE, Regional law firms seem to be spreading like wildfire. A full list of new office of Regional law firms in CEE would fill the page, but a list of regional firms with offices in 4 or more CEE jurisdictions includes Wolf Theiss (in 13), Schoenherr (12), CMS Reich-Rohrwig Hainz (9), Peterka & Partners (9), bnt (9), CHSH (8), Karanovic & Nikolic (7), Kinstellar (7), ENWC/Taylor Wessing CEE (7), and ODI (4).

And only one office of a Regional firm has been closed in recent years (Schoenherr's, in Kyiv, earlier in 2015).

What does this all mean? Does it mean international law firms are turning to more fertile markets? Does it mean regional firms have strengths the international law firms are unable to match? Does it indicate that, as technology grows and travel becomes ever-easier, international law firms are better able to compete from a distance, obviating the need for extensive on-the-ground presences?

As with all things, it depends on who you ask. So that's what we did.

DEFINITIONS AND EXPLANATIONS

Any article like this requires clarifications, qualifications, and exceptions – but, if you're not careful, they start to overwhelm the article itself. So we'll keep this short:

For the purposes of this article, "International Law Firms" are those law firms headquartered in the United States, United Kingdom, Germany, or France, while "Regional law firms" are those firms which are headquartered in CEE (which we define to include Turkey, Greece, Austria, and Russia, among other countries). For this article and supporting data, we focus only on those firms with offices in at least three CEE countries.

There is one exception to the above: When calculating which firms qualify as Regional, we do not include those based in the Baltics. This is not to diminish their importance or the significance of their distinct historical, political, cultural, or linguistic nature of Lithuania, Estonia, and Latvia, but simply because there are so many firms that cover all three (and, often, Belarus) that including them in the analysis risks warping it altogether. In addition, as we reported in our June 2015 issue, at the moment there is only one truly integrated pan-Baltic law firm (Sorainen), with others claiming various levels of integration, adding an additional complicating factor.

CMS and Taylor Wessing CEE are problems as, in one incarnation or another, they qualify as both international law firms and regional law firms, simultaneously. Why ILFs? Well, Taylor Wessing and CMS Cameron McKenna are both based in London. Why Regional law firms? Well, CMS Reich Rohrwig Hainz and Taylor Wessing CEE (the former ENWC) are headquartered in Vienna, with 9 offices (not including its shares in CMS offices in Istanbul and Moscow), and 6 offices in CEE, respectively. Ultimately, both are wild cards, making it difficult to include them in any one analysis without multiple asterisks. Thus, Partners from those two firms must not take offense at generalizations that seem to ignore them.

We're also not addressing the arrivals, departures, and re-arrivals of the Big 4. An analysis of their renewed presence in CEE can be found in the December 2014 issue.

This is, obviously, an introduction and 10,000 meter overview of the subject, and we are not able to address philosophical or even legal questions about what is or is not a law firm (compared to some other slightly different classification with legal significance), which local practices or affiliates of international law firms are required to register as wholly independent in which jurisdictions, and so on. In short, we accept without reservation any distinctions various firms wish to make, and this article should not be relied on for any accusations or technical findings, by a bar association or anybody else.

"The international firms suffer because the privatization work which drew them to the region is more or less over, and their high fees (and high salaries) makes them uncompetitive. Especially as many of their local offices are unable to generate their own business, and do not receive much work from London, they offer no real extra value for the higher fees they demand. As a result, many of them are making a strategic choice not to subsidize CEE operations anymore, and are instead turning their attention to China, Brazil, or Africa. By contrast, regional firms – especially truly integrated regional firms – offer strong local roots and local knowledge, competitive pricing, and the same (or sometimes better) quality than international firms. General Counsel of global corporations are looking for a genuinely regional solution, and understand perfectly the difference between a truly integrated firm and all other schemes."

Ondrej Peterka, Founding and Managing Partner, Peterka & Partners

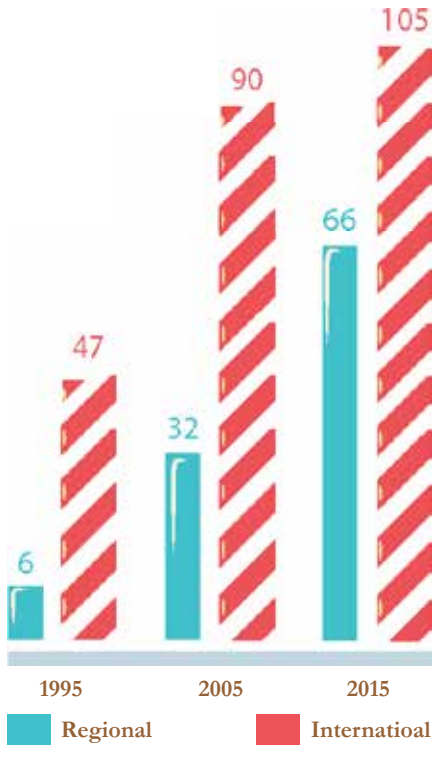
[Speaking about how A&O has maintained its footprint in the region, while other ILFs have shrunk theirs] "I think that it is a combination of factors, all of which need to be present for it to work. For us it is a combination of a clear strategy, including a genuine commitment to the CEE region; diverse (but still high end) product line expertise (meaning we can flex with the market with the ups and downs of for example corporate, finance, capital markets and regulatory work); and finally our culture, which I believe is a collegiate culture enabling us to resolve problems and avoid internally-generated existential threats."

Hugh Owen, Partner, Allen & Overy

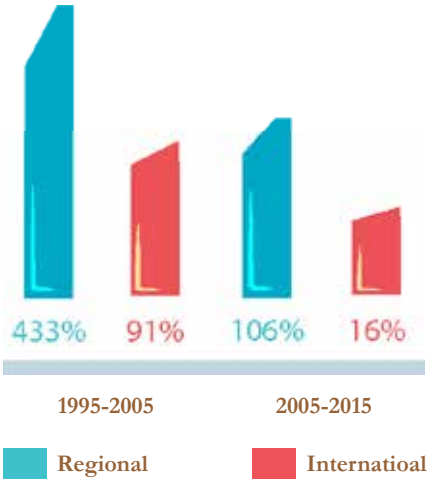
[Explaining in a 2009 press release why the firm was withdrawing from Hungary] "As the leading international and regional firm in Central and Eastern Europe, we see a huge amount of potential for us in the region. However, our strategy is to develop our firm in those areas that are most important to our major international clients and this is where we must concentrate our investment. While our Budapest office is a successful, highly-regarded, top-tier practice that has been involved in most of Hungary's ground-breaking transactions over the years, we believe that a standalone Clifford Chance operation is no longer needed in Hungary and that we will be best able to meet the needs of our strategic clients through this 'best friends' arrangement."

David Childs, former Global Managing Partner of Clifford Chance

Number of offices of regional and international firms in CEE by year.



Growth rate of the number of offices of regional and international firms in CEE



"CMS because of its critical mass is able to employ mid-level lawyers with a high degree of specialization that can perform legal tasks in fewer hours. I believe law firms with smaller teams in CEE that can not offer such efficiencies struggle to maintain high profits and are forced to scale back their number of lawyers."

Andrew Kozlowski, Managing Partner, CMS Warsaw

"CEE-based firms are here to stay. Market movements will not make them consider moving out of individual markets, but rather to respond to changes in the market environment. That is obviously also easier for firms headquartered in the region – decisions are taken in the region rather than in London or on the other side of the Atlantic. At the same time, Magic Circle firms have a more impressive ability to bring deals globally to the region. In particular those clients with no previous exposure to CEE might choose to turn to a Magic Circle firm they have already worked with elsewhere in the world rather than to reach out to a CEE-based firm."

Markus Piuk, Partner, Schoenherr

"What I see as key is the flexibility of a smaller more entrepreneurial system."

Patricia Gannon, Founding and Managing Partner, Karanovic & Nikolic

"Freshfields has a long history in the region, and we have had our own offices in Hungary (founded 1989), the Czech Republic (founded 1990) and Slovakia (founded 1991). Through these offices, we capitalized on the massive investments from Austria, Germany and other Western European markets into CEE in the mid-90's. Soon after the merger with Freshfields in 2000 we looked at the region and realized that we could not have offices in all markets that were booming at the time. For example, Poland was a huge market but was already flooded in terms of legal services. We also reached the conclusion that it was not realistic to expect to successfully grow what we believed to be a 'real Freshfields' office in each of these markets – a true full service firm, top ranked across the board. It would have also implied a lot of handholding of local teams, which we did not feel worked with our overall strategy. We changed our strategy to cooperating with 2 or 3 top firms in each of the CEE countries, which allows us to bring the best qualified people to each job, a must for a firm like ours. Freshfields was, as we all know, not the only international firm to take this approach. Our current model – which we practice on a worldwide level – is working very well for us, and a third of our global revenue comes from jurisdictions where we do not have offices."

Willibald Plesser, Partner and Co-Head of CEE/CIS, Freshfields

"We continually review our strategy to ensure the firm is best aligned with the needs of our clients, and that's no different in CEE. As a leading global law firm, White & Case wants to have global clients and serve them globally. The changes we've made to our presence in the region over the past couple of years have enabled us to focus on high end and non-commoditized work. We're now better aligned with our clients and playing to our strengths in handling the complex, cross-border matters as well as top tier local work for which we are a recognized market leader in the region."

David Plch, Executive Partner in Prague, White & Case

International and regional firms' office openings and exits

Firm	Type	Albania	Austria	Belarus	Bosnia	Bulgaria	Croatia	Czech Republic	Estonia	Greece	Hungary	Latvia
CHSH	R		1921-	2008-		2008-		2013-			2009-	
Drakopoulos	R	2007-								1992-		
Karanovic	R				2005-		2013-					
Kinstellar	R					2014-		2008-			2008-	
ODI	R						2010-					
Schoenherr	R		1950-			2004-	2001-	2009-			2008-	
Wolf Theiss	R	2004-			2005-	2008-	2003-	1998-			2007-	
Taylor Wessing CEE	R		1986-					1998-			1995-	
bnt	R			2007-		2013-		2003-	2006-		2003-	2003-
Allen & Overy	ILF	1998-2004						1992-				
Baker & McKenzie	ILF		2003-					1993-			1987-	
Bird & Bird	ILF							1998-			1998-	
Chadbourne	ILF											
Clifford Chance	ILF							1995-				
CMS	ILF	2011-	1970-		2007-	2004-	2003-	1991-			1989-	
Dentons	ILF							2003-			2006-	
DLA Piper	ILF		2003-			2008-2011		2005-			2004-	
Eversheds	ILF		2004-					2007-2015	2007-		2004-	2007-
Freshfields	ILF	2000-						1990-2002			1989-2007	
Gide Loyrette Nouel	ILF										1993-2015	
Hogan Lovells	ILF						2000-	1991-2014			2000-	
Linklaters	ILF							2000-2008			2000-2008	
Noerr	ILF							1990-			1990-	
Norton Rose	ILF							2006-2014		1990-		
Squire Patton Boggs	ILF							1990-			1991-	
Weil	ILF							1992-				
White & Case	ILF							1991-			1991-2015	

"CEE markets are relatively uninteresting for major international law firms because the markets are small and the fees achievable are lower than they achieve most everywhere else. As such, major international law firms cannot make the investments in quality that they typically make elsewhere and at the same time give real opportunities for career growth to their people. They will not be able to make reasonable numbers of true equity partners in the region. This means they cannot offer longer-term career prospects for the best and brightest in their markets. By contrast, local firms often don't offer real career progression prospects for many people outside the founder group and struggle to invest in know-how, training and learning – that is, in their people and in their ability to deliver high quality service. This has opened a gap in the market for regional firms that both seriously invest in those things which allow a firm to deliver consistent high quality service and provide a longer-term and real career prospect to their up and coming people."

Jason Mogg, Managing Partner, Kinstellar

"Clients have slowly come to understand that local and regional firms have on offer a large and locally-grown talent pool, which keeps growing so that in terms of winning business, it is all coming down to cost efficiency and fee management. A continuous market pressure on legal costs is somewhat better absorbed by regional firms which are better at operating at reduced costs than global firms which have high expat and office costs to contend with. The knowledge and understanding of the local market and culture may also work in our favor."

Uros Ilic, Founding and Managing Partner, ODI Law Firm

Firm	Type	Lithuania	Macedonia	Montenegro	Poland	Romania	Russia	Serbia	Slovakia	Slovenia	Turkey	Ukraine
CHSH	R					2005-			2006-			
Drakopoulos	R					2005-						
Karanovic	R		2012-	2005-				1995-		2015-		
Kinstellar	R					2008-		2010-	2008-		2010-	
ODI	R		2010-					2009-		2005-		
Schoenherr	R				2009-	1996-		2002-	2009-	2001-	2013-	2006-2015
Wolf Theiss	R				2014-	2005-			2002-	2003-		2009-
Taylor Wessing CEE	R				2004-				2004-			2008-
bnt	R	2004-			2005-				2004-			
Allen & Overy	ILF				1991-	2008-	1993-		2000-		2013-	
Baker & McKenzie	ILF				1992-		1989-				2011-	1992-
Bird & Bird	ILF				1998-				1998-			
Chadbourne	ILF				1990-		1990-				2011-	1993-2014
Clifford Chance	ILF				1992-	2006-	1991-				2011-	2008-2015
CMS	ILF			2012-	1995-	1999-	1992-	2000-	2004-	2008-	2013-	2006-
Dentons	ILF				1991-	2003-	1991-		2003-		2003-	1992-
DLA Piper	ILF				2007-	2008-	2004-		2003-		2010-2014	2005-
Eversheds	ILF	2007-			2005-	2011-	1991-		2007-2015			
Freshfields	ILF						1992-		1991-2009			
Gide Loyrette Nouel	ILF				1991-	1998-	1993-	2004 -2010			1997-	2006-2015
Hogan Lovells	ILF				2000-		1994-					
Linklaters	ILF				2001-	2000-2008	1992-		2000-2008			
Noerr	ILF				1992-	1998-	1994-		2004-			2007-2013
Norton Rose	ILF				2001-		1991-					
Squire Patton Boggs	ILF				2005-		2005-		1991-			2003-
Weil	ILF				1991-							
White & Case	ILF				1991-	2008-2015			1997-	1985-		

Settling In at VKP: Andriy Stelmashchuk Looks Back at His First 7 Months at Vasil Kisil & Partners

In May, 2015, Vasil Kisil & Partners announced that disputes specialist Andriy Stelmashchuk had been elected the firm's new Managing Partner – becoming the first Managing Partner who was not among the venerable firm's founders. The change coincided with the introduction of what the firm described as "a new corporate identity," which the firm claimed reflects "the firm's development strategy and key values of the brand: a national law firm operating to Western standards and leading the changes and innovative solutions."

Outgoing Managing Partner Oleg Makarov said he was especially proud of the firm's commitment to a management transition as a normal part of business: "The succession of management to a partner who, for the first time in the history of the Ukrainian market, is not a founder of the firm but has actually grown up inside it as a lawyer and a professional is both a challenge and a chance. The strategies we have approved and the goals we pursue now call for a new vision and for changes that only Andriy can handle."

We caught up with Andriy Stelmashchuk to see how these changes had played out over the first seven months of his leadership.

CEELM: You were the first non-founding partner elected as Managing Partner of VKP. How did that happen?

A.S.: Actually it was a surprise to me as well. I was elected at the end of April this year, but as late as March I would never have imagined that we would have changed our managing team. The partners had had discussions about how to develop our business and what our priorities should be for next year, and what should be changed, and we drafted a plan. We discussed it at a partners meeting, and it was obvious that we needed a person with a fresh look to implement this specific plan. Oleg Makarov, who was the Managing Partner for the last nine years, is transferring his managerial experience to me and other partners. His support and assistance can be hardly overestimated.

I wouldn't say it's an easy task to be a Managing Partner in a firm like this one, but when you trust your partners as yourself and have a strong back office team, you can make real changes, because you have people who can help you.

CEELM: This must have been a substantial proposal – a significant change you were proposing. What was it?

A.S.: Yes, it was. We significantly changed the way we structured our teams. Before we had departments which had what appeared to be a Chinese Wall, so all the work was concentrated within departments.

We broke down the walls between the departments and made the teams more flat. Now, for example, when a Partner from Real Estate has a dispute, he can engage a Counsellor or a Senior Lawyer from the disputes resolution team who is good at real estate disputes and they can work together without a Partner from the dispute resolution department – unless, of course, the case requires it.

And that was a significant change, because before, regardless [of] who the contact partner of the project was, all the work was transferred to a specific department, and the partner from that specific department took care of the work. It's a quite significant change for our culture of management. And this change is delivering good results, actually, because first, clients have the same contact person, and you don't have to rebuild relationships from scratch, and second, you can make your services less expensive and you can compete better on the market.

And it makes our team stronger because people interact, share experience, and find better solutions.

CEELM: Were you asked to create this proposal, or did you sit down together and say this is something you need to do?

A.S.: It actually happened when several partners abruptly left the firm in 2014. To our own surprise, this change brought a new atmosphere, new fresh air to the firm, and we started to rebuild. We said, "OK, this is the way to go, and we should look for many new opportunities to cooperate and more ways of working together to service our clients."

CEELM: You've referred to these changes as being part of your plan to operate according to "Western" standards. How else are you doing that?

A.S.: We've operated to Western standards from the time we were set up – for over 20 years. In 1992 there were two really big law firms in Ukraine: Baker & McKenzie, which did contractual/commercial work, and VKP, which did Dispute Resolution work, and we communicated closely and frequently between us. So we were quite well educated by Baker & McKenzie on how to manage a firm, and on how to stay ahead of trends on the local and global legal markets. Of course partners read clever books on managing

a law firm, but it's usually better to have a person you can ask for how things work in practice rather than on paper.

CEELM: So when you say you operate on Western standards, what does that mean?

A.S.: First of all it means that we pay a lot of attention to quality of service. Not only legal service, but servicing clients, and client relations. We have to make sure that the results of our work will be well-understood for Western clients and will meet the highest international standards. So we should speak the same language – by which I mean not only English, or German, or Russian, or anything else, but also the style of communication to which they are accustomed. That's second. Third is the ethical aspect of it. Eastern Europe – and Ukraine particularly – is not an easy market, and your counsel and his legal expertise is not always enough to get a result – but we stand on the position that there should be zero tolerance of corruption or any other activity that is not legal, and we mean it both in communication with state authorities (and the courts in particular), but also internally. We pay all taxes, and we pay what's called "white" salary – we don't pay salary in envelopes handed out under the table. Which not everyone here can say. We have never had "hidden partners" in our business, and we never will. All our partners are on our website. If one decides to leave the firm and serve the country, it is his choice.

So ethical aspects have always been important for us, and particularly these days, when our country is trying to fight against corruption, it's important that we remain a benchmark in this respect as well.

CEELM: You've been Managing Partner for seven months. How has that been so far?

A.S.: It was very challenging. It was quite difficult, because managing a team of 3, 5, or 7 associates is one thing – I've had that kind of experience before. But that's absolutely different than managing a firm, when you have so many different obligations. You have to make sure that there is communication and cooperation between all people. The core of our business is people. It is all about people, and we have to make sure that our people are satisfied with business processes, with remuneration, with working conditions, etc., to make sure that they'll be polite and focused when providing services to our clients.

CEELM: What is your personal practice?

A.S.: I do tax litigation, and I've been practicing White Collar Criminal Law for a while, and I'm now focusing on developing this practice in our law firm, because it's increasingly important here. More and more firms have this practice in Ukraine. If you look back five years ago you would hardly find any big law firms or law firms in the top twenty with this practice. This used to be the domain only of law boutiques or smaller firms.

CEELM: Were you able to keep your own practice going as well?

A.S.: Yes, sure. That was one of the requirements. That's what is different, compared to what we had before, because while before we had a target of only 20% of a partner's target for the Managing Partner, now its different, and we don't have any reduced expectation for a Managing Partner. And I believe it's possible to combine both management and client service responsibilities. You have to be heavily involved in doing business to make sure you stay involved with what's happening with your clients and what's happening on the market.

CEELM: It sounds like a lot of work!

A.S.: Yes! (laughs). It is. Quite a lot.

CEELM: Are you Managing Partner for a specific time?

A.S.: Our Managing Partners are elected for two-year terms. The succession plan was newly introduced by us to a conservative Ukrainian legal market in May. This is uncommon for Ukraine, where usually the Managing Partner is one of the founders of a firm, and he or she manages the firm until he or she retires or goes into public service. Actually, as I wasn't planning on being elected Managing Partner before it happened, and, frankly speaking, it was never my primary goal, I'll be absolutely glad to implement my plan at this position and at some point, when the time comes, transfer these duties further.

CEELM: You're younger than many of your counterparts at other firms. Is your management style different, and does it reflect your youth somehow?

A.S.: It depends on the situation, of course. Initially I have trust in people, and I treat each person as trustworthy. I prefer to take risks and I prefer to delegate some of what might seem to be partner responsibilities to associates. I believe the sooner you empower them, the sooner you will have new partners.

Our policy has always been to develop and trust young people. We develop partners from inside, and we do not hire partners or senior associates. We tend to invite people to join our fito irm when they are students, and to make sure we have good people next to us and then train them to our standards and levels of service. And between me and good people there is not such a large gap, which makes it easier to communicate.

Of course, I'm the age of many associates in my firm, so many of them went to University with me, and now I'm their Managing Partner. Some are younger, but not substantially. We have good mutual understanding, because we do not have a big generation gap.

CEELM: What would you say is your selling point to clients? What's the VKP difference?

A.S.: We sincerely want to understand the core of our clients' business and industry. Just to make sure we are not simply producing legal advice, but are actively adding value to our client's business. Today clients are very well-educated – sometimes better educated than their counsel. We have to make sure we're not just offering things that are common sense, but are actually diving deep into our client's matters, to make sure the client is happy, and not paying for information he can just google. And we sincerely believe in it and are paying attention to it, and in our internal meetings we talk a lot about the fact that, whether you are a senior lawyer or a junior lawyer, you have to be focused on your client's business. You have to dig up what your client is doing. If you have a chance to visit your client's factory or a production facility, you have to do it, just to determine what your client feels every day. My colleagues do just that.

CEELM: Have you seen positive response and more business coming in in your eight months at the helm of VKP?

A.S.: Yes. At first we focused on certain business processes, and in particular on improving our financial discipline. I'm strict in this respect, and this approach leads to good business. And I personally pay a lot of attention to meeting with clients just to keep communicating and making sure that we are on the same page and still understand what our clients are doing and what problems they are facing. Most of our clients are international, so we focus on developing relations with our best friends from abroad, including law firms in the UK, EU, and USA.

David Stuckey

Face-to-Face: Emilija Spaseska-Evtimova and Gjorgji Georgievski

In our recurring Face-to-Face feature, we invite a Partner from a leading law firm to interview a General Counsel from his or her market. In this issue, Gjorgji Georgievski, a Partner at the ODI Law Firm in Macedonia, speaks with Emilija Spaseska-Evtimova, the Head of the Legal Department at TAV Macedonia.

G.G.: Why did you get into law? You worked both in private practice and in-house – which do you prefer, and why?

E.S.E.: My beginnings in the legal counseling business were in a law firm where I worked for almost 4 years. The diversity of clients and topics provided me with the unique opportunity to practice law in different areas on a daily basis. Taking care of the overall legal safety of the client was always a great responsibility and challenge, especially for foreign investors coming from countries with a different core of legislation.

After this experience all the other work assignments were, and still are, connected to one client only. In-house counseling provides different perspectives on the counseling activity itself. Namely, sometimes as an outside counsel we did not always see and understand the internal processes of our clients, making some of their decisions illogical and unclear to us. Now, as part of the work and core process, I'm aware of the decision-making and adoption processes and the consequences thereof. Different perspectives provide, indeed, a different manner of advising.

G.G.: What do you wish external counsel you work with did differently/better?

E.S.E.: At the moment the engaged legal counsels we have at the company provide the sufficient support agreed and required for the work process.

Emilija Spaseska-Evtimova, Head of the Legal Department,TAV Macedonia

CEELM: What kinds of legal work do you normally outsource? What kinds of matters arise commonly, requiring outside counsel?

E.S.E.: The relationship with the outside counsel is based on the day-to-day work and the introductory due diligence conducted for the purposes of providing efficient and accurate legal advises. Our attorney represents the company at court when necessary and any other institution based on our instructions and requirements. The care provided by our attorneys is dependent on our needs and requests including the internal regulations, alignments in accordance with the law, tailor-made legal opinions etc.

CEELM: Do you find a firm familiarity with airport-regulatory matters is necessary (either in Macedonia or institutionally), or are the matters that you outsource not highly technical in nature, and not generally requiring extensive familiarity with the sector in particular?

E.S.E: Macedonia is a small market in terms of experts in the aviation industry in general. The same goes for the aviation lawyers. Each company would like to have a variety of companies to choose from in case outsourc-

Gjorgji Georgievski, Partner, ODI Law Firm

ing counsel is required. But in our case the technical, operational, and the legal issues are commonly handled by the legal department with the support of the operations department and, as the case may be, our outsourced counsel.

G.G.: What are the greatest challenges in ensuring compliance with air transport legislation and other industry non-specific legislation?

E.S.E.: The overall legislation connected to aviation on international and national level must be in compliance from scratch. The involvement of the Airport Operator in suggesting and amending the laws in Macedonia provides TAV Macedonia with the opportunity to be included in the law adopting process from the beginning.

There is hardly any law that I did not read since I started working for TAV Macedonia DOOEL Petrovec. The aviation industry relies on almost all other industries in the country with reference to law. Ok, maybe we do not have to keep an eye on the heavy-steel industry, but you get my point. It is not rare these days that the day begins with labor relations issues connected with a disciplinary proceeding followed by traffic regulation for the nearby highway. The following activities would be connected to the supply of gas of the airport and the sale-purchase of services for removing of rubber from the runway, ending in a review of the law on hunting for the necessity of engaging the hunting society to ensure the safety of the air-transport.

The main challenge is to make sure that all activities – both air-side and land-side – are conducted within the specific set of rules applicable for the designated spot. The international rules applicable for the air-side (the security restricted area of the airport) do not contradict domestic legislation (land-side – free zone) but sometimes it can be challenging to have air-side regulations implemented alongside with the domestic legislation.

G.G.: Can you provide us with some insights into the air transport legislation in Macedonia and its interpretation and enforcement by the relevant oversight agencies?

E.S.E.: The adoption of the highest standards for safe air-transport is the primary goal of all relevant agencies, including the Macedonian CAA. The Civil Aviation Agency, as a regulator in the aviation industry of Republic of Macedonia, is an independent institution within the government system. The CAA allows the Airport Operator to be included in the overall processes connected to the airports at all times.

G.G.: If you could, what piece of legislation would you like to see changed?

E.S.E.: The airport industry, as a part of the robust aviation industry, is fast-growing in certain ways and slowly-progressing in others. Namely, the usage of high-tech as a segment of any part of aviation makes it almost impossible for the legislators to reach the day when the legislation is aligned with the technology itself. So sometimes there are parts which are fast-growing and being regulated after their occurrence as a daily part of the aviation itself.

The rest of the legislation is slowly and steady moving forward, which provides stability in the standards for any related party.

As Macedonia-based in-house legal counsel, we have a few initiatives for amending the laws in Macedonia. They are all connected to the operational part of the work of the Airport in Macedonia and aim to improve the work itself, as well as the satisfaction of the passengers.

G.G.: Are there any location-specific legal risks relating to the Skopje Airport and the Ohrid Airport? Do you employ the same legal risk management principles for both airports?

E.S.E.: As a small and seasonal Airport, the Ohrid Airport must comply with the standards effective for the big and crowded international airports, all while dealing with the limited space and number of flights. The legal oversight associated for such small airports, provided that this compliance is impeccable, involve ensuring the follow-up of such implementation and on-time information for any new change applicable both for the international and domestic regulation.

The considerably larger Skopje Airport endures the weather challenges with the support of the Ohrid Airport during the long foggy winter days. Operational risks could be managed in the best possible way with the strict and effective regulation of all processes herein. The set of regulations applicable for all employees in the company are closely monitored in all departments ensuring complete compliance of the process with the legal requirements.

As you can see, the basis of both airports is the same: complete compliance.

G.G.: How do you achieve and maintain inter-departmental synergy in a view of ensuring compliance with both industry specific and non-specific regulations?

E.S.E.: The legal department at the Airport is the same as any other legal department at any company. All industries have their challenges in ensuring the compliance with the mandatory, the necessary, and the wishes of the business process.

Radu Cotarcea

Market Spotlight Poland

In this section:

Guest Editorial: A Gift Worth Giving

At first blush it might seem a bit odd for me to use a holiday season editorial to discuss Poland's new restructuring law and bankruptcy law amendments that will become effective with the New Year. Am I taking away from the giving spirit? I think not.

We are about to see a significant reform of Polish insolvency law, bringing us: (1) procedures allowing for the restructuring of a debtor's business and preventing its bankruptcy, and (2) a modernization and streamlining of the bankruptcy law which include refining the bankruptcy triggers, adjusting priorities, facilitating prepacks, and otherwise rationalizing the liquidation process.

These reforms were a long time coming and very much needed. There is no doubt that Poland's ongoing economic achievements are something about which all of us are and should be very, very proud. But there is always a flip side to economic success: businesses that are in trouble and need help. We have a different story here. Prior Polish bankruptcy procedures focused on liquidation rather that rehabilitation were lengthy, carried high costs, and usually resulted in a relatively low level of claim satisfaction. Prior law was a failure.

A successful implementation of the reforms should further polish Poland's economic story. The Polish legal community will have a very big role in how things turn out. I think we need to make sure our contributions are positive.

Our first priority must always be the interests of our clients, of course. But we can at the same time choose to use our tradecraft to carry out the true intentions of the reforms rather than finding ways – and we all know there will always be ways – to frustrate reforms and solidify the status quo. Let's do nothing as a profession that glorifies meaningless detail, prompts unnecessary divisions among participants or encourages delay for the sake of delay. Our counsel should seed reasonableness among our clients, not distraction, digression, dissension, or discord. The sooner a business gets back on its feet the better it is for everyone, including lawyers.

The judiciary is also key, for sure. Getting comfortable with the new rules of the game will be just as challenging for judges as it will be for practitioners. We should view our role as being part of the educational solution for the judiciary. We are really lucky that so many Polish lawyers have hands-on experience with the law and practice of other countries, including U.S. Chapter 11, the English scheme of arrangements, the German Insolvenzordnung, and the French sauvegarde. We have a lot of real know-how that we can pass on to the bench.

The process of bringing the reforms into Polish law was long, inclusive, and exhaustive. Some say it was too much so. I view the process and result differently. This Buddhist expression comes to mind: "When the student is ready, the teacher arrives." The process established beyond any doubt that Poland is really ready for meaningful reform in both its insolvency law and practice. The time is right for the Polish bar to assume the role of instructor in making sure reform actually happens.

So, don't just be a spectator; be a participant in your day-to-day practice towards the achievement of the reform objectives of these new laws. Let go of the old frame of reference. Make the investment of thoroughly educating yourself as to all the available features and possibilities of this new legislation. Make all the opportunities known to and understood by your clients. Don't shy away from establishing successful precedents and productive practices. Let's be the lawyers we know we can be, ones that make a difference.

We must all lean in to this task. In the final analysis I can't think of a better Christmas present from the legal community to a country that has been so good to our profession.

Peter Daszkowski, Co-Managing Partner, Wolf Theiss Poland

The Booming Polish Real Estate Sector

Wojciech Koczara, Partner/ Head of CEE Real Estate and Construction, CMS

Jakub Ziolek, Partner, Crido Legal

Krzysztof Wierzbowski, Partner, Eversheds

Kamil Osinski, Partner, Kochanski Zieba & Partners

State of The (Real Estate) Market

"The real estate business is booming and property lawyers are very busy," says Wojciech Koczara, Partner and Head of CEE Real Estate and Construction at CMS.

That confidence is shared by all Polish real estate lawyers that we spoke to. Jakub Ziolek, Partner at Crido Legal, claims that, in this instance, Poland is a microcosm of the region as a whole: "For the past couple of years since the end of the economical down-turn, we experienced a growth in the real estate market in the entire CEE region and this is clearly seen in Poland as well."

Kamil Osinski, Partner at Kochanski Zieba & Partners, notes that this is, in many ways, "a repetition of the dynamics of 2014." According to Osinski, the value of investment transactions in the commercial real estate market amounted to EUR 650 million in the first three quarters of 2015 – a number he expects to increase considerably, "due to high activity of investors in the last months of the year." Osinski believes that by the end of the year the record of EUR 1.3 billion might be exceeded.

Ziolek reports that the profile of buyers is slightly different from that before the crisis, as, "due to lessons learned, investors are more cautious and select properties with no or minor risks involved." He adds that "even this trend seems to change in the case of well-located real estate properties which guarantee profits."

And many law firms are betting on the sector to drive their growth. Osinski says, "the number of cases and continually increasing market potential … is the basis for continuous development of a real estate practice and expanding its structures in order to meet the requirements and expectations of clients."

Stability, Interest Rates, And A Strong Dollar

General economic growth is the factor most commonly associated with the current rate of transactions in the Polish market. Koczara explains that steady growth in the economy has resulted in "demand for office, logistics, retail, and residential properties," with "all sectors booming."

Ziolek notes that "the effects of the economical down-turn have not been so painful [in Poland]."

Osinski explains that "in comparison to other EU countries, Poland has a stable economy, wide prospects for economic growth, falling unemployment, low interest rates, developed markets, and attractive real estate prices leaving space for higher return on invested funds." The KSP Partner adds that, "Warsaw, offering up to 4.5 million square meters of modern office space (with several significant projects under construction to be delivered in 2016), is the largest office market in the region."

Eversheds Partner Krzysztof Wierzbowski claims that "the general investment climate supports real estate investments rather than just capital markets." Koczara attributes this specifically to low interest rates and deflation, which, he believes, has multiple implications: "(a) With government bonds in the EU and US having very low interest rates, deposits in bank accounts do not yield any income. There is a significant surplus of capital looking for safe investment products which yield at least some profit – which real estate offers; and (b) bank financing is available at very low costs." And the availability of low-interest bank financing, Osinski says, means that, "developers are launching new projects to secure both new and existing tenants, while entrepreneurs are now able to take up office space on more favorable conditions."

Another driving force for the real estate sector, Koczara points out, is the relative strength of the US dollar, which "makes investing in Europe very attractive for American investors." Indeed, more than one expert cited a report claiming that US investors were involved in almost half of the transactions (in terms of volume) in the first half of 2015 – a 14% increase compared to the previous year.

And the market's hardly saturated, Wierzbowski claims, pointing out that the country still offers "underdeveloped infrastructure, including in the areas of transport, logistics centers, office space, hotels, shopping malls, and apartments, which was subject to significant demand."

Commercial Real Estate Leads the Pack

Almost all the experts we spoke to agree that commercial real estate appears to be the most popular sector, with some sources reporting that office acquisitions account for almost half of all transactions, followed by retail deals.

Koczara emphasizes shopping centers, explaining that "Poles like shopping centers and like to spend time in them which makes shopping centers very attractive." Osinski points to warehouses as particularly active with "investors looking for a quick return on equity, which is possible primarily on the warehouse real estate market" – but, echoing Koczara, he points out that the Riviera shopping center in Gdynia was the largest transaction this year (approximately EUR 300 million), and that the Poznan shopping center was sold for EUR 290 million.

And Warsaw isn't the only popular part of Poland these days. According to Osinski, "a host of large transactions in 2015 concerned real estate located in regional towns. For instance, the sale of the Old Brewery (Stary Browar) in Poznan was the second largest transaction concluded on the Polish investment market in 2015." He reports that two more acquisition involving shopping centers are expected outside Warsaw by the end of the year – each worth more than EUR 200 million.

Ultimately, it appears all sectors are strong. Wierzbowski noted that, while "indeed, in terms of deal volume, commercial real estate is leading the pack, in terms of deal value, public real estate investments still lead the way."

He added: "Relative saturation of public projects led to significant refocus on commercial transactions. That is precisely one of the purposes of developing infrastructure – to attract the growth of regions and new investments there."

Expected 2016 Deal Flow

As usual, gazing through the crystal ball yields varied predictions for the future, with a mix of optimism and more reserved positions being expressed by those we spoke with.

Wierzbowski is positive about 2016: "We project further increase of the deal flow and plan to participate in that increase through hiring new experts." Osinski is also optimistic about next year, as he believes that deal flow is likely to increase: "Forecasts for Poland are stable and good. For our clients investing capital in Central and Eastern Europe, real estate in Poland remains a priority, as Poland is the largest investment market in this part of Europe."

Osinski bases his bet on the fact that, while "interest in buying land for office projects is currently decreasing, the warehouse real estate market [which he pointed to as a high-potential area earlier] is blossoming, since many investors have bought land suitable for … warehouses for speculative purposes and, therefore in the short term they will want to sell them with profit."

Osinski also believes that agricultural land will be popular, because, as of May 2016, "all EU citizens will be able to purchase agricultural land in Poland without obtaining the permission of the Minister of Internal Affairs. This should make the acquisition of Polish agricultural land by foreign investors much easier and therefore they may be more active in the area of the agricultural land market in the second quarter of the 2016."

Others are a bit more cautious. Koczara expects the deal flow to "decrease a little bit," as it will depend on the macroeconomic environment in the EU and the US – "this is where the money comes from to Poland" – but also on the political situation. He explains: "There is a new Government and new President and it is uncertain how they will run the country."

One example of how these might influence the sector is provided by Osinski, who explains that, as opposed to the positive outlook the potential liberalization of purchasing of agricultural land might have promised, "according to statements from the new Minister of Agriculture, the Ministry wants to impose further restrictions on the agricultural land market. At the moment, however, the Ministry has not published the project of proposed changes in the law relating to the agricultural land market. The announced changes in the law may also result in the suspension by the Agricultural Property Agency (one of the biggest state agencies) of the sale of agricultural land until the introduction of new provisions concerning the purchase of agricultural land."

Ziolek also points to the political sphere: "In Poland we have just elected a new government which has ideas that may influence the market as trade tax, tax on large retail, etc." Ultimately, he says, it will depend on investors: "As long as private equity funds stay active on the Polish market, then we believe that it will not be the matter whether we will experience growth, but how much."

Radu Cotarcea

Deal Corner

Highlighted deals on which our expert contributors have worked on in 2015:

CMS

The deal: CMS advised FM Logistics on the sale and leaseback transaction of four logistics centers to WP Carey, including two in Poland.

The deal: CMS advised Pramerica on the disposal of a portfolio of properties, including an office building in Poland, to Revetas Capital.

The deal: CMS advised Panattoni Europe & AEW Europe on the sale of a logistics portfolio of six logistics centers to PZU.

Crido Legal

The deal: Crido Legal advised Astris on the construction of a class A office building in Krakow, consisting of approximately 13,000 square meters of usable floor area. RE-Bau Sp. z o.o. was the general contractor and Bank Ochrony Srodowiska provided financing for the project.
Value: Approximately EUR 25 million

The deal: Crido Legal advised Legia Warszawa on a deal with the Grodzisk Mazowiecki Municipality to construct a football academy.
Value: Approximately EUR 10 million

The deal: Crido Legal advised French fund Klepierre Legia on an internal sale of one of the Sadyba Best Mall retail center in Warsaw.
Value: Approximately EUR 128 million

Eversheds

The deal: Eversheds is advising BGK Nieruchomosci, a state controlled bank, in acquiring and developing real property across Poland under the "Apartment for lease" program. The first apartments were purchased in Warszawa, Krakow, Wroclaw, and Poznan.
Value: The client plans to invest PLN 5 billion

Kochanski Zieba & Partners

The deal: Kochanski Zieba & Partners advised Griffin Real Estate on the acquisition and acquisition finance of the Raiffeisen Business Center, a Class A office building in Warsaw, from Invesco Real Estate. The transaction was co-financed by Bank Gospodarstwa Krajowego.

The deal: Kochanski Zieba & Partners is advising APPE Group concerning plastic packaging manufacturing and warehousing facilities located in several European countries, including Poland. The matter has been pending since January 2015.
Value: EUR 360 million

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Market Snapshot: Poland

Condition of Capital Markets in Poland

Michal Pawlowski, Partner, CMS

2015 for Polish capital markets reflected reduced interest among investors and a decrease in the amount of concluded transactions. One of the factors that influenced this slowdown in activity was the reform of open-end pension funds (OFE), which resulted in a reduction of capital that they could allocate to investments in shares listed on the Warsaw Stock Exchange (WSE). The OFE reform, particularly in view of parliamentary elections and the change of government in Poland, raised serious doubts as to the future condition of the stock market and the institutional framework of trading in financial instruments.

Over the passing year, the capital market was not the subject of significant legislative changes. However, recently, the Polish financial regulatory authority – the Polish Financial Supervision Authority (KNF) – announced its position on the amendments to the prospectus approval procedure which entered into force in September. For issuers it mostly means increased cooperation with the KNF in setting a timeframe for approval proceedings. According to the KNF's position, prospectus approval proceedings shall be shorter and last not more than six to eight weeks in the case of properly prepared documentation. In addition, in order to gain investors' trust, the KNF makes information on the course of ongoing administrative proceedings regarding the approval of the prospectuses public (the information is published on the KNF website).

The Polish capital market did not surprise its participants with significant developments. Market activity mostly revolved around companies' transfers from NewConnect – an alternative trading system to the main market of the WSE. Nonetheless, several notable transactions, both mid and high value, were conducted during the last few months. One of the biggest transactions conducted recently (with a value of approximately PLN 121 million) which ended with a huge success, was the IPO of InPost S.A. – an independent Polish postal operator. It is worth mentioning that the major investor in the InPost IPO was the European Bank for Reconstruction and Development, which acquired 20 per cent of offered shares. Other successful debuts on the WSE included Wittchen S.A. – a Polish manufacturer of luxury leather products (with a value of approximately PLN 55 million) and Poznanska Korporacja Budowlana PEKABEX S.A. – a leading manufacturer of prefabricated structures in Poland (with a value of approximately PLN 74 million). Transactions such as these demonstrate that there is still a place for financially stable companies on the market.

Rafal Wozniak, Of Counsel, CMS

Even if 2015 was not the best year for capital markets in the classical sense, there was a noticeable increase in the activity of private equity funds on those markets, particularly in debuts and sales of shares of selected PE funds' portfolio companies, as well as with regard to refreshing portfolios and planning new investments. A perfect example is the purchase of the state-owned company PKP Energetyka S.A. – the energy unit of Polish National Railways (Polskie Koleje Panstwowe S.A.) by the CVC Capital Partners private equity fund, which – at approximately EUR 477 million – was one of the largest private equity transactions in Poland (CMS was legal counsel to CVC Capital Partners in the transaction). Compared to other PE funds' investments on the Polish market, only the purchase of Emitel – the leading terrestrial radio and TV broadcast infrastructure operator in Poland – by Alinda Capital Partners in 2014 was of a similar scale.

Another transaction that is worth mentioning was the July 2015 sale of Home.pl – one of the largest providers of Internet services in Central and Eastern Europe – to the Value4Capital private equity fund for approximately EUR 150 million. Considering the scale of interest in the target company, the competition in the sale process, the return on investment to the PE fund, and the price, this was another of the most prominent deals in Poland this year.

In conclusion, 2015 was characterized by a lower number of major transactions on the WSE and thus medium activity in the capital markets area. Nevertheless, recent IPOs are a good basis for sustaining the upward trend in 2016, and they indicate that the Warsaw Stock Exchange will remain one of the most prominent trading floors among European exchanges.

By Michal Pawlowski, Partner, and Rafal Wozniak, Of Counsel, CMS

Polish Banking Sector Overview

Krzysztof Haladyi, Partner, Wierzbowski Eversheds

Over the last few years, the Polish banking sector has gone from strength to strength, benefiting from stable economic growth in Poland. In 2014, banks hit record-high net profits of over PLN 16 billion for the whole sector. Profits in 2015 are expected to be slightly lower but still close to the record of 2014. However, prospects for the coming year are definitely less promising.

The external environment is posing more and more challenges for Polish banks, which they will increasingly need to face in 2016. These challenges are likely to result in much lower profits than the banks have become used to.

For the last three years, banks have been struggling with steadily falling interest rates. The basic interest rate decreased from 4.75% at the end of 2012 to 1.50% at the end of 2015. As deflation in Poland continues, it is expected that by mid-2016 interest rates may drop even further.

Polish banks are also subject to higher contributions to the Bank Guarantee Fund, which has recently begun protecting funds deposited in savings and loan associations as well.

Cooperative Savings and Credit Unions (SKOKs) began to be overseen by the Polish Financial Supervision Authority only last year, and recent audits have revealed a large number of problems which need to be resolved with some financial help from banks. This help is provided either directly (through the acquisition of some SKOKs) or indirectly (through payments from the Bank Guarantee Fund), and has proved necessary in a few cases to stabilize the broader financial sector.

Apart from this, there are also some politically driven risk factors that may have a devastating effect on the short-term profitability of the banking sector. First, there is the prospect of a bank tax, which is expected to be imposed in Q1 2016. The new tax is likely to be imposed on financial institutions' assets at an expected rate of 0.39%. The costs of the new tax are estimated at about PLN 6 billion. Second, in 2016 banks may be hit by the problem of mortgage loan portfolios denominated in Swiss francs. The new government seems determined to introduce legislation allowing borrowers to convert their CHF-denominated loans into PLN at the exchange rate as of the date of the loan agreement. The costs would then be shared between the bank and the borrower, but the question of proportionality is unsettled. In a relatively moderate model of 50:50, this might cost the banks about PLN 9 billion.

Together with increasing regulatory requirements, all this makes it much harder for banks to be profitably run in the short term. To face this challenge, banks will continue to put high pressure on costs. They will also continue to focus more and more on compliance functions to mitigate potential regulatory risks.

Another trend will be consolidation. Several banks are already declared to be up for sale. In addition, we can clearly see a desire to build a large financial group around state-controlled insurer PZU, which took over Alior Bank this year and is declaring an interest in other bank acquisitions. The ambitious investment plans of PZU will definitely be a strong driver for consolidation in the banking sector next year.

Despite all these risks and challenges, a positive thing is that banks will be facing them in relatively friendly macroeconomic conditions. GDP growth continues and may become even faster. The unemployment rate is under 10% (compared to 17.6% ten years ago). Additionally, in the next few years Poland is expected to benefit from unprecedented EU financial support, which will also require support from lending institutions. This should help banks restructure their operations and return to profitability equilibrium, despite the adverse market conditions they now face.

By Krzysztof Haladyi, Partner, Wierzbowski Eversheds

Infrastructure in Poland – The Latest Trends

Wadim Kurpias, Partner, CMS

In recent years, Poland, like many countries in the CEE region, has undertaken significant actions in order to ensure the development of its infrastructure. Despite the fact that many projects have been carried out or are at an advanced stage (e.g., a waste incineration plant in Poznan, a district court in Nowy Sacz, and a poviat (district) hospital in Zywiec), many infrastructure projects still need to be implemented. This includes projects of a significant value and with a nationwide impact. Market specialists estimate that the railway, waste-to-energy, healthcare, road, street lighting and thermal efficiency sectors require the most investment.

Marta Kulhawik, Lawyer, CMS

Projects in Poland receive support from the government and public sector partners, including the Ministry of Infrastructure and Construction (road and railway projects) and the General Directorate for National Roads and Motorways (road projects). For instance, the Ministry of Infrastructure and Construction and the Ministry of Economy carry out various programs to maximize infrastructure development. This includes programs which provide financial assistance in obtaining professional advisory services by the public parties (projects from the waste management, roads, healthcare, revitalization, and thermal-efficiency-improvement sectors are most desirable) and advisory assistance for public parties with implementing regulations such as the 'National Railway Program until 2023' (which provides approximately EUR 16 billion for railway projects until 2023) and the 'National Road Construction Program for 2014-2023' (which provides approximately EUR 25 billion for road projects until 2023). Such actions aim to improve quality standards on the part of public entities and to accelerate tender proceedings.

When it comes to project financing, European Union (EU) financing programs still have the biggest impact on the development of infrastructure. Currently, Poland benefits from EU programs for the years 2014-2020 and is actually the biggest beneficiary among all EU countries (EUR 82.5 billion). It has not yet been decided whether Poland will participate in EU funding after 2020. Opinions on this subject vary; however, a decrease or discontinuance of EU funding after 2020 will likely increase the growth of public-private partnership (PPP) ventures. Also, international financial institutions such as the EIB and the EBRD have been active in helping finance infrastructure projects which have been struggling to obtain private financing for the full amount of their value.

In 2015, the Polish government improved the legal system in matters related to infrastructure by means of the Minister of the Economy's Regulation of 11 February 2015 on risk categories and the factors to be considered in their assessment and the Act on Revitalization of 9 October 2015 (which determines, among other things, that particular payments for private partners may be classified as current public expenditures, and therefore recorded off balance sheet for public parties).

2015 was a breakthrough year in Polish infrastructure. Many complex and innovative projects were commenced – and many more were already in progress: the first healthcare PPP project of big scale (the construction of the poviat hospital in Zywiec), the first government PPP project (the construction of the district court in Nowy Sacz), the pioneer PPP provincial road projects (the construction and maintenance of provincial roads in the Kujawsko-Pomorskie and Dolnoslaskie voivodships), as well as large nationwide railway investments. As recent reports show, the number of PPP projects in Poland is still increasing, as is the number of private investors.

By Wadim Kurpias, Partner, and Marta Kulhawik, Lawyer, CMS

Political Conflict Spills Into Polish Constitutional Tribunal

Led by opposition leaders, thousands of Poles took part in demonstrations across Poland on Saturday, December 12, to protest the newly elected Law and Justice government's recent dismissal of 5 judges appointed to the Polish Constitutional Court by the previous goverment. The move, which protestors claimed was an attempt to usurp the power of the country's supreme court, has created what has been described as Poland's worst constitutional crisis since the fall of communism. We asked Zbigniew Drzewiecki, the Managing Partner of Drzewiecki, Tomaszek i Wspolnicy, to explain the current situation.

Zbigniew Drzewiecki, Managing Partner, Drzewiecki, Tomaszek i Wspolnicy

As a brief introduction, in October 2015 the Polish parliamentary elections were held, which resulted in the Law and Justice Party (PiS) obtaining the majority in the Polish Parliament (Sejm). Therefore, the PiS formed the Government. A few months earlier, in May 2015, Andrzej Duda from the PiS won in the presidential elections.

The root of the dispute around the Constitutional Tribunal is the appointment of 5 judges by the previous Sejm, in which the majority was held by Citizen's Platform (PO) and Polish Peasants Party (PSL), which represented the ruling coalition for the previous 8 years. The PiS, who at that time was the opposition, raised that the appointment of the 5 judges was in breach of the Act on the Constitutional Tribunal and, further, that the term of office of 2 judges out of the 5 appointments was to expire under the new Sejm, which was convoked after the elections in November 2015. In order to officially become judges of the Constitutional Tribunal and to be admitted to judging, the appointed persons must take an oath before the President of Poland. The President until now did not accept an oath from those 5 judges.

The PiS, having the majority in the new Sejm, passed resolutions dismissing the 5 judges appointed by the previous Sejm and subsequently appointed 5 new judges. The voting took place in the night, breaching normal procedure and, most of all, in breach of the guarantees that the judges of the Constitutional Tribunal cannot be dismissed. The President accepted the oath from the newly appointed judges during the night as well. The following day in the morning the Constitutional Tribunal passed the verdict that the appointment of 3 judges by the previous Sejm was in accordance with the law, whereas the appointment of the 2 judges (whose term of office expired under the new Sejm) was in breach of the law. As a result, the Constitutional Tribunal decided that the President should accept the oath from the 3 correctly appointed judges.

The Constitutional Tribunal is composed of maximum 15 judges. At the moment only 10 participate in judging. With regards to the 5 judges appointed by the previous Sejm who were dismissed by the new Sejm, as well as the 5 new judges appointed by the new Sejm, there is a material legal and political dispute.

A situation where the 3 judges appointed by the previous Sejm and 2 new judges appointed by the new Sejm would be admitted to the Constitutional Tribunal would constitute a solution both in accordance with the law as well allowing political compromise. However, the will of the majority in the Sejm and the will of the Polish President are necessary in order to implement such a solution. As there are no signs of such will, we can expect a long term conflict diminishing the position and, in fact, undermining the constitutional role of the most important court in Poland.

Zbigniew Drzewiecki, Managing Partner, Drzewiecki, Tomaszek i Wspolnicy

Inside Insight: Tomasz Grzegory

Head of Legal for Eastern Europe at Google

Tomasz Grzegory is the Head of Legal Eastern Europe at Google, in Warsaw. After graduating from the Faculty of Law at the Jagiellonian University in Warsaw in 2000 he began working at Statoil, before leaving in the summer of 2002 to become the Director of the Legal Department at Grupa One.pl SA, where he stayed for the next eight and a half years. In December 2010 he joined Google as Corporate Counsel CEE/Emerging Markets. In May 2013 he assumed his current role, involving the supervision and management of Google's legal affairs in over 20 jurisdictions in Central and Eastern Europe.

CEELM: To start, please tell our readers a bit about your career leading up to your current role with Google.

T.G.: I graduated from the oldest and most renowned law faculty at Jagiellonian University in Krakow, Poland. During my studies I started working with single practitioners and small, local law firms to gain as much professional experience as it possible. With a booming Polish economy and international corporations placing their businesses in Krakow, in 1999 I started working for Statoil as a legal advisor to the Management Board. In the meantime I was pursuing my postgraduate studies, focusing on what seemed only marginal at the time: the world wide web and its legal framework (or lack of it).

At some point in 2002 I decided to combine my theoretical knowledge with its practical aspects and joined the first Polish Internet portal – Onet.pl. This is also the time when I started pursuing my PhD.

Looking back at my career, Google seems a natural development from being a local "digital"-focused in-house lawyer to becoming a multinational legal professional in an increasingly borderless digital world.

CEELM: You have worked in-house with .com companies since 2006. What parts of this sector are unique for a GC?

T.G.: Actually my adventure with .coms started in 2002 when I joined the biggest Polish Internet portal – Onet.pl. At my starting point in the industry, everything in this sector was unique. From a lawyer's perspective specifically, the lack of applicable laws was completely new. At the time there were only a few regulations covering "online" legal issues and they were all vague and imperfect. You had to be innovative and courageous – yet confident – to advise business on legal compliance of their wild product and service ideas. That was not the best time for pigeon-hearted lawyers…. Let me wrap up this section by saying that at the time you had to be fluent in applying old laws to new situations and in drafting new laws for products that hadn't yet been invented. It often was the case that a large part of my job was purely policy and governmental relations.

CEELM: You manage over 20 jurisdictions in your current role. How large is your legal team, and what best practices have you developed over the years in terms of structuring such a geographically spread-out team?

T.G.: I would not normally be so attached to numbers, but definitely the number of jurisdictions I'm overseeing is quite impressive, especially considering how moderate in numbers the team is. As I said, numbers are not the most important aspect – here it is all about the quality of the team members. I also rely heavily on outside counsel from top notch law firms, both global and local law boutiques.

Since we are a small team, emphasis is put on the quality of our lawyers. And without false modesty they are the best IP/TMT lawyers, globally. It goes further than that. Once you know they are strong in terms of technical competencies, you have to ensure that there is "chemistry" which creates that special bond and unites the team. Since it's not a given, above all else you have to cherish and maintain a team spirit.

We have clearly defined goals, we are focused, we are determined to achieve them, and we are not afraid of being creative.

There is also one more thing which is very important and makes our job easier: we share the values represented by Google. We strongly believe in the "don't be evil" mantra and we strive to implement that. Ethics and good will are not just empty words for us.

CEELM: Your byline reads: "While some lawyers ask 'why', I say 'why not!'" How does this motto apply in practice for you as a Head of Legal?

T.G.: It's a strange world. The largest taxi company (Uber) owns no cars and the largest accommodation provider (AirBnB) owns no premises…. It's all about disruption now in the global economy. Want a successful company or want to enter a path of exponential growth? Be disruptive! Be innovative! Make disruptive innovations!

And running a business without a lawyer is almost impossible. Still, legislation is far behind technology, and this gap is only growing bigger. In such a demanding legal environment you need courageous, innovative, and open-minded lawyers to help you boost your business.

I believe that the question "why" is defensive and defines reluctance and resistance to change. Modern business are all about constant change. In contrast, the question "why not" represents courage and interest in what's ahead of us.

Successful lawyers are now business partners and business facilitators, not show-stoppers.

CEELM: You work for a company that often develops products and directions considerably faster than regulators are able to keep up. How do you manage the potential legal uncertainty of being a spearhead company?

T.G.:As a company we have a strong, ethical backbone which makes me confident that what we do is for the benefit of our users. That's encouraging! At the same time we strive for perfection – both on the technical and engineering end as well as in legal, compliance, and other areas.

Still, we are highly disruptive in our constant hunt for innovation. This makes this job THE best in the world. I often say it is not a job, it is an adventure!

And we cooperate. We educate. We talk to regulators and other stakeholders, since in many cases once explained our products or services suddenly become less controversial (or not controversial at all).

CEELM: How, if at all, does the recent safe-harbor ruling from the CJEU affect your work and what steps did you have to take to adapt to the new landscape surrounding data transfer?

T.G.: In my opinion the CJEU ruling affected mostly the large number of small businesses that were fully relying on it (more than 5000 companies!). In this light it is very unfortunate.

I found even more worrying news coming from Germany[about] some of the local Data Protection Authorities pursuing a similar voiding action against existing Model Contract Clauses. Without SH and MCC contracting between US and EU would be very difficult.

I am only hoping for a quick Safe Harbor 2.0 introduction to minimize the harm to EU businesses.

CEELM: Google is famed for employing unusual hiring/selection tools at times. Is that the case with your legal team as well? To what extent are you directly involved in hires for your in-house team and what are the main things you look for when making new hires?

T.G.: People are a key asset of any successful company. In this manner Google is no different, so its hiring process is very different from what most of us are accustomed to.

It is a long and difficult process, as we are striving for perfection. I am always directly involved in the hiring process. Otherwise I could not determine whether we have chemistry or not.

We are looking for the bright(est!) legal minds out there! Brave, innovative, and ready to think out of the box in order to change the world. The perfect candidate has a strong international background with light touches of an academic past (yes, we love brainiacs!) and a strong record of success. They must be ready to work in a very competitive and challenging environment.

In exchange we can guarantee they will never get bored at work!

CEELM: Since Google is a tech/software company at its core, is there any particular software that you use to manage your in-house legal team that you find particularly useful?

T.G.: Obviously we rely heavily on "legal software" like Wolter's Kluwer Lex type of data bases.

When it comes to collaboration (which is often the case in a largely spread organization like ours) there are no better tools than our own Google Apps (Drive, Inbox, Google Docs, Hangouts).

CEELM: On the lighter side, what would you identify as the most unusual item in your office?

T.G.: We have an old fashioned library in our office where you can find paper books and some peace of mind.... It seems a bit unusual to me, since we're the one to blame for Google Books.

Radu Cotarcea

Inside Insight: Maria Czubinska-Zaremba

Head of Legal Department at HB Reavis Poland

Maria Czubinska-Zaremba is the Head of the Legal Department at HB Reavis, a role that she has held since November 2014, after joining the company in December 2013.

Prior to joining the commercial property group, she worked as an Associate with Domanski Zakrzewski Palinka, Gide Loyrette Nouel, and Bank Pekao.

CEELM: You started your career in-house, then worked in private practice for over 7 years returning to work in-house at HB Reavis. How are the two worlds different and which do you prefer?

M.CZ.: After graduating from the university, I got a job offer to work at the head office of a bank in Warsaw due to my previous experience there which I gained during a summer internship program. However, during the course of my work at the bank I found that I would rather evolve my career in a law firm. I thought that the world of a law firm, its environment, and its clients were much more interesting and would provide me with a broader and better professional experience. Working at a law firm turned out to be very

challenging, and I treat it is a watershed point in my career. I must say that it was a great adventure that taught me a lot and my career evolved quickly during the time.

After I passed my legal advisor exam, gained more experience, and became more independent in my work, I realized that I was lacking a broader business perspective. That's why I decided to look for a job as an in-house counsel, and why I eventually started working at HB Reavis. The job matched my previous professional profile and I was eager to start working for an international developer. This step in my career helped me to get acquainted with a role of an in-house lawyer and see how legal assistance works from the other perspective. I find working in-house to be very different from working at a law firm.

We are not standard stereotype lawyers, as we are much more business-oriented and have to possess a broad knowledge of the industry, which in our case is real estate. It is very satisfying to have an influence on the business itself. I honestly feel that my work is making a difference and that is why I am very passionate about what I do. At the moment, I definitely prefer working in-house – but looking back I see that the years I spent in a law firm helped me to develop my skills and competences.

CEELM: How large is your legal team in Poland, and how do you structure it?

M.CZ.: At HB Reavis Poland, I have the privilege of leading a team which currently consists of 10 lawyers. The team has experienced rapid growth since I joined HBR. I am proud to say that we have been able to gather a team which meets the expectations and requirements connected with rendering comprehensive legal services at every stage of our demanding projects.

We have a well-defined structure within the team and each of the projects – for example the Postepu 14 or Gdanski Business Center projects – has its own project lawyer, supported by junior lawyers. The project lawyers are responsible for the entire legal agenda concerning a given project – everything from acquisition through permitting, construction, leasing, financing, and all the way to divestment. The work of a project lawyer in HBR is very demanding, and apart from requiring excellent legal knowledge, also requires high managerial and business skills, as well as interpersonal abilities. Due to the fact that we are closely involved in each stage of the investment process, we managed to understand and efficiently support each department – our internal client – and cooperate with external business partners such as service providers, law firms, banks and other financial institutions.

CEELM: How would you say your role as in-house counsel in a heavily transactional-focused company like HB Reavis is different from your counterparts in other industries?

M.CZ.: HB Reavis Group, as an international real estate developer, deals with a lot in terms of a transactional agenda. We have a lot of cross-border projects that involve cooperating closely with our colleagues from Bratislava. At HB Reavis Poland, we still have a very strong connection with headquarters and we do a lot of things together. I find it interesting and, in a way, unique.

I believe that being a General Counsel in the real estate industry is naturally different than, for example, being one in the fashion business or FMCG. We deal on an everyday basis with extremely complex issues and our fields of expertise play by different rules. Dealing with the dynamic and client-oriented real estate market makes my work more interesting and challenging and teaches me to cope with time pressure.

CEELM: In light of the number of deals your company signs relative to players in other industries, do you tend to handle more of them in-house or do you still tend to outsource transactional work?

M.CZ.: Due to the business concept of HB Reavis and the size of our international Legal Department, our general idea is to do most of our work in-house and outsource only when it is necessary. Nevertheless, transactional work requires a lot of time, effort, and expertise, therefore we outsource it to some extent and we tend to get help in cases that require very specific knowledge or when we are not able to cover everything due to capacity issues.

Our deals, such as acquisitions and leasings, are led by the respective business departments, who are strongly supported by the members of the legal team. Lawyers are involved from the very beginning of each process and are part of the decision making as internal stakeholders. Lawyers provide input as requested by the responsible managers. If required, due to capacity or a need for specialized knowledge, lawyers arrange for the assistance of external counsels.

CEELM: What have you found makes your life easier on this front? Do you use any types of templates/software, etc?

M.CZ.: We use templates which are internally created by us for the purpose of core business needs, such as leases, agreements with subcontractors, powers of attorney, non-confidentiality agreements, and so on. The templates create a basis for negotiations and are reviewed by lawyers prior to execution. Otherwise, we use drafts provided by third parties or create our own. This minimizes our involvement and lets us focus on more demanding legal agendas. Our daily work is facilitated whereas standard procedures are accelerated.

In order to work efficiently and be up-to-date with the changes in law we use standard legal databases. Another thing is constantly improving our legal know-how by taking part in legal trainings, seminars, etc.

CEELM: The real estate market has been booming these last few months in Poland. What types of real estate do you find to be in greatest demand, and why?

M.CZ.: We are very lucky that Poland is considered one of the best European countries to invest in. And its true that the real estate market is doing quite well in Poland. The Polish property market grew exponentially and continues to develop, although more slowly than in the past. I strongly believe that a well-designed, environmental-friendly, and thought-through project will always find a buyer or tenant, no matter if it belongs to the office, warehouse, retail, or residential sectors. Keeping in mind HB Reavis's involvement on the Warsaw real estate market and our excellent leasing team, I can say that modern office buildings are still in high demand. A top quality, interesting, and strategically located project of any sort will always attract potential clients and it doesn't seem to change regardless of market forecasts.

CEELM: Is there any legislation that you believe has contributed in particular to this boom?

M.CZ.: I don't think that any legislation in particular has had a direct effect on the visible boom on the Polish real estate market. I would rather say that it was caused by the growing economy of Poland. I hope that in the upcoming months we will not be unpleasantly surprised by legal changes that may change this positive feeling. Governments should create the rules and frameworks in which businesses are able to compete against each other. Any law reform forces businesses to change the way they operate, however this is somehow inseparably inscribed in the conduct of business.

CEELM: On the lighter side – but also in light of your sector – what is your favorite building in Warsaw and why?

M.CZ.: Of course, all HB Reavis buildings are my favorite, however one of them has a special place in my heart as it was my first office while starting my career at HB Reavis. The Konstruktorska Business Center is a beautiful and truly modern building. I especially liked working there because of its unique green patio. That was a great place for relaxation and I used to go there whenever I needed to clear my mind. Currently we are still getting settled in our new office at Postepu 14, which hopefully will become my second favorite.

Radu Cotarcea

Inside Insight: Rafal Skowronski

Former Head of Legal 4CE and CEE at Canon

Rafal Skowronski was Head of Legal 4CE and CEE at Canon Polska for four years before recently ending his relationship with the company when his position was relocated to Vienna. Before Canon he worked for five and a half years as Legal Counsel at Philips in Warsaw.

CEELM: Can you run us through your career, briefly?

R.S.: After graduation and during my prosecutor internship I worked as a standalone lawyer. Then following the completion of my internship I decided that the prosecutor career was not for me and I needed something different. This resulted in me joining the Trade Inspection, a governmental body responsible for consumer protection and protection of state economic interests in Poland, where I worked for the next two and a half years as a lawyer. During this time I managed to get admitted to the Polish bar.

Shortly thereafter I decided that, again, the time had come to change the direction of my career, and I started to look for an opportunity to work with a private company. Coincidentally, Philips was looking at that moment for a lawyer who would support their legal team during one of their projects, and I managed to get a six-month contract with this company, initially meant only for the purpose of this project. It was successfully finalized on time and my contract was extended. As it turned out, I spent nearly six years instead of the six months originally planned with the company.

My next assignment was with Canon, which was looking for a lawyer to look after CEE countries while seated in Poland. This was a completely new position for both Poland and the region so I was supposed to define this position, make assessments of the company's legal needs in the region, and set up policies. I spent nearly four years in this position.

During my work in Philips and Canon I had the opportunity to manage legal support in Poland and 27 other countries belonging to the CIS and CEE regions. I also had the opportunity to participate in numerous legal projects in Poland and abroad – including, among others, projects related to the Euro 2012 football cup.

CEELM: In your own words, how would you define the role of a General Counsel?

R.S.: There are several traits which are required from a General Counsel. One defining aspect for the role in my view is simply to employ good judgment. Being responsible for a region, you have to make decisions in respect to complicated matters frequently, often having very limited information and facts available. The General Counsel has to properly evaluate all available information and potential consequences for the company, then provide advice which matches the company's risk profile and is as close as possible to its business objectives.

Another issue is the development of proper communication with all stakeholders. This is related to the previous trait – good judgment – but it also requires the ability to understand what is behind the requests that the legal department receives and the ability to deliver advice which can be understood by non-lawyers and answers the real needs of your internal clients. This, in turn, helps to develop mutual trust within a company.

Employing good judgment and proper communication allows you to properly anticipate issues and estimate risks within your company and also to facilitate the legal function in supporting the strategic objectives of your company.

Moreover, I usually worked in relatively small legal teams, and therefore it was always required from the General Counsel not only that he take the lead in most complex projects and supervise subordinates but also take a hands-on approach when dealing with legal issues of the company.

CEELM: What took up most of your time with the company?

R.S.: Most of my time was assigned to typical legal issues from the countries within the region I was responsible for. Additionally, we scheduled regular meetings within the legal department to make sure that we were properly aligned on all legal projects.

CEELM: In your role with Canon, you acted as a business partner for a multitude of countries in CEE (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Greece, Kosovo, Macedonia, Malta, Montenegro, Romania, Serbia, and Slovenia). What best practices have you developed to stay on top of such a wide set of jurisdictions?

R.S.: Unfortunately, there is no one perfect solution. I used several news feeds, like Lexology or Law-Now. Additionally, there were also updates from law firms we were working with and if there were specific areas of interest it was sometimes possible to find updates on websites of authorities in specific countries.

CEELM: When it came to selecting external counsel in each of the countries you were responsible for, did you prefer international firms that could offer a "one-stop-solution" or did you tend to pick firms on a country by country basis?

R.S.: When I started my work with Canon in each of the countries in my region there were separate law firms (sometimes more than one in a given country). When you are responsible for such a region within such a structure

it is difficult to have proper cost control and to make sure that the advice from external lawyers is properly communicated within a company.

After assessing our legal needs, we decided to have one international law firm which was present in almost all countries of the region as a preferred legal supplier. In some countries we still kept smaller law firms which were quite good and cost efficient at executing, for instance, debt collection; however we also defined some areas – like competition law or HR issues –where the preferred international law firm was used by default.

In other words, we did not try to implement the same approach in all countries but chose instead to assess the legal needs for each of them, and based on the results of this assessment, prepare a solution that was manageable for the lawyer responsible for the region. This approach can be summarized in a couple of bullet points: (1) One international law firm which is a preferred legal supplier that should be used in all areas defined as sensitive or important for the company and/or corporation; (2) Local law firms can be still used if that is justified by the size of the local company; however they might provide services only in respect to certain areas – like debt collection – where their services might be more effective and cheaper than those from an international law firm and, at the same time, do not require constant supervision from the lawyer responsible for the region.

CEELM: While on the topic, what are the first three things (in order) you look at when you analyze a proposal from a law firm?

R.S.: When looking for a law firm for a region in the first place there are two factors which I take into account: opinions about this firm and its coverage. When dealing with specific issues and looking for a law firm which will support you in a given case, the first thing I am looking for is proven expertise in similar cases.

There are various sources which I check when assessing law firms, like legal rankings, my colleagues' opinions, and my personal experience. As a last factor, I have to point to money. This includes, sometimes, the willingness to agree on blended rates for all services concerning certain issues or budgeting the project upfront. And, of course, if you have more than one law firm which satisfies your requirements concerning expertise, then costs might be the decisive factor.

CEELM: You were also responsible for the coordination of lobbying activities in Poland carried out by ZIPSEE – which led to changes in copyright law and VAT regulations, among other things. Many companies prefer separating the regulatory function from the legal one. Why did Canon prefer bringing them under the same umbrella?

R.S.: There were two reasons why this function was my responsibility. First, in Poland, Canon did not have a local person responsible for lobbying activities. Second, the changes concerning copyright law and VAT regulation were strictly related to changes in Polish law, therefore effective coordination required some knowledge of the present regulations, planned changes, and their impact on local business. Due to those two reasons, a lawyer seemed to be a best choice.

CEELM: On the lighter side, what was the team-building exercise that you enjoyed the most?

R.S. It was a detective game where we were divided into several teams and the goal was to find out, with the help of a "Sherlock Holmes," who murdered "Lord X" (I cannot recall his actual name). It was a really nice team-building exercise, requiring effective cooperation within your team to discover as many clues as possible and to solve the various riddles that had to be figured out to solve this murder case.

Radu Cotarcea

Inside Insight: Izabela Wisniewska

Legal & Compliance Director at Multi Corporation Poland

Izabela Wisniewska is the Legal & Compliance Director at Multi Corporation (part of Blackstone), where she is responsible for managing and developing the Polish legal and HR departments of the company. Prior to assuming her current role, Wisniewska was the Head of Legal of Inditex (Zara Polska) and worked with Neinver. Before moving in-house, she worked for DZP and Magnusson.

CEELM: Please tell us a bit about your career path leading up to your current role with Multi Poland.

I.W.: I kicked off my professional activity during my studies and that is how, after returning from a fellowship at the University of Lapland in Finland, I was offered an internship with the Magnusson Law Firm, one of the leading business law firms in the Baltic region. Shortly after completing this internship I was offered a permanent position in the real estate practice at the firm. This was a very good period for me, as the team was exceptionally friendly, and the law firm cared about cultivating young lawyers. Working under the watchful eye of Counselor Andrzej Tokaj provided me with a strong foundation for my future activity.

My next step was working with one of Poland's leading law firms, Domanski Zakrzewski Palinka, also in its real estate practice, which had originally been active in corporate law and mergers & acquisitions, enabling me to extend my horizons. On one hand, working with DZP afforded me an opportunity to glean a profound understanding of the specific nature of the real estate market and related legal issues, while on the other hand, it made me aware that being a small part in such a large machine was not a source of satisfaction to me and I really needed more space and freedom to spread my wings.

I found the space I needed in Neinver, which at that time was one of the leading companies on the European real estate market. This was my first experience as an in-house lawyer, but I knew almost from the very first day that this was precisely the type of work I wanted to do. Working in proximity to the business, having a real say over the flow of negotiations and business relations and the freedom to mold the surrounding space are the main advantages of working as an in-house lawyer.

It was a natural step for me to move to Inditex, where I had the freedom to build the legal department on my own and shape the legal awareness of my associates. The next positions I held ensued from pursuing my objectives and professional passions. At the same time, I made choices allowing me to continue expanding my knowledge and experience, while still focusing on areas with which I was most familiar, such as real estate, retail, and corporate law.

That is how I came to be at Multi today, a part of Blackstone, one of the largest private equity investment funds in the world.

CEELM: When you first joined an in-house team, what were the things you found yourself having to adjust to?

I.W.: The fundamental distinction between working as an external counsel and an in-house lawyer is the skill of being able to react in the here and now – when the deadline is yesterday – without being backed up by an entire team of fellow lawyers to support you. In the early days in my job as an in-house lawyer I missed this support. At the same time, I liked almost everything about being an in-house lawyer from the very beginning and found it positively challenging. An in-house lawyer must be capable of making rapid decisions that are simultaneously good decisions, while engaging in risk taking. In contrast to an external counsel, an in-house lawyer very frequently participates in implementing his or her recommendations and has the ability to have a real say about the shape of the decisions taken and risk estimation on an ongoing basis. An in-house lawyer must not only skillfully estimate risk but, above all, he or she must be aware of the necessity of risk taking. The first months as an in-house lawyer taught me a lot.

CEELM: Real estate seems to be a true calling for you. What drew you back into the industry after working in it?

I.W.: The commercial real estate business in

Poland is constantly developing and offers a host of challenges; this industry has always piqued my interest. In turn, working as a lawyer in retail, which is naturally co-mingled with the commercial real estate world, has furnished me an additional perspective and has been an exceptionally valuable experience. Now, it is much easier for me to grasp the position of our primary counterparties – our shopping mall tenants. On the other hand, my experience in the retail industry was not something that could last too long, as I needed to continue facing challenges and continue to grow.

Multi, which became a part of Blackstone in 2013, with its ongoing and planned investments, opened new possibilities and challenges to me. Of course, the largest one was the necessity of building the legal department totally from scratch. I have managed to build a good team of experts who are committed to their work and focused on supporting and developing the entire firm. In addition, I also manage the HR department, which is a big challenge and, at the same time, an interesting experience for me. In my mind, people have always been the most important and most interesting link in business, where having a practical say over what happens in this area is a source of extensive inspiration. Recently, Multi is treating compliance with ever-more attention and care, and this is also an area for which I have been given responsibility. As a result, I cannot complain about a shortage of challenges.

"The fundamental distinction between working as an external counsel and an in-house lawyer is the skill of being able to react in the here and now – when the deadline is yesterday – without being backed up by an entire team of fellow lawyers to support you."

CEELM: You mentioned your dual role. Joint responsibility for both legal and HR is not a common one. Why did it make sense to have you cover both functions?

Multi is still a developing company. Just two years ago it employed approximately 10 people while today there are close to 100. At the time I joined Multi back in 2014 there was no HR function in the company whatsoever. As I have mentioned before, for me, people have always been the most important asset in business so I felt that we were missing something in this area and decided to take action. Later we hired the first HR specialist and just recently we have recruited an HR manager to cover the whole CEE region who is going to join my team early next year. I assume that the decisive factors for why it was me who was entrusted with this task in the first place were that I simply showed my interest in the HR area and that I just like dealing with employment law issues.

CEELM: The Polish real estate market is booming these days. What do you attribute this to?

I.W.: In fact, rapid growth is observable on the Polish investment real estate market. Research shows that 2015 will end as a very robust year for investors. Poland continues to retain the position of the second largest shopping mall market in Central and Eastern Europe. The country's improving economic standing and the fact that until recently Poland was an unsaturated market in this respect were the main underlying drivers, and this demand fostered investment. The Polish shopping mall market is in truth close to saturation but this has not discouraged investors – only incentivized them them to look for investment opportunities on markets with different formats, especially commercial parks, and to look for sites for new investments. On top of that, Poland is open to international investors and this market continues to be highly attractive in spite of the complicated and frequently-changing legislative framework.

CEELM: From an investor/developer perspective, what conditions are you keeping a close eye on to ensure the highest possible yields on your real estate investments?

I.W.: Every industry has its own attributes and the work of an in-house lawyer, regardless of industry, requires an exceptional ability to react quickly and pay attention to details in conjunction with the skill of keeping in mind the big picture on a given issue and business as a whole. In my industry, two of the obstacles are the lack of precision in the law and its high level of volatility. For instance, construction law has been amended some 70 times since 1994 and we are awaiting more rounds of amendments; I hope that they will be good and conducive to investors. I am diligent about keeping pace with the all the amendments to the law; I also meticulously observe the pertinent case law. The investment process in Poland is not one of the easiest ones from a legal point of view and it is necessary to keep your finger on the pulse at all times.

CEELM: How is your day usually structured (if there is such a thing as a usual day with your organization)?

I.W.: Every day is different, also on account of Blackstone whose very active approach to investing does not permit us to fall prey to boredom. I usually start my day by structuring my tasks and setting priorities, for both myself and my team. I also scroll through and reply to my e-mails and phone calls. I do not let my associates wait too long for legal support. The fundamental strength of an in-house legal department is providing quick and professional assistance. Either before going to work or at the end of the day I try to find a moment to look through the daily and trade press. Tracking changes in the law is an important part of this endeavor. Meetings with counterparties and associates are an irreplaceable and pleasant part of my day as they give me a surge of energy and frequently inspire me.

CEELM: Some consider the Polish market over-saturated with legal services providers. How does that influence your choices of external counsel? Do you see a real race-to-the-bottom in terms of legal fees as a result of it?

I.W.: In fact, the law firm market in Poland is highly saturated, while at the same time, there are not so many experts in a given field who have broad horizons and a good feeling for business. On one hand, this means that negotiating rates has become simpler than ever before; on the other hand, there are areas in which costs play a secondary role, with experience and business acumen coming to the forefront. Of course, we have budgets, and costs are an important element to consider when selecting external counsel. What makes this selection easier for me personally is having a panel of law firms to which I distribute requests for proposals and from among which I make my choices. The speed of response, the experience of the various lawyers, and the price, of course, play a decisive role.

CEELM: On the lighter side, what are your favorite and your least favorite items in your office?

I.W.: It would be hard for me to point to a single favorite item in our office. Most certainly, I am unable to identify anything I could identify as something I don't like. The strongest advantage of our office is embodied by its size and arrangement. On one hand, each one of us has the space to work comfortably while, on the other hand, since our office is not overly large, we have the unfettered ability to interact with our associates. Since we work together as a group of passionate people who known their jobs well and from whom we can learn, as is the case in our office, I cannot imagine a better work environment.

Radu Cotarcea

Expat on the Market: Nick Fletcher of Clifford Chance

Nick Fletcher is a Partner with Clifford Chance in Warsaw, where he specializes in corporate/commercial work, in particular acquisitions and disposals, general corporate finance, flotations, equity issues, and joint ventures. Over the past 21 years he has advised a number of international investors active in Poland including clients in the utility, engineering, pharmaceutical, and financial sectors.

CEELM: Run us through your background and how you got to Poland.

N.F.: I joined Clifford Chance in London at the very beginning of my career in 1985. At the beginning of the 1990s, like most international firms, Clifford Chance was looking to expand in CEE and it came down to who would volunteer to relocate to Warsaw out of a team of senior associates. I was the one to put my hand up and the rest is history.

CEELM: Was it always your goal to work abroad?

N.F.: If I am completely honest, I never thought of it until I was faced with the question. I was never sure it was the right decision right up until the last moment when I agreed to take up the opportunity.

CEELM: Looking back at it, are you happy with the choice to put your hand up?

N.F.: I have to say I am, though it is obviously difficult to say how things would have turned out differently had I taken a different route. One thing is for sure though; it did help to raise my profile in the firm. The Senior Associates team in London was very strong, so getting appointed to one of the limited number of partnership slots available in London would have been extremely difficult. In Warsaw I had the opportunity to take up a real leadership role from the very beginning and do something I could never have done in London.

CEELM: What do you like most about being an expatriate lawyer – about practicing in a jurisdiction away from home?

N.F.: I think the legal market landscape in Poland, and CEE in general, is very different now from when I first got off the plane, and that has changed my role considerably as an expat lawyer on the ground. In the early 90s, expat lawyers had a much bigger role in terms of leadership and developing best practices for handling clients and managing transactions. Now, the international firms have trained up the junior associates they hired in the early days to become lawyers with not just the right technical skills, but also client handling skills, on a par with London. And this is also seen in local firms who have also developed their own lawyers' broader skill set. This means that, by today, I really went back to a role of being a conventional corporate lawyer on a full time basis.

CEELM: What would be the main element that you would identify as having changed since you first got to Warsaw?

N.F.: I think one notable difference between local and international law firms at the time was in their positioning. Local lawyers tended to be strong in the local academic side of practicing law. International firms were focused more on client handling and business. Over the course of the last 20 years a great deal of convergence has happened with both types of firms evolving towards a balance between the two strengths.

CEELM: How did you build up your practice over the years?

N.F.: We started with a relatively small team – as most international firms opening up shop on the ground tended to do – that focused around our core offering in London: Finance and Banking and big-ticket Corporate work. In terms of the actual team members, we tended to focus on hiring younger lawyers that we could groom into lawyers that would offer the Clifford Chance level of service to our clients. As things progressed, we organically added on different practice areas and grew the team.

CEELM: Do you find local/domestic clients enthusiastic about working with a foreign lawyer, or do Polish clients prefer working with local lawyers?

N.F.: As I mentioned, the market is very different today and I don't see the simple fact that you are a foreign lawyer has the same type of caché as it might have in the past, especially since clients have become more sophisticated as well. It will always simply come down to the level of service you can provide, in my mind.

That said, it does help to be qualified in a common law system, as that is so heavily preferred in the business world, especially when it comes to cross-border work.

CEELM: What idiosyncrasies or differences stand out the most between the UK and Eastern European judicial systems and legal markets?

N.F.: The one that comes to mind are the tools that are missing within the legal framework, which lawyers coming from the UK system would find commonplace and usually take as a given. For example, the treatment of representations and warranties on share or business acquisitions, where there is no Polish court experience to draw on. Luckily enough, we usually deal with firms that are familiar with the concept and how it should be dealt with in the context of a Polish law transaction. This tacit understanding is actually quite commonplace but it would be fascinating to see how it would pan out in front of a Polish judge when the concept does have the opportunity to be tested in court. That would definitely be an interesting case to follow.

CEELM: Outside of Poland, which CEE country do you enjoy visiting the most?

N.F.: It's hard for me to say with too many favorites coming to mind. I'd probably point to the Czech Republic but I love visiting Romania a great deal as well.

CEELM: What's your favorite place in Poland?

N.F.: Without a doubt, my favorite is the small town of Wolsztyn. The reason is that this was the last place in Europe (and perhaps the world) where historic steam locomotives were used on regular scheduled passenger services between Wolsztyn and the city of Poznan. Sadly, that is no longer the case with the locomotives being retired from regular scheduled service but it used to be a unique experience.

Radu Cotarcea

Market Spotlight Czech Republic

In this section:

Guest Editorial: Czech Market Shows Renewed Signs of Life

To me, it feels like there is a new trend in the Czech Republic; you feel it in the air and you hear it in many discussions with business people and other professionals. The trend to which I refer is the return of confidence, for which we have been waiting a long time.

Czech economic growth has accelerated this year to a record level, helped by a policy of maintaining a weak currency as well as by the government's looser budget stance. Growth has also been led by exports to the European Union – especially Germany – and foreign investment, while domestic demand is also reviving. The recent unemployment figures are at a record low, and the M&A market is finally bearing the fruits of growth after a relatively quiet period.

Although this year much of the CEE and SEE region has felt an inevitable knock-on effect from the continuing tension in relations between Russia and the West, there are signs that investors are taking a fresh and nuanced approach. And the Czech Republic is a case in point. Busy sectors include healthcare, manufacturing, food and drinks, financial services, e-commerce, and IT. The media sector continues to excite interest from Czech and Slovak financial groups, which see both a political and economic advantage of having a presence in the sector. The sale of Mall.cz by Naspers to Rockaway and the acquisition of CGS by Sweden's Trelleborg are just a few examples of interesting transactions that took place in recent months.

Another notable trend in the Czech Republic is the increased activity in Asian investment, especially by Korean, Japanese, and Chinese investors. The charge has been recently led by China's CEFC, that country's sixth-largest private company, which acquired the Lobkowicz brewery, purchased minority stakes in Medea Group and Empresa Media (which in addition to publishing magazines also operates TV Barrandov), invested in a major football club, won minority holdings in a travel services airline, bought into a number of commercial properties and hotels, and increased its stake in the J&T Group, among other investments. And there are many signs that this trend will continue.

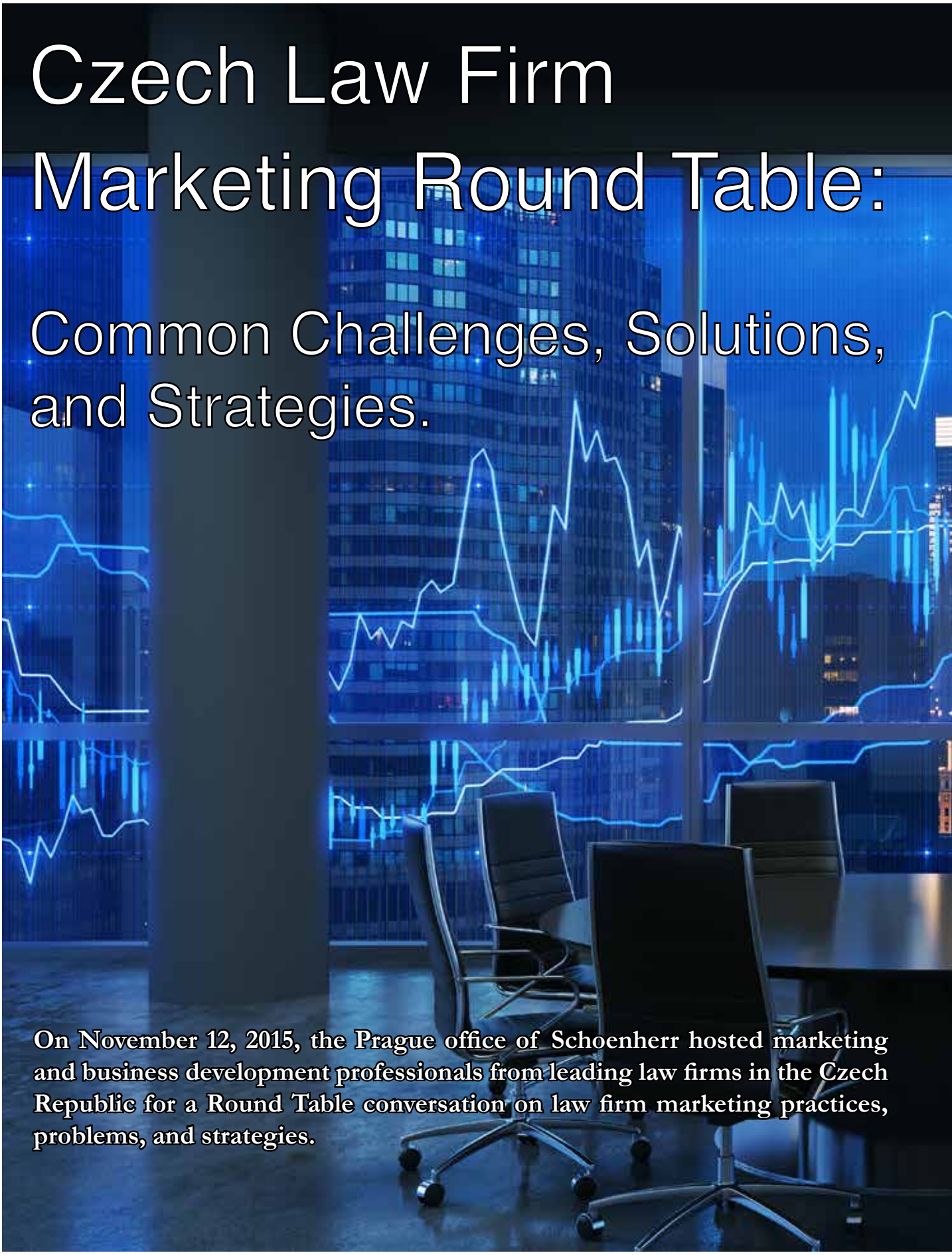
The strength of Czech entrepreneurs and businesses is gradually coming to light, and they are no longer just targets for acquisitions but are also making significant investments abroad.

All of this is good news for Czech businesses, as well as lawyers. I see lights turned on long into the night in many of the offices, and I meet many people who probably deserve a good night's sleep, but there is an enthusiasm and a new energy clearly visible in the market, and I feel a renewed sense of optimism. I do not want to sound too excited, and I think we need to stay cautious and realistic, but it is tempting to finally forget about the difficult years that followed the financial crisis and think positively and look forward with courage and confidence into the future. There are, however, still many challenges that may impact the Czech market. The political situation in Europe and the Eurozone is far from ideal, and the increase in U.S. interest rates may impact investment into the region. The markets may react quickly to these macro-economic and geo-political factors. Despite all of these challenges, interest rates remain low, the Czech business and political environment is stable, and the outlook for the near future is positive. Therefore, I feel positive about the current situation in the Czech market and am excited for the great things to come in the future.

Prokop Verner,
Counsel, Allen & Overy

Czech Law Firm Marketing Round Table:

Common Challenges, Solutions, and Strategies.



On November 12, 2015, the Prague office of Schoenherr hosted marketing and business development professionals from leading law firms in the Czech Republic for a Round Table conversation on law firm marketing practices, problems, and strategies.

"Everything is all linked together. To prepare good proposals you also need to demonstrate why potential client should select you as their preferred advisor as well as including information that the lawyers probably hadn't even thought of, including extra details about the firm that the client might be interested in, what value-added services you provide, and why your firm is different from its competitors. To demonstrate your strengths you need to use all of the marketing tools available and communicate them."

– Simona Malkova, DLA Piper

(Host) Schoenherr
Jan Posvar

DLA Piper
Simona Malkova

Baker & McKenzie
Pavel Broucek

Dvorak Hager & Partner
Renata Vrzakova

CMS
Erik Werkman

Havel, Holasek & Partners
Slavomira Fiedlerova Tymova

Clifford Chance
Nicholas Remington

Kinstellar
Ludek Wojnar

Dentons
Lukas Porkert

White & Case
Jason Piro

Sophistication of Law Firm Marketing in the Czech Republic

The conversation started with a discussion of the kind and quality of law firm marketing tools in the Czech Republic. Erik Werkman of CMS rejected any suggestion that Central European marketing practices were lagging behind those in the United Kingdom or United States and claimed that differences were more properly attributed to culture: "Here you might organize an event differently – for instance, use different tools, put forward a different message – but I would not necessarily call this more or less sophisticated. Just different."

Werkman also drew attention to the different resources available to firms in the Czech Republic, suggesting that "domestic firms might have difficulties pulling together large thought leadership publications or market research that international firms have the capacity for. Such research is often part of a larger campaign including seminars and new client introductions. The CEE offices of international firms would try and roll such campaigns out locally too."

Press Releases and Publicizing Deals

When the conversation turned to potential limits put on publicizing client deals, there was agreement that those limits that do exist come from common sense rather than the Czech bar. Jan Posvar of Schoenherr, the event's host, described checking with clients for permission as "smart business to not mess a relationship up," and said that his firm also makes it a "basic function of our T&Cs – though even then, it's still standard to check with their clients just in case."

Werkman of CMS noted that it was common for firms to reserve the right in engagement letters, "but," he said "you still wouldn't just go ahead without asking for permission."

Renata Vrzakova of Dvorak, Hager & Partners concurred, saying that although some clients sign off on long-term agreements on such matters, "with others we double and triple check just to be safe."

Werkman also suggested that "we don't really want to bother a client about a press release during last-minute negotiations or while they're trying to close a deal." Simona Malkova of DLA Piper agreed, noting that, "promoting the deals we have successfully closed in the press is difficult because we need to obtain permission from the client first. By the time we have closed the transaction and agreed on the content of the press release, the reality is that journalists have already obtained the information about the deal much faster from other sources, directly from the client, or from the client's own press release."

Nicholas Remington of Clifford Chance drew knowing smiles by pointing out that, from his perspective, "by the time we have prepared our press release it tends to be old news as far as the general public are concerned." He laughed. "Often we find it reported in the media before we have time to react."

Still, there was consensus that press releases matter. According to Remington, "I've certainly received positive feedback from partners and senior lawyers that were contacted by clients and peers following publication."

Werkman suggested that it's not critical to target specific publications read by targeted individuals. He explained that, "almost every big company does media monitoring on key words – either on their own business name or those of competitors, etc. – to notify them when they're mentioned in the media. This will be sent every morning to the CEO and other senior managers in a company, who might not necessarily be aware that your law firm acted for them or a competitor. So even if you think nobody reads a particular magazine, media monitoring can pick it up and put it in front of the right people."

Still, how best to capture and utilize media attention was a popular subject. Erik Werkman, for one, complained about the limited opportunities for genuine lawyer input in the media, claiming that, "too many of the opportunities – even editorial ones – are still paid-for." He elaborated: "This is not to say you cannot get results by building relationships with individual reporters, but I would suggest that you always keep a good relationship with the sales people too."

A number of participants reported experimenting with public relation agencies – but not all. Jan Posvar of Schoenherr explained that, "we are not working with a PR agency here, but instead developing media relations on our own." In his opinion, it's a job that's difficult to outsource. "It's partially about selecting specific media outlets," he explained. "You can't work with all of them. So it's based on relationships with editors that want to work with you, including regular meetings, responding to their requests, and it differs for different practice areas."

Pavel Broucek of Baker & McKenzie said that the firm's Prague office no longer uses a PR agency either. "We stopped cooperation with one recently because we didn't think we were getting value from them."

By contrast, some of the participants felt there was real value. Jason Piro from White & Case said his office works with a PR firm. And Simona Malkova of DLA Piper said that her firm had recently initiated a relationship with an agency. She said, "a PR company is a great tool as you have in-depth information available to you about where you can publish for maximum effect, and they are a great source of inspiration for producing news because they know what topics readers are currently interested in."

Lukas Porkert of Dentons said that "it depends on your target group. If you're targeting B2B media, then a PR agency is not ideal. If you are targeting the general public, [PR agencies] have their own contacts among the wider group of journalists, and that can help."

As a result, Porkert said, although his office has not used PR agencies in the past, it was currently considering trying one. "They came

with a generous offer where we pay only for what is published," he said. "I think that's a good solution."

Renata Vrzakova of Dvorak Hager & Partners agreed, saying, "yes, a success-based fee would make sense for us as well."

Werkman claimed that the limited number of public relation agencies in the Czech Republic made it hard for them to keep clients … and difficult for them to develop the necessary expertise. "Public relations companies normally work for only one law firm," he said, "and when they lose it as a client it's hard to replace it with another. Especially in a small market such as the Czech Republic they're used to working with different industries and lack the legal sector specific experience. For a law firm it can be difficult to work with a PR agency." Still, he conceded, "it's good for connections. They can know who the right people are."

Ultimately, Werkman expressed sympathy for PR agencies. "It must be unsatisfying for a PR firm to work with a law firm because they feel they have to deliver for the client. Expectations are always high, and it would be expected that they get our news on the front page of a paper. But that's difficult, because you never really get the sexy news from law firms. The sexy info is always confidential or not for us to release."

The Main Job: Pitches

All Round Table participants agreed that preparing client pitches takes up more of their time than anything else they do.

Lukas Porkert from Dentons said he spent "about 40-50% of my time" on pitches. Pavel Broucek from Baker & McKenzie didn't go that far, saying that preparing client pitches took about 20% of his time, but he conceded that, "there are 3 to 4 areas that take the most of my time, and this would definitely be one of the main ones."

Remington, from Clifford Chance, said pitches took up "over 50% [of my time], definitely." When asked whether that was time well spent, Remington drew another laugh by saying, humbly, "I'd certainly like to think we make a difference." He then smiled, saying, "Yes, definitely."

Werkman of CMS was even more emphatic: "If you take the time to do a pitch right, to speak with the partner, to get the right details, it makes a difference. I've probably seen the amount of time that we spent on pitches double without a significant increase in the number of requests that we receive, and I believe it pays off."

Broucek pointed out that, although preparing pitches takes up a substantial amount of time, individual pitches are getting briefer. He said, "I only spend about 20% of my time on pitches, which may be less than others here, but it may be also because our pitching is often just done via e-mail – especially to clients who already know us."

When Broucek wondered whether others shared that sense, Vrzakova from DHP spoke up. "A general trend in our firm is to be very short," she said. "In various areas, in fact, we're teaching and training our lawyers to speak simply and to the point. It's somewhat of a challenge – but at the moment a trend."

Several participants spoke with some frustration of being asked to put significant amounts of time in on pitches with low likelihood of success – or for deals of limited value.

Werkman was one of them. "It can be frustrating to be asked to spend significant amounts of time on a pitch for a relatively minor fee. Especially because you know if it's a EUR 5000 fee, [and] we're probably going to be undercut by another firm anyway. One of the recurring questions to ask partners, for instance, is 'if our last 5 pitches to a client didn't win, why are you demanding that we make the effort again?'"

Piro from White & Case suggested that, "over the last few years we have begun keeping and analyzing a lot of data around our proposals, whether it be product, industry, size of project, etc., to help us better understand where we are successful and where we are not. There's a lot of attention spent on getting it right, because so much work is won on pitches."

Submissions to Ranking Services: Why and Which

At that point the conversation turned to the subject of submissions to rankings services.

Although many of the participants expressed frustration at the amount of time required to prepare submissions, there was general consensus that the process was necessary – or at least that the partners they worked for believed it was.

Renata Vrzakova summarized the value of the rankings simply, saying, "it's a matter of prestige."

Beyond that, according to Pavel Broucek of Baker & McKenzie, "it can be difficult to tell" what the value of being ranked is. Still, he said "of course we feel pressure from the partners to do our best and submit thoroughly."

"We don't advertise a lot," Broucek continued, "but this kind of advertising, if I can call it that, we want. It's free, and if it's with a respected publication, and the partners believe it brings value." Nonetheless, he repeated, "it can be difficult to see the actual impact."

Jason Piro felt no such uncertainty, reporting that "yes, we do get approached by potential clients based on our rankings," and referring to it "the knock at the door that can start a conversation." He said, "we find that the final decisions commonly come down to experience and price but more than once it has led to being mandated on significant work."

In considering the value of the various rankings, Werkman said that the distinction between local purchasers of legal services and their foreign counterparts is important. He explained, "we had a round table several years ago with Czech General Counsel, and

most of them were in private practice before, and they said, "we know the market well and do not need a directory to tell us which firm is good.' For them, the actual information in directories is often outdated or they can tell it is incorrect. On the other hand, foreign investors, if they don't know any law firm in a country where they are going to invest, might take out a directory and approach the top 3 and compare the pricing. I don't think anyone would say, 'ok, this firm is number one so we'll go for them,' but I don't think it's totally useless."

"... you never really get the sexy news from law firms. The sexy info is always confidential or not for us to release."

- Erik Werkman

On a similar subject – the value of legal "awards" given to law firms – Werkman rolled his eyes. "Seeing the number of emails I get with awards that are practically for sale makes me very cynical about any award a company is advertising to have won – even outside the legal sector. That being said, the major awards given by directories or main legal weeklies – such as The Lawyer or LegalWeek – do carry a lot of prestige."

Of course, it's not only partners and marketing professionals whose time is required for submissions, and marketing professionals need to be aware of the demands they're placing on clients as well.

Werkman from CMS explained the dilemma. "There can be real logistical challenges in all this. I tell partners, 'this is the contact that you named last year, maybe this year you should mention someone else.' But sometimes you can think about it too much. You can think, 'this client works with three other firms, so if some other firm already lists him as a reference, he'll also comment on us, so maybe we won't name him ....' If you're not careful you can spend hours and days trying to think it through. It is hard. The bottom line is, is the client satisfied and will the relationship be harmed by approaching them to act as a reference?"

Piro from White & Case nodded his head in agreement. "The references are a critical part of getting a good ranking, so getting this process right is vital to success. However, we recognize that our clients don't want to be contacted by two, three, or four researchers and asked about their legal advisers, which is why we've implemented systems to help manage our submissions and vary our client contacts across the year to minimize individual clients' time on these."

What Could Be Better

The conversation concluded with a catch-all questions: Were participants satisfied with available tools and outlets, or would they like to see changes?

Rankings was the first thing on participants' minds. Lukas Porkert of Dentons drew laughs by sighing, "if only Chambers had the same researcher for the Czech Republic and Slovakia for 2-3 years, that would be great."

And Jan Posvar of Schoenherr said, "a really good and accurate Czech ranking would be nice." Referring to a prominent Czech website, he said, "I don't consider Epravo a proper one. This would be something – maybe also a Czech/Slovakian ranking."

Pavel Broucek of Baker & McKenzie spoke next. "Some people in our office – some practice groups – complain that the benchmarking publications don't cover certain areas of law or industry groups or practice groups. They would like for me to find ways to demonstrate how good they are. For example, there's really no good ranking for pharma. So I have to try to find and use Europe-wide and other rankings that are at least close – but they do not have much impact. Although this would make more work for me, it would help me sell our product on pitches and things like that if I could point to those kinds of rankings.

Werkman took an almost diametrically opposite position, saying, "I think the directories should merge some practices." He continued: "Their separate sections do not always reflect reality. In a market the size of the Czech Republic there are very few lawyers dedicated full time to certain – particularly regulatory – issues, and the experts might well be at firms operating below the radar of the directories. In reality, in the larger firms, the lawyer doing TMT is likely to be dealing with two other sectors as well."

Remington from Clifford Chance nodded his head at Werkman's comment. "Yes, describing different aspects of the same transaction across five separate submissions doesn't make a great deal of sense."

Porkert resisted the idea that the rankings were untrustworthy, and said, "actually, I disagree about the value of the Epravo rankings. We have led in Real Estate in the Epravo rankings in 6 of the last 7 years. In each of those years, we advised on the 8-10 largest transactions in a given year in Real Estate and we could see that not many firms were across the table on multiple deals. It would always be different firms – some of them more frequently than the others – but not any single firm all the time. So when we were ranked first tier, that ranking was accurate."

Werkman claimed the question was less about the results than about the process. "These things are always subjective," he said. "And you can argue without end whether a ranking reflects reality or not. If the research is not transparent and it is not clear how they came to the given result it loses credibility in my opinion."

With that comment the Round Table concluded.

We want to thank the participants for taking time from their busy schedules to join the event, and especially to Jan Posvar and Schoenherr, who hosted the event.

David Stuckey

Market Snapshot: Czech Republic

Energy & Utilities: With or Without Nuclear

Tomas Rychly, Partner, Wolf Theiss

Whether in the Czech Republic, in our CEE region, or elsewhere in the world, its amazing to observe and be part of the energy sector. This reaction is fueled by developments in economy, in the energy industry and technologies, and also by ever-shifting governmental policies, especially in the area of the support of renewables and carbon emissions reduction. One of the key themes of any review of these policies is inconsistency.

Although some elements or general strategic goals are regulated in international treaties and on the EU level (e.g., carbon emission reduction goals), often in a very ambitious way, concrete energy policies still remain firmly embedded on a national level and are exposed to national politics and idiosyncrasies. This creates a terrible mélange, which may be at first look funny, but in fact is fairly dangerous as it stimulates high hopes (e.g., low energy costs for consumers), which are impossible to deliver without a consistent and well-organized effort across the EU.

The attitude towards nuclear energy is a typical example. The approach varies from positive acceptance (in Czech Republic, Hungary, and Poland), through hesitation and weakening public support (in Slovakia) to outright rejection (in Austria and Germany). I recently discussed with a London-based lawyer and a distinguished expert on nuclear projects the question whether Central and Eastern Europe may witness a new nuclear build in coming years. He said: "This looks to me only marginally more likely than Jeremy Corbin (a leftist Labour Party leader) becoming Prime Minister." The comparison certainly stands in that the acceptance of both new nuclear build and Jeremy Corbin is a politically supercharged topic. Will anything ever happen?

Czech Story: There and Back Again

If we look at the Czech Republic, the public tender for a key contract for the new nuclear build in Temelin was aborted by the leading Czech utility CEZ in April 2014 and, despite the substantial costs and efforts already incurred, the project does not seem to be on its way to resurrection. Nonetheless, the Czech Republic is still strongly "pro-nuclear" if we are to believe the State Energy Policy approved by the Czech government. Czechs seem to be unfazed by the unequivocal "No" to nuclear energy in Germany and a similar dislike in Austria.

In the State Energy Policy, the Czech government proudly and unconditionally declares that it supports: (A) a new nuclear build which would produce around 20 TWh of electricity annually and presumably be completed between 2030 and 2035, (B) the extension of the lifespan of the nuclear power plant units in Dukovany to 50 or 60 years, and (C) development of replacement units in Dukovany after they reach the end of their lifespan. All in all, "in the long-term, the nuclear energy could exceed a 50% share in power generation," says the Czech government.

International Context Always Plays a Role

Is this realistic in the context of German and Austrian resistance to nuclear energy? It seems unlikely that the Czech government would be able to simply ignore this type of pressure, irrespective of what the Policy says. The growing threat of a terrorist attack is also not very helpful to the cause. At the same time, I believe that these obstacles could be tackled by smart diplomacy and increased security measures.

As the Czech people ironically say, money comes only in the first place (meaning that – in capitalism – almost everything is about money). Consistent with this, I believe that the greatest challenge will not be political issues but funding. It seems that Czech politicians support the idea of a new nuclear build with just the very small caveat that the government must provide no financial support to the project and that, consequently, it should be a strictly private enterprise, perhaps co-sponsored by the key contractor.

The Hinkley Point C lesson from the UK shows us that without governmental financial support (whether in the form of a contract for difference or otherwise), a new nuclear build is simply unthinkable. The low "base load" power prices are not going to rise any time soon and the continuing support of the renewables simply makes nuclear power not competitive.

I still believe that the new nuclear build in the Czech Republic (or elsewhere in CEE) may proceed in 2016 or 2017 – but only if the politicians find a way to accept reality.

By Tomas Rychly, Partner, Wolf Theiss

Impact of the New Civil Code on Commercial Real Estate Leases

It has been almost two years since the new Czech Civil Code came into force on January 1, 2014. The new law was anticipated with some trepidation, as the changes brought by it influenced all areas of Czech civil law, including commercial property leases. Consequently, professionals were curious to learn the practical implications of the new law for their business.

New Leases. Any Significant Changes?

Jan Myska, Partner, Wolf Theiss

Judging from our experience in the past two years, the new Civil Code has not significantly affected newly entered lease agreements and certainly has not caused any revolution in the field of commercial real estate leases. This conclusion stands even though new lease agreements are, naturally, fully governed by the new Civil Code. The reason for this is that the vast majority of statutory provisions regulating commercial leases may be modified or contracted out of in lease agreements, allowing for greater freedom of contract. Therefore, parties do not usually rely on the applicable law. In fact, the new law has even strengthened the already existing tendency to set out the rights and obligations of the parties quite comprehensively in the lease itself, so that they can avoid, to the maximum extent possible, application of statutory provisions.

Old Leases and Their Treatment

When it comes to leases concluded before the new law came into effect, the situation is more interesting. The general rule of the new Civil Code that agreements concluded under the old law remain – simply speaking – governed by the old law does not apply to real estate leases. As a result, all aspects of property leases concluded before January 1, 2014 are regulated by the new law (except for the establishment of the lease and rights and obligations of the parties which arose prior to this date).

This may have a significant influence on rights and obligations of the parties, especially if the parties relied, at the time of conclusion of the lease, on the then applicable law and did not set out the terms and conditions in detail in the agreement.

Pavel Srb, Associate, Wolf Theiss

Although the changes brought by the new law are not extensive, there are some new provisions to be aware of. As an example, the new Civil Code stipulates a longer notice period of six months for commercial real estate leases entered into for an indefinite period of time. Further, the party to which a termination notice has been delivered has one month to object to the notice, or forfeits the ability to contest it before the courts. Moreover, where the lease is terminated by a notice served by the landlord, the tenant is entitled to a compensation for the benefit that the landlord or a new tenant gained by taking over the client base developed by the departing tenant, unless the termination of the lease resulted from a gross breach of the tenant's obligations. Although this provision will hopefully rarely be applied in practice, it has been heavily discussed within the legal profession, and parties to new leases often choose to contract out of this provision.

Indeed, these, as well as many other statutory provisions can be modified or excluded by the parties when entering into a new lease. As outlined above, the current tendency is to have the rights and obligations of the parties set forth in the lease agreement quite comprehensively – a trend that has grown more prominent in recent years, especially following the implementation of the new law. Finally, it can also be observed that, due to an increased availability of vacant prime non-residential premises on the Czech market, the rights and obligations of the parties to a lease have become more balanced, from the tenants' perspective. This is especially true with respect to leases concerning office premises. On the other hand, based on our experience representing various large landlords and tenants, in retail premises usually only anchor tenants have the power to negotiate considerably favourable conditions of their lease.

By Jan Myska, Partner, and Pavel Srb, Associate, Wolf Theiss

Inside Out: Baker & McKenzie Advises Kofola on IPO

The Deal

On December 11, 2015, CEE Legal Matters reported that Baker & McKenzie had advised Kofola CeskoSlovensko – the Czech soft drink producer, which is headquartered in Ostrava – on the IPO of up to 275,000 newly issued shares on the Prague and Warsaw stock exchanges.

In addition, Baker & McKenzie advised the CED Group S.a r.l. (one of Kofola's major shareholders and a company owned by Polish Enterprise Fund VI (advised by Enterprise Investors)), on its offer of up to 1.225 million existing shares of Kofola (subject to satisfactory price and demand), bringing the total offering to 1,500,000 shares.

The value of the IPO was CZK 765 million (approximately EUR 28.3 million).

The Players:

- Prague-based Baker & McKenzie Partner Libor Basl
- Warsaw-based Baker & McKenzie Partner Jakub Celinski

CEELM: How did your firm become involved in the deal? In other words, why did Kofola select you (and Baker & McKenzie) as external counsel for this particular deal?

Basl: It was a fierce competition to get the deal. The selection process was very demanding and involved other law firms, both international and domestic. We met with the Kofola team several times to demonstrate our experience and dedication. Kofola was seeking the most effective transaction structure for the migration of its headquarters into the Czech Republic. Ultimately, we believe that we succeeded because we came up with various interesting transaction structures for this deal, including the one which Kofola liked the best.

Celinski: It also helped that the second biggest shareholder in Kofola, the private equity firm – Enterprise Investors – knows us and trusts us. And last but not least, we in Baker & McKenzie have advised in almost all cross-border equity capital market deals where both Poland and the Czech Republic have been involved, including – to name just a few – Fortuna Entertainment Group's IPO, Pegas Nonwovens' IPO, Orco Group's SPO, and Kofola's public takeover of Hoop.

CEELM: Libor, you said the selection process was very competitive. Can you elaborate on that?

Celinski: There were at least two face-to-face meetings, one with the entire board, with in-depth discussions for different scenarios of the planned transaction. Obviously, these meetings were held privately, but because this world is not that big we knew who we were pitching along with (we met the other teams on the plane, etc.).

Basl: We were one of five law firms invited into the selection process and I believe that our track record was one of the decisive factors, as was our ability to show to Kofola that both the Prague and Warsaw lawyers could work as one team (as we have done several times before) and would get the work done with as little hassle for the banks and company as possible.

CEELM: At what stage in the process were you brought on board?

Basl: We were involved right from the beginning – right after the client (informally)

Libor Basl

decided to move back to the Czech Republic and even before the financial advisers were selected. We were asked to come up with a complete transaction step-list involving every aspect of the deal, starting with due diligence and negotiations with both Czech and Polish authorities, moving on to prospectus drafting and acquiring a shell Czech joint stock company ("NewCo"), and then transforming it to become a top holding company of the whole Kofola group with its shares dual-listed on both the Prague Stock Exchange and the Warsaw Stock Exchange. The main challenge was to create a feasible plan which would allow for coordination of all parties – the client, the selling shareholder, lawyers, auditors, all three banks, the Czech and Polish financial supervisory authorities, the Prague and Warsaw stock exchanges – and to make the IPO by the end of this year.

Celinski: As the transaction was so complex, the sponsors – Kofola's management and Enterprise Investors – knew that the first step should be to find a workable solution from the legal perspective which would combine a few objectives: (i) migration of the top holding company from Poland to the Czech Republic, (ii) while preserving the Warsaw Stock Exchange listing and adding the Prague Stock Exchange listing, and (iii) conducting the public offering. All this had to take place in less than a year. I recall my first meeting (still during the pitch process) in Ostrava with Kofola management on a sunny but cold late winter day, where I presented different scenarios for the transaction. It was just nine months ago, but we managed to fulfill all

three objectives.

CEELM: Libor refers to Kofola deciding to transfer its operations to the Czech Republic. That clearly happened before the actual IPO, but can you elaborate a bit on that?

Celinski: Definitely, this was part of the original mandate and Kofola communicated it from the very beginning. This phase of the transaction was reached when the four major participating shareholders transferred their shares in Kofola S.A. (the Polish top holding company) into Kofola CS a.s. This action was completed several weeks before the launch of the IPO and obviously it was communicated to the markets by both listed companies, i.e. Kofola CS a.s. and Kofola S.A. By the way, this was also part of our winning strategy to get this assignment; we advised Kofola and Enterprise Investors to split these two actions, into: (i) group reorganization; and (ii) the public offering, so that when they offered shares to the public the "house keeping" work had already been done.

CEELM: Who were the members of your team on the IPO, and what were their individual responsibilities?

Basl: In our Prague office, I was primarily responsible for deal management, deal structuring, and negotiations with Czech authorities. Moreover, David Reiterman, Associate, was primarily responsible for prospectus drafting and fulfilment of regulatory obligations by the issuer, and Michal Simcina, Associate, was primarily responsible for the NewCo acquisition and all corporate steps necessary for the NewCo to become a top holding company of the whole Kofola group, with its shares dual-listed on both the PSE and the WSE.

Celinski: In Warsaw there were two Partners involved: Ireneusz Stolarski, who was negotiating changes to the shareholders' agreement, and myself. I was responsible mostly for the equity capital markets part of the transaction, including the drafting of two prospectuses, discussions with Polish capital markets authorities, negotiating the underwriting agreement between the three managers (Erste Group Bank AG, BZ WBK S.A. and Trigon Dom Maklerski S.A.) and Kofola as well as the Selling Shareholder, resolving issues such as the complex financial history to be presented in the prospectuses, publicity, and the research by the analysts, and so on. Piotr Kowalik and Rafal Rzeszotarski, both Associates in the Warsaw office, were fully dedicated to this transaction and assisted me and our clients.

CEELM: Please describe the structure and your involvement in it in as much detail as possible – in other words, what does the IPO look like, how is it structured, and how did you help it get there?

Basl: This IPO was very specific and rather challenging. The main purpose was to do an IPO of a new Czech-based company – NewCo – as the new top holding company of the Kofola Group, by the end of

Jakub Celinski

the year. The winning transaction structure that we believe won us this deal, which I mentioned earlier, involved a public share exchange offer of newly issued shares in NewCo for existing shares in the (then) top holding company of the Kofola Group - Kofola S.A. By "switching" the shares (in a 1:1 ratio), the shareholders of Kofola S.A. were supposed to receive shares in NewCo, which would in turn hold shares in Kofola S.A. – thus making NewCo the top holding company of the Kofola Group. However, this scenario generated regulatory obligations which would have had an impact on the timing of the IPO. Therefore, we proposed to the client some further alternatives for how to get things done in time and ultimately chose a transaction structure involving the ultimate Kofola S.A. shareholders contributing their shares in Kofola S.A. as in-kind contribution to the registered share capital of NewCo by way of which NewCo obtained Kofola S.A.'s shares and NewCo became the top holding company of the Kofola Group. Moreover, as the client and the selling shareholder wished to have the top holding company listed, we needed to prepare two prospectuses instead of one. The first prospectus was approved solely for the purpose of the "technical" listing of NewCo's shares on the Prague Stock Exchange. Afterwards, we drafted a second prospectus which was approved for the purpose of the IPO in the Czech Republic, Poland, and Slovakia, and for the listing of NewCo's shares on the Warsaw Stock Exchange. We were in charge of drafting all the necessary documents, including corporate resolutions on both the NewCo and Kofola S.A. levels, and regulatory filings, and coordinating all parties to ensure a smooth workflow and fulfilment of milestones set out in the aforementioned transaction step-list. For this purpose, we organized weekly video-conference calls and were in daily

separate communication flows with all the involved parties, including our Polish colleagues. Our client quickly realized whom to contact within our Baker & McKenzie team, which made the communication very flexible by enabling several work-streams to be conducted at the same time (each involving a different member of our Baker & McKenzie team responsible for that particular workflow).

Celinski: This was on the one hand a very specific process, and on the other hand an IPO very similar to other cross-border ECM deals that we specialize in. To sum up, we had two prospectuses instead of one, two regulators to agree on the structure of the deal rather than one, two clearing houses to settle transactions instead of one, two public companies at some time listed on two different stock exchanges and reporting in different currencies, and so on. However, we all had relatively small teams (up to six/seven persons) involved in the transaction from each party, which allowed us to be very efficient. I must say that it helped greatly that Kofola had already been listed in Poland for many years, because many things which are typical for an IPO, like understanding what it means to go public, producing IFRS reports on time, incorporating proper corporate governance rules, and so on, were already in place.

CEELM: Were any elements of the process surprising or unexpected?

Basl: To be frank, surprises and unexpected situations came up quite regularly. However, as the whole transaction team was constantly discussing all aspects of the deal, we were able to brainstorm and come up with workable solutions very quickly. By way of example, after we learned that the original idea of the share exchange offer would not work time-wise, we swiftly came up with some practicable alternatives and – after discussing them with the client – jumped on the new transaction structure and carried out the IPO with no delays that would hinder the whole transaction.

Celinski: Definitely the most demanding moment was the shift from one transaction structure to the other. Unfortunately, it happened during my summer vacation, and my wife and children will remember this stressful moment for some time.

CEELM: What would you describe as the most challenging or frustrating part of the process?

Basl: As I have already mentioned, we faced challenges quite regularly, but as we were able to overcome these by coming up with a good solution very quickly, I do not think there was any frustrating moment during the process. All parties worked very hard and also the Czech National Bank, as the authority reviewing and approving both prospectuses, was really flexible in terms of finalizing the prospectus and meeting our deadlines as set out in the transaction step-list.

Celinski: I couldn't agree more.

CEELM: Did the final result match your initial mandate, or did it change/transform somehow from what was initially anticipated?

Basl: As you can see from the answers above, we slightly diverged from our initial mandate. However, I believe that the ultimate solution fits nicely to the client's needs.

Celinski: And we still have some clean-up work to do, such as the delisting of the old top holding company from the Warsaw Stock Exchange, which is now 100% owned by the new top holding company and the merger of both companies into one enterprise next year.

CEELM: How did your respective legal teams communicate on the matter? Were the parts so distinct that the teams were effectively distinct as well, or was everyone working together – perhaps even in the same office – on all parts? How did the process work in terms of geography, logistics, and time?

Basl: In the beginning we split the responsibilities on the deal to make sure that each team focused on matters in which it had experience, so that the deal management would be as effective as possible. Naturally, a complete split was not possible, and therefore we discussed practically all issues on a day-to-day basis to make sure that we always had a common "Baker & McKenzie" approach, irrespective of the particular team member or office from which that input came. We shared our knowledge and experience to come up with the best solutions for the client. In terms of geography, we worked in our respective offices, but when necessary we got together and worked in the same room, e.g., during the prospectus drafting sessions.

Celinski: Nowadays, it is not that difficult to have one team from the client's perspective located in two places. Most of our communication is by email, phone, and video-conference anyway, so it was not that different from other transactions. I am also interested in how this was seen from the clients' perspective. I will definitely ask for this feedback. We have just closed the IPO and Christmas is coming, so there are good reasons to sit down with our clients and discuss our performance. By the way, this is also the "Baker & McKenzie" approach, as we feel that we can learn a lot from such feedback.

CEELM: How would you describe the working relationship with Kofola?

Basl: We believe the working relationship with Kofola was excellent. We quickly realized that in order to get things done we needed to decentralize the communication

and divide it into separate workstreams. Each member of our Baker & McKenzie team had a counterpart in Kofola, and their day-to-day communication helped to move things forward extremely smoothly and efficiently. It was a mutually beneficial setup – we were all on the same page in terms of both business-related as well as law-related issues.

Celinski: To provide you with the full picture, it was not only necessary to agree on everything internally and then with the Kofola team, it was equally important to discuss everything with the Enterprise Investors and the managers, auditors, financial adviser to the Selling Shareholder, and so on. So, all in all, there were about ten teams which needed to communicate with each other on a daily basis.

CEELM: How would you describe the significance of the deal in Poland, the Czech Republic, and the region?

Basl: A deal like this does not happen too often in the Czech Republic. We believe that Kofola could bring some more activity into the Czech capital market and that, possibly, it could positively stimulate other companies contemplating an IPO. Moreover, given that Kofola is one of the most recognized and favorable brands in the Czech Republic and Slovakia, we feel that it is a great idea to allow anyone who likes Kofola to actually own a "piece" of it and that's why we hope that Kofola's shares will be one of the favorite titles on the PSE and will possibly encourage Czech retail investors to invest and support in the Czech capital market.

Celinski: It is possible that we have a slightly different perspective in Poland, as Kofola is not a newcomer on the Polish capital market and we have more than 50 foreign companies listed in Warsaw. Only this year I have advised German, Lithuanian, and Czech companies on listing on the Warsaw Stock Exchange. The transaction with German company Uniwheels, on which I advised the issuer together with our colleagues from the Frankfurt office, was the biggest IPO this year in Poland, and the Kofola transaction would be the third or fourth biggest, depending on the success of one more Polish-German ECM transaction which was launched only a few days ago. So, we see the Warsaw Stock Exchange as a natural choice for companies from the region who are seeking fresh capital from investors and we would be more than happy to assist them. Our capital markets practice has developed unique experience in cross-border deals, which can hardly be matched by our competition.

David Stuckey

Jannis Samaras, CEO of Kofola, celebrating outside the Prague Stock Exchange

Inside Insight: Lenka Honsova
Legal Affairs Manager at Heineken

Lenka Honsova is the Legal Affairs Manager at Heineken Ceska Republika, which she joined almost eight years ago. Prior to joining Heineken, Honsova worked for Skoda Transportation as a Contract Manager from 2005 to 2008.

CEELM: You've spent your entire career working as an in-house lawyer. Did you ever contemplate moving to private practice?

L.H.: No, I haven´t thought about moving to private practice. I enjoy working directly within a company. You become part of the team and get good insight into its business. You know what goals you contribute to, and that´s what motivates me.

CEELM: How large is your legal team in the Czech Republic and how do you structure it?

L.H.: The size of the team has changed over time. In the first years after I joined Heineken I had a team of 4 in-house lawyers and 4 external lawyers working on a daily agenda – plus external receivables collectors and dispute lawyers. But this was the time when Heineken was going through acquisitions, shareholder consolidations, and the set-up of business models. Nowadays the group is consolidated and my legal team has made a significant effort in setting up standard contracts and processes and in transferring basic legal know how to our peers from the business. So today we work as a group of 3 and engage in little outsourcing. A specialized law firm takes care of our receivables which would not be effective to manage in-house. Disputes are resolved by the original representatives – and I have to say the amount of disputes has dropped as a result of the effective preventive measures we've taken.

CEELM: Can you elaborate for our readers as to some of the preventive measures you found particularly effective?

I believe that what helps prevent problems is the attitude of my lawyers, and their proactivity. If we are confronted with an issue we do not limit ourselves to solving it, but also dive deep into the source of the problem to improve the process, legal awareness, and/or business model.

My team also performs regular random checks of concluded contracts to reveal potential mistakes, learn from them, and pass that information on to our contractors. We generally invest a lot of time into broadening general legal awareness in the company.

CEELM: What type of legal work keeps a General Counsel in your sector busy?

L.H.: Heineken works in the FMCG sector, which means that every day of competition for customers is relevant. Offering a high quality product and service is a must. On top of that there is a need for innovations and constant evolvement in terms of quality and variety of products – and also in the product presentation and models of the business.

This influences the legal function as well, as we need to be flexible in supporting a high quantity of new ideas and challenges.

We have to make sure that Heineken holds and protects the intellectual property rights to its products, for instance, and that communications are compliant with alcohol regulations.

My team focuses on having excellent contract templates – fair, easy to negotiate, but also made to measure to our business and safe in case things go wrong. We make an effort to negotiate fair conditions also with the international retail chains.

The legal team is also a guarantor of competition law compliance.

CEELM: What tools do you prefer using to stay apprised of legal developments?

L.H.: I obtain alerts on new developments from several online legal journals, and we also have software that, among other things, notifies you about legal updates. Law firms help make sure we do not miss legal updates by sending interesting legal newsletters.

CEELM: What were the primary reasons of disappointment when working with external counsel in the past?

L.H.: I´m not comfortable with the service if there is a lack of flexibility and understanding of our business needs. Most of all, a lack of simplicity in the advice and missing guidelines as to how to follow up is a problem.

Working with an in-house lawyer and working with an external lawyer, only from time to time, is incomparable. It always took me several months to provide a full business understanding to a new legal colleague. Now I´m very happy to have the excellent team I do.

CEELM: How did you find it is most effective to facilitate this type of business understanding? What would be the critical first steps with a new in-house colleague towards this goal?

L.H.: For an in-house lawyer it is essential to ensure that he knows the purpose of the task, has the right focus while working on it, and uses an easy language while advising.

I always encourage new lawyers to come and discuss every task they are given in the first months. This is a good opportunity to give them an insight into the background of the issue, how the business works, and

what the biggest presumed risks are – and therefore where special focus is needed and what form of output would be best for the specific task.

Our initial cooperation is also meant to lead the lawyer in the way he should be asking his internal clients in other upcoming tasks.

I´m afraid there is no special trick how to get to understand the business other than being eager to learn and participate in constant discussion with business colleagues.

CEELM: On the lighter side, if you could change to any other career tomorrow, what would it be?

L.H.: I would either buy a running but struggling manufacturing business or I would go 'professional' in taking care of my dog.

Radu Cotarcea

Expat on the Market: Jason Mogg of Kinstellar

Canadian Jason Mogg is Kinstellar's Managing Partner, working primarily from the firm's Prague office. He has over 20 years of transactional experience in Central, Eastern, and Southern Europe, and he has led teams of foreign and local lawyers and worked on many significant international transactions, including many privatizations across the region. Mogg is a Canadian-(Ontario) and English-qualified lawyer and speaks English and French.

CEELM: Run us through your background, and how you got to the Czech Republic.

J.M.: I left my law firm in Canada to go to Europe for "up to two years"– a sort of "working sabbatical." That was in 1993. Several countries, three law firms, a wife, and two kids later, I finally realized that, I suppose, I actually now really do live in the Czech Republic.

CEELM: Was it always your goal to work abroad?

J.M.: I thought I was going to end up working in New York City. For a while that was a goal.

CEELM: What do you like most about being an expatriate lawyer – about practicing in a jurisdiction so far from home?

J.M.: It is one whole heck of a lot more interesting – and no doubt challenging (the two are connected) – than anything I might have done in the US or Canada. The people – especially the young people – are great. Living in Europe is wonderful – a real blessing. The opportunities are both fantastic and within reach while still being stretching. The growth and development of the markets as well as the quality and pace of growth and development of the people here (which is tremendous) means that the business and legal world in this region still feels new and fascinating – at times it even reaches the inspirational.

CEELM: Can you describe your practice, and how you built it up over the years?

J.M.: Most of my work currently, and indeed for some time, has involved trying to manage and build the Kinstellar law firm rather than actively working on numerous client matters – though I remain involved in that to a rather small degree. That means that I am focused on helping the people in the firm achieve the maximum of their capabilities within a single, consistent, joined-up business which is seeking to thrive and, at the same time, serve clients extremely well. Achieving this within Kinstellar, and achieving true consistency and excellence across a wide swath of different people, countries, and practices and having a truly teamwork-oriented firm with which to achieve that, is no easy task. But it is gratifying and it has a lot of power – sustainable and enduring power – when it works. We are getting there. To the extent we are, I think I have made some small contribution to that.

My practice has been typically M&A and project finance with a whole lot of other things also in the mix.

CEELM: Do you find local/domestic clients enthusiastic about working with a foreign lawyer, or do Czech (and other CEE) clients prefer working with local lawyers?

J.M.: Being an expat is irrelevant. Clients prefer working with excellent people – especially when the excellence is not underpinned by egotism – who deliver reliable, well thought out, commercially sensible, and pragmatic advice and service. Clients want lawyers who provide solutions, who advise them well. They want to work with lawyers who work well together with them. They want lawyers who work together well with their own teams. They want client-focused, rather than lawyer-focused, advice and assistance. I think they don't really care where the lawyer and the team comes from.

CEELM: There are obviously many differences between the American and Eastern European judicial systems and legal markets. What idiosyncrasies or differences stand out the most?

J.M.: I have worked in a number of different jurisdictions on both sides of the Atlantic. I often think that the differences – and the supposed "uniqueness" of any jurisdiction or system – tend to be exaggerated by many lawyers. Perhaps this is because relatively few lawyers have experienced a number of different systems and jurisdictions, and most therefore do not have a strong basis of comparison. Un-familiarity with any given judicial system tends to lead to a focus on what is different about it. As such, this can create a perception, in some respects erroneous, that the "other" or "foreign" system is extremely different. I think that in fact, what working effectively in the North American and the CEE and, say, Turkish and even Kazakh or other systems all have in common, on the level of principle and objectives and outcomes, is a larger set of features than the number of features that distinguish them. I appreciate that that may not be what most think.

If you must have a difference, I think the biggest and most important single difference is in the legal education systems which school the lawyers on the continent and, generally, in North America. This leads to a slightly different view, in the minds of the lawyers who come out of the two streams, as to what their overall role and place is and what their limitations, strengths, and weaknesses are. The codification of law in civil countries on the continent (and further afield, in those countries inspired by the continental civilian system) has led to a prioritization of the teaching of the codes and a rigorous commitment of the law and the codes to memory, often without a watering down of the legal education with other disciplines or subjects. The education in common law jurisdictions typically requires some previous post-secondary education in other areas (basically random) and is less centered on black letter law and more centered around abstract concepts, and deductive and inductive reasoning. Neither is better. Probably both could learn something from the other. In any event the difference leads to a slightly different focus and prioritization of people educated in one stream versus the other. Good people will excel in either and will not be hampered unduly by the limited exposure in their background to the other system.

CEELM: What particular value do you think a senior expatriate lawyer in your role adds – both to a firm and to its clients?

J.M.: In a word, experience. This has nothing to do with being an expat. Of course that's what every senior lawyer or professional (or anything) inevitably says at some point. Youth, by contrast, has the advantage of energy and drive and talent. It would be nice to have all of these at the same time. Of these, unfortunately, I can only ever claim experience. But at least now, I can claim that with some degree of accuracy.

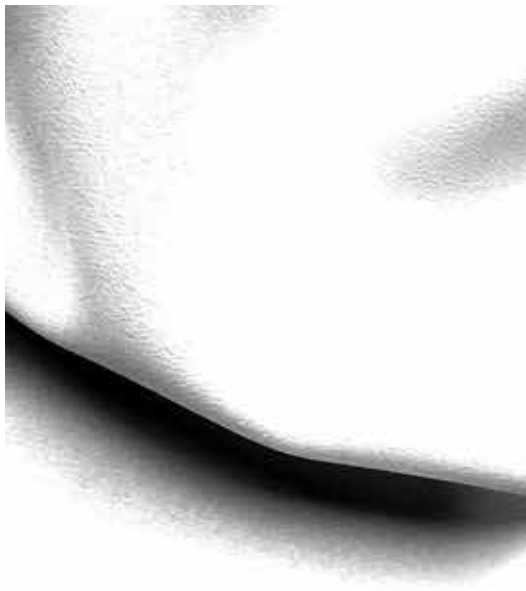
CEELM: Outside of the Czech Republic, which CEE country do you enjoy visiting the most?

J.M.: Given that we have eight offices full of people from eight countries, all (or at least most) of whom are, justifiably, very proud of their own countries, this is a very diplomatically challenging question for me. So I will cop out and say that I very much love to visit Italy when on vacation. It is close by, and wonderful in every respect. Come to think of it, I think Italy really has more in common with most CEE countries than most people realize – think about it – maybe it is at heart or should be considered a CEE country? Indeed, I hereby nominate Italy for inclusion in this illustrious club. Will anybody second me on that?

CEELM: What's your favorite place in the Czech Republic?

J.M.: Easy: Rozmberk nad vltavou. I got married there to the Czech woman who was the largest part of the reason for me not returning to North America after my two years were up.

David Stuckey



Next Issue's Market Spotlights

Bulgaria

Slovakia

Experts Review: Banking/Finance

It's cold outside, no? But some countries have it better this time of year than others, and the editors of CEE Legal Matters find ourselves contemplating alternatives. Accordingly, this issue's Experts Review articles, which focus on Banking/Finance, are presented in the order of each contributing country's average yearly temperature calculated from 1961-1990. As there is no Greek contribution in this issue, Albania takes pride of place, with an average of 11.40 degrees. Turkey is only slightly cooler, at 11.10 degrees, with Croatia right behind at 10.90.

The Russian article therefore concludes the feature, as the largest country in CEE is also the coldest, with a bone-chilling annual average of -5.10 degrees during the time covered.

In this section:

Albania

Implementation of the European Bank Recovery and Resolution Directive in the Albanian Legal Framework

Under current Albanian law the insolvency proceedings applicable to companies are not applicable to banks. The Albanian Law On Banks provides for a special administrative regime – the obligatory winding up of a bank – that can be initiated upon a decision of the Bank of Albania. However, even this special regime may not always be an option, considering the impact that the winding up of a systemic bank would have on the entire system.

In the European Union, the onset of the financial crisis in 2007 demonstrated the importance of setting up a dedicated resolution regime for credit institutions, as it became clear that initiating insolvency proceedings over an insolvent or over-indebted credit institution could have severe repercussions for the financial system as a whole due to that bank's interconnectedness with other market players. In addition, because of key functions that banks perform (including accepting deposits, granting credit, and processing payments), the repercussions could affect a nation's economy as a whole.

To provide a set of resolution tools that facilitate the resolution of banks without resorting to taxpayers' money, the European Bank Recovery and Resolution Directive, or BRRD, was approved on April 15, 2014, and was published in the Official Journal of the EU on June 12, 2014.

Although Albania is not a member of the European Union, efforts are being made to harmonize Albanian legislation with European legislation in order to meet the obligations arising from the Stabilization and Association Agreement that Albania signed with the EU in June 2006. Accordingly, a new law is currently being drafted to implement the BRRD into the Albanian legal framework: the Act on the Recovery and Resolution of Banks and Credit and Savings Companies is expected to be introduced to the Parliament by the first part of 2016. This legislation will also make necessary amendments to existing acts, such as the Law On Banks in the Republic of Albania.

The implementation of the BRRD into the Albanian legal framework will introduce a new resolution regime as a third option alongside insolvency and bailout and will be applicable to banks as well as other deposit-taking institutions such as credit and savings companies. Unlike the BRRD, however, investment firms will not be included.

The new law, much like the BRRD, will also make a distinction between two different sets of proceedings which can be initiated if an institution experiences financial difficulties: recovery and resolution.

Recovery proceedings are conducted by institutions independently. Although the supervisory authority has the power to require an institution to initiate a recovery action, the institution has to prepare a recovery plan on its own, and all recovery measures are private law arrangements that do not involve any sovereign or official powers. A guideline approved by the Bank of Albania in 2014 already obligates banks to prepare recovery plans. With the implementation of the BRRD by the new law, the Bank of Albania's guideline will have to be amended in order to include credit and savings companies and to be aligned with the wording of the new law.

Resolution is another area in which planning takes place up front, which simplifies the task of selecting the most appropriate course of action in an emergency. Unlike recovery planning, the resolution authority rather than the institution must draw up the resolution plan.

The new law will provide that resolution proceedings can only be initiated if the following conditions or triggers (set forth in the BRRD) are met: the institution is failing or is likely to fail; there is no reasonable prospect that any alternative private sector measures or supervisory action would prevent the failure of the institution within a reasonable timeframe; and resolution is necessary in the public interest.

Once the resolution conditions have been satisfied and resolution proceedings have been initiated, the resolution authority can deploy resolution tools such as the sale-of-business, bridge-institution, asset-separation, and bail-in tools.

The new resolution regime represents a major step towards restoring the principles of the market economy, which dictate that if an institution fails, its shareholders and creditors should be first in line to absorb the risks and losses before a dedicated resolution fund financed by the banking industry steps in. This is an objective that the BRRD seeks to achieve through the new bail-in tool. The possibility to use the bail-in tool would be a remarkable development in Albanian law.

In order to assure sufficient funding for a bail-in procedure, the new Albanian law will set out a minimum requirement for funds and eligible liabilities (MREL), similar to Article 45 of the BRRD.

The implementation of the BRRD will require the creation of a national resolution authority.

Sokol Nako, Partner, and Olta Kore and Xhet Hushi, Associates, Wolf Theiss

Turkey

Squeeze Out-And Sell-Out Rights in Turkish Public Companies

The Turkish Capital Market Law ("CML") regulates squeeze-out and sell-out rights in public companies and companies deemed to be public (companies with more than 500 shareholders). The main motive of the squeeze-out and sell-out provisions of the CML were to protect minority shareholders' rights in public companies and to bring these rights into uniformity with European Union stand-

ards. The Capital Market Board of Turkey ("CMB"), the primary regulator in capital markets, has set out the principles and procedures of squeeze- and sell-outs in its communique numbered II-27/2 (the "Communique").

The Communique defines a controlling shareholder as any shareholder who directly or indirectly holds a minimum of 98% of the total voting rights in a public company (when calculating voting rights, privileged shares and voting rights of third parties such as call option holders shall not be taken into consideration under the provisional article of Communique – and a threshold of 97% applies until December 31, 2017). A controlling shareholder may reach this threshold as a result of a takeover bid or otherwise, including acting with other shareholders. The controlling shareholder shall have the right to squeeze out minority shareholders while the remaining shareholders shall have the right to sell-out their shares to the controlling shareholder.

The Communique requires a controlling shareholder who reaches the 98% threshold or who purchases additional shares after reaching this threshold to declare this to the public. Following the declaration, the remaining minority shareholders may sell-out their shares within a three-month period. Loss of the required 98% minimum majority during this three-month period does not stop the process.

The Board of Directors of a company whose shares are subject to squeeze-out or sell-out rights (a "Company") is obliged to verify whether or not the threshold has been reached or exceeded and prepare a valuation report to assess the value of per-share price in accordance with the relevant regulations of the CMB within one month of the first sell-out application. The company is also obliged to notify the controlling shareholder of other shareholder demands within one month of the sell-out application and within three business days of the declaration of the valuation report. The controlling shareholder should deposit the purchase price to the Company account within three business days and the Company should transfer such amount to the accounts of selling shareholders within two business days. A shareholder that wants to exercise the sell-out right must sell all his/her shares – including privileged shares.

In the event that minority shareholders holding less than 2% of voting rights fail to exercise their right to sell-out their shares to the controlling shareholder within three months, sell-out rights will be deemed to have lapsed and cannot be exercised again. Following the expiration of this period, the controlling shareholder may exercise its squeeze-out right within the following three business days in the form of an application to the CMB. The sell-out price and squeeze-out price are determined separately, in line with the CMB's mandate to protect minority shareholders.

The Company shall submit an application to the CMB immediately after adopting a Board of Directors resolution regarding the cancellation of the squeezed-out minority shareholders' shares and issuing new shares and shall obtain approval from the CMB for issuing new shares. For those Companies whose shares are traded on the exchange, once the CMB's approval is obtained, the controlling shareholder shall deposit the squeeze-out price in the Company's account. The day after the depositing the funds, the Board of Directors shall apply to the Central Registration Agency for cancellation of minority shareholders' shares, shall transfer newly-issued shares to the Company's account, and shall transfer the squeeze-out price to the minority shareholders whose shares are acquired by the controlling shareholder. For those minority shareholders who cannot be identified, the purchase price shall be held in an interest-bearing account with the Settlement and Custody Bank for three years, following which the funds shall be returned to the Company, which then must pay those amounts to the shareholders proving entitlement. For those Companies whose shares are not traded on the exchange, the controlling shareholder shall announce its decision to exercise the squeeze-out right and invite minority shareholders to apply to the Company for delivering their shares in return for the purchase price.

It may be concluded that the legislation protects minority shareholders more than controlling shareholders, as they may exit from the company and not be bound by the decision of the controlling shareholder by exercising their sell-out right before the controlling shareholder's squeeze-out right. On the other hand, depending on the minority shareholders' decision to exercise sell-out rights, the controlling shareholder may shake off small investors by exercising its squeeze-out right as it already has 98% of the voting rights. We believe that in a market where there still are companies with only 5% public shareholding, this high threshold is meaningful. We anticipate a greater exercise of these rights in near future.

A. Cem Davutoglu, Partner, and Muhammet Yigit, Associate, Bener Law Office

Croatia

Amendments to the Consumer Lending Act: Solution for Consumers or Constitutional Issue

Swiss franc-denominated or indexed loans enjoyed great popularity in Croatia. Following the recent and dramatic strengthening of the Swiss franc, loans denominated or indexed in that currency became over-burdensome for consumers in Croatia, leading the Croatian Parliament to pass two amendments to the Croatian Consumers Act regulating the rights and obligations of both lenders and borrowers.

The first amendment to the Consumer Lending Act (Official Gazette No. 9/15) fixed the CHF/HRK exchange rate below the market exchange rate in loans containing a currency clause for a period of 12 months, thus forcing the banks to absorb the difference. The second amendment (Official Gazette No. 102/15) went even further, introducing additional measures to deal with the strengthening Swiss francs and increasing the interest rates on Swiss franc- denominated or indexed loans in Croatia.

Under the second amendment to the Consumer Lending Act, lend-

ers/banks are obligated to convert loans denominated in CHF to EUR-denominated loans, and loans denominated in HRK indexed to CHF to EUR-indexed HRK loans according to the exchange rate applicable at the disbursement date (for the conversion of interest) or the date of the loan agreement (for the conversion of principal). Banks are obligated to provide a repayment schedule to the affected borrower within 45 days of the amendment entering into force. Once the repayment schedule is delivered, the borrowers have 30 days to notify the bank if they accept the loan conversion calculation. Should they fail to do so, the loan will continue to subsist.

The question which arises here is whether there is justification for measures imposed by the second amendment to the Consumers Lending Act, keeping in mind the legislature's goal when proposing the amendment: to put borrowers in the same position they would have been in had they taken out EUR-denominated or HRK-denominated loans indexed to EUR.

The second amendment applies to all types of loans, regardless of the social background of the borrowers or the purpose of the loan, so borrowers obtaining loans for luxury purchases will be put in the same position as those taking out loans to acquire 40-square meter apartments for living.

Furthermore, although only 1% of the Croatian population was granted loans denominated in CHF and HRK loans indexed to CHF, the effect of the second amendment will affect the entire population (because of considerable shortfalls in the State's budget arising out of losses suffered by the banks, among other things). Additionally, the amendment would adversely affect borrowers who were granted loans in other currencies and other prospective borrowers as the increased legal uncertainty could indirectly lead to an increase in interest rates. And that's all not even mentioning the damage suffered by the banks and the banking system.

Additionally, the second amendment raises several constitutional issues, including a potential breach of the principle of legal certainty and prohibition of retroactive effect and a conflict with core principles of free enterprise and market and property ownership. As a result, some of the leading Croatian banks have challenged the amendments before the Constitutional Court and requested that the second amendment application be suspended pending the Court's decision on its constitutionality.

Although some support for the arguments that the second amendment should be suspended can be found in existing Constitutional Court case law (such as that irrevocable losses may occur to the Croatian banking system as a whole in the period before the final decision on constitutionality of the amendment is made), the Constitutional Court rejected the banks' request for suspension in its decision of 11 November, 2015.

By refusing to suspend the second amendment application, the Constitutional Court missed the opportunity to take a sound approach and temporarily suspend the forced conversions required under the amendments. The consequence of the Constitutional Court's decision is that banks have to comply with the second amendment; i.e., perform the conversions or risk potential initiation of misdemeanor proceedings and associated fines, as well as facing potential claims for damages by borrowers.

It remains to be seen how the Constitutional Court will ultimately decide regarding the constitutionality of the second amendment to the Consumers Lending Act. Regardless of its decision, the issue of the effect of the conversion that will have taken place between the moment of the second amendment's entry into force and the moment of the Constitutional Court's final decision becomes enforceable remains. In any case, Croatian citizens will suffer a short-term effect of the Swiss franc issue.

Damir Topic, Senior Partner, and Martina Kalamiza, Senior Associate, Divjak Topic Bahtijarevic

Bulgaria

The Wind of Bank Reforms in Bulgaria

After a critical 2014 marked by political instability, one major bank's unexpected collapse, and another being provided significant liquidity support by the Government, the main challenge for 2015 was to stabilize and restore confidence in the Bulgarian banking sector.

The unfavorable events of 2014 revealed major weaknesses on an institutional level and shortcomings in supervisory practices, and they hastened (at least temporarily) the outflow of deposits. The State provided a credit line of BGN 3.3 billion (approved by the European Commission under EU State Aid rules) to address the turmoil and to alleviate liquidity pressures.

After dealing with short-term challenges arising from the failure of the Corporate Commercial Bank, the focus shifted to making significant long-term reforms in the banking sector. The Bulgarian authorities took a three-pronged approach in an attempt to restore confidence in the banking system: implementing the EU's Bank Recovery and Resolution Directive ("BRRD"), strengthening banking supervision and carrying out Asset Quality Reviews ("AQR's"), and conducting stress tests of Bulgarian banks.

In August 2015, the new Act for Recovery and Resolution of Credit Institutions and Investment Intermediaries (the "Act") was adopted. The Act implements the BRRD provisions that seek to address bank instability at an earlier stage and to minimize negative consequences and control contagion, as well as to regulate the use of public funds to save troubled banks. The Bulgarian National Bank ("BNB") was appointed as the resolution authority for banks in Bulgaria.

The Act imposes a range of new obligations on banks, all of whom – including the BNB – are required to dedicate significant time and resources to ensure compliance. Recovery plans in accordance with

the Act will have to be prepared in the first half of 2016, which, along with the pending AQR's, is expected to put pressure on staff workloads and use up other available (already limited) resources. Interestingly, the two processes will run in parallel. Hence, any problems that might be exposed through the AQR's would have to be handled within the new BRRD framework at a time when market participants are still adjusting, both institutionally and operationally. This said, the industry seems cautiously optimistic that the AQR's are unlikely to reveal any major flaws.

Scrutinizing and updating the supervisory practices of the BNB has been another major item on the 2015 agenda. The BNB emerged from the banking crisis with a new management team committed to reforming banking supervision. A "Plan for Reform and Enhancement of Banking Supervision in Bulgaria" was adopted in October 2015. There have been a number of structural changes within the BNB as well. A new Directorate of "Distance Supervision" has been established, and a department of "Risk Analysis Related to Market Behavior" will be created within the existing "Banking Supervision" Directorate, aimed at strengthening internal controls within the BNB. In addition, to comply with the BRRD provisions for operational independence and avoidance of conflict of interest, the BNB will create an independent "Resolution of Banks" Directorate. The BNB has publicly stated its desire to restore confidence in its own expert potential, as well as in the Bulgarian banking sector as a whole.

The BNB has prioritized both the update of supervisory practices and the achievement of full compliance with the Basel core principles for effective banking supervision. Bulgarian authorities have declared their intention to enter into close cooperation with the Single Supervisory Mechanism at the European Central Bank ("ECB"). Various other measures are directed at establishing proper and more robust oversight.

Accordingly, AQRs will be performed on the entire banking system (which includes 22 Bulgarian incorporated banks but excludes the branches of foreign banks operating in Bulgaria), based on the methodologies applied by the ECB in its comprehensive assessment. Weak asset quality and collateral with overstated value have been recognized as major items that should be addressed. Banks will have to put efforts into cleaning their balance sheets and finding effective solutions for decreasing the rate of non-performing loans (NPLs).

The AQRs and stress tests are to be completed within a tight timeframe, by mid-2016. As an immediate effect, they are expected to result in a somewhat reduced appetite by the banks and greater selectivity towards borrowers (but given the existing liquidity this is anticipated to be of short-term effect).

Operating conditions remain challenging, and corporate sector indebtedness, affecting banks via NPLs and risk of corporate bankruptcy, is still high compared to other EU member states. Nevertheless, the reform process has been set in motion. Although it may take some time for the full effect of the changes to be felt, the banking sector in Bulgaria has started to slowly recover from the 2014 crisis. BNB's conservative approach in the past has led to the establishment of strong capital buffers, which support financial stability and will contribute to handling any further negative effects relating to unanticipated bank losses. In general, there was no significant outflow of deposits from the banking sector as a whole, as deposits appear to have been redistributed within the Bulgarian banking system. The reform agenda was implemented relatively quickly and robustly. It is now important to stay the course.

Elitsa Ivanova, Head of Banking and International Finance, CMS Sofia

Serbia

Terms under which Serbian residents may hold foreign exchange in bank accounts abroad

Despite recent changes in the Serbian foreign exchange regulations aimed at liberalizing of the market and decreasing restrictions on various financing and banking operations, Serbian residents are still prevented, if not prohibited, from keeping their foreign currency assets with foreign banks and financial institutions. To be more specific, Serbian residents may hold foreign exchange in bank accounts abroad only in limited circumstances and exclusively subject to the National Bank of Serbia ("NBS") approval.

By law, Serbian residents may open a bank account abroad in the following circumstances:

1) to finance construction works abroad;

2) to pay in profits earned in the local currency from the performance of construction works abroad, for the purpose of repatriation of profits following the completion of these projects;

3) to finance research abroad;

4) to cover current operating costs of representative offices or branches of legal entities abroad and to pay for services in international freight and passenger transport;

5) to place a guarantee deposit for the purpose of participating in an auction or a tender, and/or for the purpose of placing bids for the acquisition of shares if the foreign co-contractor so requests or the regulations of the given country so prescribe;

6) to make a guarantee deposit under a guarantee issued by a foreign bank to a resident who performs construction works abroad, up to the amount specified in the bank's request for guarantee deposit and/or guarantee agreement;

7) to use a foreign financial credit intended for making payments abroad, if the disbursement of the credit is conditional upon holding funds with a foreign bank;

8) to purchase securities abroad in accordance with the law regulating foreign exchange operations;

9) to deposit and to invest funds of insurance companies abroad – subject to NBS approval issued pursuant to the law regulating insurance;

10) to collect donations and monetary contributions from abroad for scientific, cultural, or humanitarian purposes;

11) to collect compensation under a court ruling abroad, if the ruling sets out that collection is to be effected via a foreign bank account;

12) to cover costs of medical treatment abroad, as well as the costs of residing abroad for the purposes of such treatment, and

13) to cover tax and other fiscal duties toward foreign state (grantor of a concession) arising out of concession proceeds – provided that the rules of that foreign state prescribe that these duties can be settled only from an account opened in that state.

If a Serbian resident meets the requirements for opening an account abroad, he or she still needs to obtain permission from the NBS to do so.

The procedure for applying for NBS permission is rather straightforward. The request needs to contain data such as details about the resident (legal or natural person – and if legal entity, the address of its head office and telephone number, scope of business, ID number, etc.), grounds for holding foreign exchange abroad, amount and the time period for which such permission is requested, and the name of the country and details about foreign bank in which the account will be opened.

The NBS may reject the request to open an account if it deems that the purpose for which the application is made does not fall under any of the prescribed grounds.

When it is granted, permission is granted for one year or for as long as the need for keeping the account abroad exists (in case of long-term projects, e.g., construction works abroad). There is no deadline for the NBS to issue its approval following submission of a complete request for opening of a foreign account, but in practice the NBS usually falls within general administrative procedure, which envisages a 30-day deadline for issuance of administrative decisions.

Legislation is explicit that a Serbian resident holding foreign exchange on a bank account abroad contrary to NBS regulations will be fined for the offence between approximately EUR 870 and EUR 17,390, whereas a responsible person (in case of legal entity) will be fined between approximately EUR 45 to EUR 1,300.

The applicant has to provide the NBS with the foreign bank account number within 30 days from the day of opening the account and with balance of funds therein.

At this moment, it cannot be foreseen whether the financial regulator will reconsider this restrictive legislative framework in the near future in order to relax this rather important aspect of business activity. In practice we are faced with a number of requests from companies active in various industries investigating options and potential loopholes to work around these restrictions.

Milica Popovic, Local Partner, CMS

Belarus

The Financial Market in Belarus: On the Way to Formation of the Mega-Regulator

Following the trend set by fellow members of the Eurasian Economic Union Russia and Kazakhstan, Belarus is currently expanding the competences of its National Bank. This should lead to formation of a "mega-regulator" in the Belarusian financial market. The countries of the EEU intend to create a single financial market in the future and therefore harmonize their legislation.

The National Bank took charge of microfinancing and leasing markets in 2014 and the forfeiting market in 2015. Starting from 2016 the National Bank will be responsible for the Forex market and potentially also the insurance and securities markets. Appointment of the National Bank as new supervisor has been followed by amendments in various key regulations.

Microfinancing

Before 2014 there was no regulation of microfinancing activities in Belarus, and loans were often granted without the financial standing of the borrower being checked, while interest rates could exceed 700% per year. Eventually, activities of organizations other than banks and non-bank credit and financial organizations (NCFOs) granting unsecured loans on a regular basis were substantially restricted. Currently, only pawnshops and several types of non-commercial companies (consumer co-operatives and funds) are allowed to provide micro-loans (loans up to 15,000 Belarusian 'basic units' – about EUR 140,000 on the day of the agreement), more often than twice a month. A company must be included in the National Bank register in order to conduct micro-lending operations.

Leasing

Since 2014, Belarusian finance lessors must be registered with the National Bank and have a share capital equivalent to at least EUR 50,000. These requirements do not apply if during a calendar year a finance lessor concludes fewer than three lease agreements or the total value of leased assets does not exceed 10,000 basic units (about EUR 93,000). They also do not apply to foreign companies running finance lease businesses through permanent establishments and companies entitled to conduct finance leases according to decisions of the President of the Republic of Belarus. Banks and NCFOs also have the right to operate this business without being included in the register.

From the beginning of 2015 lease payments that are part of a finance lessor's remuneration (income) and investment expenses are exempt from VAT, excluding investment expenses reimbursed from the cost of a leased asset.

Forfeiting

Since May 21, 2015, Belarusian exporters may accept bills of ex-

change as payment under export contracts. Such bills of exchange should be issued or confirmed by foreign banks having at least two of the following ratings:

• Long-Term Foreign Currency Rating by Fitch Ratings or Standard&Poor's not lower than BB- for banks of Russia, Kazakhstan, and Armenia and not lower than BBB- for other foreign banks; or

• Long-Term Foreign Currency Bank Deposits Rating by Moody's Investors Service not lower than Ba3 for banks of Russia, Kazakhstan, and Armenia and not lower than Baa3 for other foreign banks.

Activities on bill discounting may be performed by the banks, NCFOs, and legal entities having a share capital not less than EUR 50,000. If an entity wishes to discount bills more than once a year, it must be registered with the National Bank.

FOREX operations

On March 7, 2016, a new regulation on Forex operations in Belarus will come into force. The activities of Forex companies in Belarus were not regulated before, and there was no explicit definition of Forex operations as off-exchange transactions. This created a risk that these operations would be classified as bets, claims related to which are not subject to judicial protection in Belarus.

Operations by Belarusian clients with foreign Forex companies drew the concern of Belarusian officials not only because of the capital outflow and unpaid taxes, but also because the interests of Belarusian residents were not protected.

After the new regulation enters into force only following companies will be entitled to perform Forex operations in Belarus: the National Forex Center (a company in which the state's share is more than 50%), banks, NCFOs, and Belarusian Forex companies.

Belarusian Forex companies will be registered with the National Bank. Specific requirements for these companies include, for example, a minimum share capital of BYR 2 billion (about EUR 100,000) and the obligation to meet safe operating standards and keep internal control and risk management systems. Forex companies shall form enforcement capital to ensure the repayment of margin security to the clients. This capital will not be included in the debtor's assets in case of a Forex company's bankruptcy and may be used only to satisfy the claims of clients. The repayment of the margin security will also be guaranteed by the National Forex Center.

Personal income received under agreements on Forex operations with Belarusian Forex companies, banks, or NCFOs is exempt from personal income tax until March 1, 2019. The corporate income tax rate for Belarusian Forex companies and the National Forex Center received from Forex operations will be reduced by 50% within the same time frame.

Kiryl Apanasevich, Partner, and Hanna Volchak, Associate, Sorainen Law Firm

Hungary

Hungary Wants to Become Creditor-Friendly

Hungary has recently provoked criticism and elicited recommendations on account of its unfriendly environment towards investors, with a report issued by the EBRD having significant impact. Against this backdrop, the Hungarian Ministry of Justice has indicated that it will amend certain laws that are related to the enforcement of claims. With the ultimate goal being to make creditors' lives easier, near-term changes are likely to be made to such fundamental laws as the country's Civil Code, the act on court enforcement, and the act on insolvency and bankruptcy proceedings.

Transfer of Loan Agreement

The rules of the Civil Code on the transfer of contractual position have been the target of particularly severe criticism. In its current form, the Civil Code stipulates that the security interest terminates in case of a transfer of contract, regardless of which position is affected by the transfer (i.e., the creditor's or the debtor's) and irrespective of whether the security provider has given its consent to the transfer. The proposed amendment foresees that the security interest will not terminate under any circumstances, but rather remain in place. In addition, the security provider's consent will only be required in the event that the debtor transfers its contractual position. These changes may enhance Hungary's secondary loan market, as the country's banks have so far been reluctant to transfer loan portfolios or even a single loan agreement under the current rules, as they feared losing the security interest.

Furthermore, this summer the country's parliament amended the Hungarian Banking Act so that the Hungarian National Bank's approval is now required for those loan portfolio transfers that exceed the threshold of either 1) HUF 10 billion (approximately EUR 33 million), regardless of the number of loan contracts to be transferred, or 2) 20 contracts regardless of their aggregate value. Together with the envisaged amendment of the Civil Code, this means that even though the transfer of loan portfolios will be possible and feasible under the Civil Code, those transfers that cross either threshold will be subject to the Hungarian National Bank's approval.

Resurrection of the Non-Accessory Mortgage

The Hungarian National Bank intends to stimulate the market of mortgage-backed instruments. For many years, these instruments relied on non-accessory mortgages, which were transferable without the transfer of the underlying loan. The Civil Code that entered into force on March 15, 2014, abolished this non-accessory mortgage, which caused a hiccup in the market. For this reason, the envisaged amendments may re-introduce this type of security interest for the sake of mortgage-backed instruments.

New Enforcement Act

Most criticism was aimed at the rights of creditors under the Hungarian courts' enforcement regime. There are several reform concepts currently floating around, but nobody knows yet which ideas will make it into the new enforcement act. The problem currently is that creditors basically have no influence on the court enforcement procedure. Thus, most recommendations aim at strengthening the powers of creditors. It would be a surprise if some of these were to survive the drafting of the new act (e.g., the proposal that creditors should have right to freely choose among the bailiffs); however, others will probably be implemented (e.g., the provision to secured creditors of more influence over the sale of the debtor's assets and the entitlement by creditors to receive more detailed information on the debtor's available assets).

Revision of the Insolvency and Bankruptcy Regime

The legislature also wishes to enhance creditors' positions in insolvency proceedings and to speed up the bankruptcy procedure. According to the recommendations regarding the latter, creditors should also have the right to initiate bankruptcy proceedings (currently, only debtors may apply for such a proceeding). It is also envisaged that creditors will have the opportunity to comment on a debtor's reorganization plan or to prepare an alternative plan. Debtors would be obliged to file the reorganization plan simultaneously with their bankruptcy application. A fast-track bankruptcy procedure will be available when a debtor's reorganization plan receives the approval of the majority of creditors before the initiation of the bankruptcy proceeding.

In liquidation proceedings, secured creditors would be granted more power during the liquidation of the debtor's assets, in the form of more influence on the sale process or even the ability of secured creditors to proceed with the sale of the encumbered asset by way of self-help. A separate department within the Hungarian court system is to be established to supervise liquidation proceedings.

Conclusion

The currently floated plans and ideas, if implemented, will certainly have a positive impact on the position of creditors in Hungary. However, the question is not whether Hungarian rules should be more favorable towards the creditors, or whether these legislative plans and related ideas will successfully navigate the maze of Hungarian legislation. The real question is whether such ideas will be implemented in a form that is able to fulfill the purpose. The devil is in the details, as the saying goes – and Hungary, unfortunately, is infamous for implementing great ideas in a bad way.

Kinga Hetenyi, Partner, and Gergely Szaloki, Attorney, Schoenherr Hungary

Kosovo

Banking and Finance in Kosovo

The banking and financial industry is one of the most successful sectors of Kosovo's young and fragile economy. While this sector is in its infancy, it has continuously shown stability, growth, and profits. The best way to understand Kosovo's banking and financial industry is to address its three primary components: banking, insurance, and securities.

First, banks (and other financial institutions) are the primary and most powerful segment of the industry. The sector is comprised primarily of two types of financial institutions: banks and microfinance institutions ("MFI"), with the latter group containing both privately owned and non-profit NGOs. The market is fairly saturated with commercial banks offering a limited set of financial products, with a primary focus on taking deposits, providing small to medium loans, and offering basic banking services (a couple of the bigger banks operating in Kosovo have also recently begun offering leasing products for homeowners and those purchasing vehicles and/or machinery). Several of the many MFIs in Kosovo have gathered capital that is commensurate to that of banks in the country. Most of the MFIs were established immediately after the war in Kosovo ended and provide micro-loans to those with difficulty getting access to credit, often with interest rates that surpass 20% annually. In fact, the banking sector (both banks and MFIs alike) receives regular criticism for alleged predatory lending, especially in view of interest rates that range from between 10% to sometimes more than 24%, as well as high (and surprisingly uniform) administrative fees for bank services. Some argue that this remains possible partly because the Kosovo Competition Authority – the agency charged with regulating competition in Kosovo – is seriously dysfunctional and does not have the capacity or the infrastructure to carry out its functions.

The primary and only regulator for the entire sector is the Central Bank of the Republic of Kosovo (the "CBK" or "Regulator"). The Regulator implements applicable legislation and engages in a regular examination of banks to ensure full compliance. The Kosovo government's recent attempt to revamp banking legislation has met some difficulty due to the fact that the main law regulating financial institutions in Kosovo – the Law on Banks, Microfinance Institutions, and Non-Banking Financial Institutions – suffered a major blow when the Constitutional Court of the Republic of Kosovo declared portions addressing MFIs as unconstitutional, thereby hampering the Government's endeavors to liquidate and privatize non-profit MFIs. This has left MFIs operating with little legislative guidance as to their operations, and the Regulator in the position of scrambling to enact secondary legislation to fill the void. Overall, the legislation regulating financial institutions in Kosovo remains fairly basic and does not much address problems brought to the surface by the 2008 crisis or the recommendations made by Basel III.

Second, the insurance industry in Kosovo is primarily focused on providing a limited set of products: car insurance and limited health insurance. Recently, some insurance companies have also begun offering limited life insurance and property insurance products. More sophisticated insurance products are not offered in Kosovo, despite the need, which means there is great opportunity for growth. Insurance companies in Kosovo are also regulated by the CBK, which regularly examines them to insure not only capital requirement compliance, but also – among other things – consumer satisfaction and claim compensation, which at times were somewhat problematic for some insurance companies. The legislation regulating the insurance companies is fairly basic and slightly outdated, but the CBK has made some efforts to address legislative deficiencies by enacting secondary legislation.

Last but not least is the securities leg of the banking and finance sector. With regard to stocks, other than the Law on Business Organizations – which permits the issuance of common and preferred stock – transactions in stocks in Kosovo remain largely unregulated. Moreover, there is no exchange in Kosovo, so transactions are private in nature. In the last couple of years, the Government of Kosovo has begun issuing a limited number of short-term bonds, but even these lacked proper underlying legislation and did not generate much interest from potential investors. In short, securities in Kosovo are barely regulated, if at all, and require legislative attention soon, especially in view of companies that have grown rapidly and will require proper legislation to raise necessary capital and prevent manipulative practices that may materially affect the investing market.

In sum, Kosovo presents a banking and financial sector that is very stable but in the early stages of its existence. Much remains to be done to bring this sector up to European and/or international standards. However, the performance of the players in this field has been stable and profitable, and provides optimistic trends for those wanting to venture in.

Korab Sejdiu, Founder and Managing Director, Sejdiu & Qerkini

Slovenia

Banking in Slovenia

Slovenian banks have not yet fully recovered from the significant losses they suffered during the financial crisis. The high debt leverage of the corporate sector, a substantial involvement of the state in the economy, and inadequate risk management and corporate governance were the main shortcomings of the sector prior to the crisis, which led to a sudden increase of non-performing loans (NPLs) in banks. NPLs, together with deteriorating collateral values, quickly impaired capital bases and market confidence. The Slovenian banks, in particular the state-owned banks, suffered considerable losses and have shrunk their balance sheets significantly. The stress tests in 2013 identified capital deficits of up to EUR 4.8 billion.

In order to stabilize the banking sector and to increase confidence, four banks (NLB, NKBM, Abanka, and Banka Celje) were bailed out by the Republic of Slovenia in accordance with EU state aid rules. Another two banks (Factor and Probanka) were put into a controlled liquidation under state control. Additionally, the Republic of Slovenia established a "bad" bank – the Bank Assets Management Company (BAMC) – to which the state-owned banks transferred their impaired assets (e.g., NPL's and shares of companies in financial difficulties).

These measures have had a significant impact on the Slovenian banking sector. All banks that receive state aid are limited in their ability to engage with the market and have been or are to be privatized in the near future. NKBM has already been sold to the U.S. investment firm Apollo and the EBRD; the largest Slovenian bank, NLB, should be privatized by the end of 2017; and a merged bank of Abanka and Banka Celje needs to be privatized by the end of 2019. State aid to Factor and Probanka has been granted under the condition that they exit the market by the end of 2016. Current plans envisage an acquisition of Factor bank by the BAMC, and another "bad" bank, specialized for restructuring of small and medium enterprises, is to be established on Probanka's platform.

Consolidation of the banking sector, however, is not only visible in relation to the state-owned banks. Almost a half of Gorenjska banka is for sale, since one of the shareholders lost its license to hold the shares due to his own insolvency. Other foreign banks operating in Slovenia are also leaving the market or looking for a new investor because they were not able to acquire enough market share for economy of scale mechanisms to be effective. Raiffeisen has recently been sold to Biser Bidco, run by an affiliate Apollo, a buyer of NKBM. Hypo has been sold, and Sberbank is looking for an investor.

Consolidation of the banking sector, however, is not visible only in relation to the state-owned banks. Almost a half of Gorenjska banka is for sale, since one of the shareholders lost its license to hold the shares due to his own insolvency. Other foreign banks operating in Slovenia are also leaving the market or looking for a new investor because they were not able to acquire enough market share for economy-of-scale mechanisms to be effective. Hypo has already been sold, and Sberbank and Raiffeisen are looking for an investor.

The BAMC, on the other hand, is expanding its influence on the Slovenian financial market. Since the significant part of non-performing loans to the corporate sector has been transferred to the BAMC, it has been involved in almost all recent restructuring processes. When the companies found themselves in financial difficulties, the BAMC was one of the first entities not to proceed with the restructuring, either by selling their NPLs or by initiating bankruptcy proceedings for non-prosperous debtors.

Slovenia has become visible on the map of financial investors, and several foreign financial funds have participated in the purchase of NPLs. When the buyers are foreign entities, the contracts governing the transfer of loans are often governed by foreign law (or for example Loan Market Association standard terms), which is a valid option in accordance with Rome I Regulation. However, Slovenian law (with Slovenian formal requirements) should be respected in relation to the debtor and for most transfers of security associated

with the claims in question.

Typical assets given as collateral include real estate, shares, inventory (stock), production equipment, trade receivables, assets in bank accounts, and trademarks. Security assets are usually pledges, save for trade receivables which are very often transferred into fiduciary ownership. Collateral enforcement is completed fairly quickly since (under particular circumstances) judicial enforcement may be avoided. Recently, even real estate can be sold out of court, provided that the loan agreement has been concluded in a form of directly enforceable notarial deed. Such form (notarial deed with direct enforceability) is required also for an out-of-court sale of pledged movables and shares of limited liability companies. A directly enforceable notarial deed is no longer required to enforce pledged securities of joint stock companies, as the Law on Financial Collateral has loosened the formality requirements.

Despite several boosts from the government, as well as fresh capital from foreign investors, the Slovenian banking sector has not yet fully recovered after the financial crisis. The main reason for this is a corporate sector which has not yet returned to its feet after so many companies went bankrupt. So far, however, banks are not facing losses but are (when not restricted by state aid) actively gaining market share.

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Romania

The Romanian Lending Market – Hot Negotiation Points and Trends

Over the year that has just passed, those who had the privilege to occupy front row seats were able to observe the most recent trends in and the overall direction of the lending market in Romania.

As in previous years, multi-jurisdictional transactions continued to take a large slice of the pie on the local market. However, 2015 saw an increase in local finance activity in various sectors. Real estate has been picking up, for instance, with interesting projects of developers in need of financing logistics and office buildings. We have seen retail, production, and agriculture developing locally as well.

Throughout 2015 we have assisted either lenders or borrowers in more than ten major financing deals in some of the most dynamic industries of the local market. For example, we provided legal advice to a major real estate investment fund active in Romania in several finance transactions – the most notable being a financing deal exceeding EUR 200 million. We have also advised bank consortiums in two separate deals aimed at financing the operations and development projects of local companies from the Energy and Construction sectors.

We have noticed increasing confidence in Romanian law used as governing law and, while the concept of a Romanian law loan market association (LMA) has been on the market for a while, since the adoption of a new Civil Code in 2011 the finance documentation used in local deals has become even better adapted to Romanian law concepts.

On the back of a variety of alternatives to bank debt, such as mezzanine investors, equity, and capital markets funding (especially through corporate bond issues), companies acting as borrowers from banks are now more powerful in negotiating financing terms and covenants, and are able and willing to impose their own terms and even their own drafts of finance documents. Lenders are still cautious, as the court practice in respect of syndicated loans is still underdeveloped in Romania, especially following the entry into force of the New Romanian Civil Code.

We have been looking at covenants, undertakings, and representations in loan agreements from fresh angles. Thus, the rather extensive provisions of the 2011 Civil Code dedicated to loan and security agreements (as compared to previous legislation, which contained almost none), coupled with the new lender-borrower balance, have pushed parties to approach and tailor the LMA standard loan agreement even more to the Romanian realities.

A good example of this change is the situation of negative undertakings. "… [T]he focus is shifting on the negative covenants – which had not been the subject of much debate before now– as borrowers demand more flexibility." While limitations deriving from clauses such as negative-pledge or no-disposal are still required by lenders, borrowers tend to argue more for various carve-outs to such limitations or even to insist that such restrictions be deleted, as new Romanian law provides that these are unenforceable in certain situations. Another area of change is the emphasis that Romanian law is now putting on negotiation of clauses which would limit the flexibility or impose additional liability on one party to the benefit of the other party. Along these same lines, banks are now requiring borrowers to specifically state that they have negotiated and acknowledged those clauses which may be viewed as unusual or standard clauses in an interpretation under the New Civil Code.

The increased intensity of investigations (whether regulatory, fiscal, or even criminal) carried out by Romanian authorities and of litigation cases involving large corporates before Romanian courts have made banks and clients alike reconsider some of the LMA standard clauses, such as material-adverse-effect clauses or representations, undertakings, and events of default triggered by such investigations or court cases.

As always, banks are particularly interested in preserving rights to transfer loans, but whereas previously such provisions would be

subject to little if any debate, recently borrowers have become more and more interested in the precise type of entities to whom the banks would be entitled to transfer their receivables. More precisely, in the context of a large number of portfolio transactions or debt restructuring schemes, borrowers are more and more careful and more reluctant to accept investment funds replacing their creditors of choice.

The Romanian legal system is still subject to ongoing change, with courts being more and more involved in contractual disputes or analyses of commercial contractual structures, creating jurisprudence. At the same time, new proposals of laws that would affect the Romanian retail banking market are currently being debated and can indirectly affect the behavior and approach of banks towards traditional corporate lending in the near future.

Andreea Sisman, Counsel, and Diana Moroianu, Associate, Clifford Chance Badea

Ukraine

Recent Amendments to Banking Regulations in Ukraine

Although the situation in the Ukrainian banking sector remains challenging, state officials have reported a level of macro-economic stability (while simultaneously acknowledging that it is short-term and dependent on a variety of factors). For the first time since the beginning of 2014 the National Bank of Ukraine (the "NBU") has reported an increase in foreign currency deposits in a number of Ukrainian banks. This year has seen several acquisitions of Ukrainian banks by foreign investors, including the 100% acquisition of the insolvent Astra bank by NCH Capital (from the USA) and the purchase of a 30% stake in Raiffeisen Bank Aval by the EBRD. Recently, Brown & Deer and Eco Food (from Hungary) announced the increase of their shareholding in Finance Bank, and the EBRD announced its plans to increase its stake in UkrSibbank. Obviously, it is too early to consider these developments as a turnaround of the banking sector, but according to some major players and market observers, they are definitely positive signs.

The Ukrainian banking system is generally recognized as in need of fundamental changes. The reform efforts include withdrawing banking institutions from the market and adding regulatory requirements (such as, among others, those relating to disclosure of banks' beneficial owners).

With respect to currency exchange and cross-border capital movement transactions, the NBU has recently eased restrictions initially introduced back in the beginning of 2014 to limit the outflow of FX funds from the country. The market expected more substantial changes, but long-awaited liberalization is not likely to happen before next year.

Below are the most significant of the measures introduced by the NBU likely to affect the position of a foreign party in transactions involving Ukrainian residents.

Restriction on Investment Repatriation

Ukrainian banks are prohibited from transferring funds received by foreign investors as consideration for the shares and corporate (equity) rights in Ukrainian entities, or due to the reduction of authorized capital of Ukrainian entities or dividends. This affects M&A transactions, which at the moment need to be structured through off-shore holding companies to avoid an outflow of FX payments from Ukraine.

Cross-Border Loan Limitations

Financing received by Ukrainian borrowers from abroad remains subject to a number of limitations. Until recently, these limitations also applied to cross-border financing provided by international financial organizations.

To begin with, Ukrainian borrowers are not allowed to repay loans before they are due by advancing an amount equal to the principal and any other payments due to foreign parties. This prohibition does not apply to banks borrowing funds to increase their capital. The NBU also allows Ukrainian borrowers to repay and discharge a loan out of funds received under another financing with a later repayment date.

Furthermore, the NBU does not accept amendments to registered cross-border loan agreements relating to the change of either the borrower or the lender. Under Ukrainian currency control rules, the cross-border loans are subject to registration with the NBU prior to the disbursement of the funds to a Ukrainian borrower. The registration is also required for amendments changing the material terms of a loan – including changing a party. In view of this limitation, foreign parties are prevented from assigning their claims under financing agreements with Ukrainian borrowers.

The NBU does, however, allow a party to be replaced if the replacement: (i) results from liquidation or reorganization; (ii) is performed under an agreement in which the lender is an international financial organization; or (iii) relates to export-financing projects with the involvement of a foreign export credit agency. Where the borrowers and lenders are related parties, the NBU may take a special decision on registering amendments to the loan agreement providing for a change of party.

Other Restrictions

75% of foreign currency earnings are subject to mandatory exchange into Ukrainian hryvnia at the interbank market rate. The funds that must be exchanged include, among others, funds received as cross-border financing – except for those received from international financial organizations, or based on international agreements, or other grounds of rather limited application.

Another restriction which could potentially effect agreements with foreign parties is the restriction on settlement by Ukrainian residents of cross-border debts denominated in hard currency (including euros, dollars, and rubles) by off-setting claims. As an exception, the NBU has recently allowed off-setting claims by the telecom providers for international roaming and traffic transmission services.

The NBU has also slightly eased its restriction on the purchase of foreign currency funds and making transfers abroad based on a license granted by the NBU. Now payments under USD 50,000 a month are allowed.

The regulatory authorities are expected to take measures to further liberalize some of these restrictive measures. Further information will become available on December 4, 2015 – the date until which the above limitations apply.

Oksana Volynets, Senior Associate, Wolf Theiss

Poland

New Restructuring Law Brings Amendments to Bankruptcy and Insolvency Regulations

Poland is set to introduce a new restructuring law (the "Bill") which should substantially change the country's economic environment. The Bill provides for its entry into force on January 1, 2016, except for certain regulations that are to enter into force at a later stage.

Current Polish Bankruptcy and Insolvency Environment

Poland ranks 32nd in the "resolving insolvency" category in the World Bank's June 2015 "Doing Business" rankings. The main drawbacks of the Polish bankruptcy procedures: their length, cost, and relatively low level of creditor claims satisfaction. The Bill may substantially change this situation, as it not only provides for new restructuring regulations but also amends the existing bankruptcy law.

Restructuring First, But If It Fails, Fast Liquidation

Polish government officials have clearly stated the reasoning behind the new regulation: "Difficulties do not provide a reason to shut down business. Instead, the point is to change business." The country's lawmakers stress that international experience suggests that improving conditions for the effective restructuring of companies – and, if required, allowing for companies' rapid liquidation – is essential for economic growth.

New Restructuring Procedures

The Bill offers a choice between four new restructuring procedures that have been clearly separated from the bankruptcy procedures, to avoid stigmatizing debtors who attempt to resolve temporary solvency issues. The four procedures vary both in terms of the potential benefits for debtors and the amount of control the courts and creditors have over the business. The general rule is that the greater the possible benefits for the debtors, the greater the amount of control granted to the court and creditors over the procedure and the conduct of business. The new restructuring framework is also supported by changes in the judicial system.

Amendments to Bankruptcy Law

The Bill not only provides for new restructuring regulations but also amends the existing bankruptcy law. One of the most important changes the Bill introduces would seem to be its new definition of insolvency, which constitutes a prerequisite for the declaration of bankruptcy.

According to this definition, an enterprise will be considered insolvent primarily when it loses the ability to fulfill its financial obligations (i.e., a liquidity test). Therefore, the new regulation connects the state of insolvency with a company's economic inability to pay off its liabilities, rather than with the making of actual payments, as was the case before the new regulation.

The Bill leaves the assets vs. liabilities test in place, but amends and supplements its wording. Unlike the current rule (which states that a debtor is deemed insolvent when the sum of his obligations exceeds the value of his assets), under the Bill any future and contingent liabilities, as well as certain shareholders' liabilities, will not be taken into account. In addition, a state of excessive indebtedness can only provide grounds for a declaration of bankruptcy if it lasts longer than 24 months. Nevertheless, even if the conditions are met, the court may still reject a bankruptcy petition, provided that there will be no threat to the debtor's ability to perform its due and payable obligations in the short term.

Another of the Bill's major amendments lies in the introduction of a new institution called prepared liquidation, also known as "pre-pack." In this procedure, the bankruptcy petition may be accompanied by an application for approval of the terms of sale for a debtor's enterprise, its organized part, or assets representing a major part of its enterprise. The application for approval of terms of sale must specify at least the sale price and potential purchaser and be accompanied by a valuation report prepared by a certified court expert.

The court will be obliged to accept the application if the offered price is higher than the estimated liquidation proceeds that could be raised in "standard" bankruptcy proceedings, less the estimated costs of the proceedings. If the offered price is lower than (but still close to) the estimated net liquidation proceeds, the court will still be in a position to approve the sale if it is supported by an "important social interest" or if it allows the distressed enterprise to be preserved.

Summary

The Bill will bring relief to distressed businesses by introducing new restructuring mechanisms and also by introducing a clear distinction between restructuring proceedings and (negatively perceived) bankruptcy proceedings. The to-date rarely-used restructuring procedures stipulated in the Polish bankruptcy law will be substituted with completely new regulations inspired by various European and US examples that have proven to be most effective, such as Chapter 11 in the USA, the English scheme of arrangements, and France's sauvegarde.

The Bill will bring benefit to debtors and hopefully to the Polish economy as a whole. However, at the end of the day it is the creditors who will have to give a helping hand to their debtors by letting them restructure. The new regulation will require some conces-

sions on their side, thereby creating additional risks that entrepreneurs will have to consider at every stage of their business activities.

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Czech Republic

"Merchant Acquiring" Business for Sale – Banks Dispose of Their Payment Card Portfolios

There has recently been a significant increase in the efforts made by some of the key players in the payment card business to dispose of their payment card portfolios. This year the Czech Republic saw Erste Group Bank reach an agreement with Global Payments to establish a joint venture providing merchant acquiring and payment processing services to retailers, while Raiffeisenbank launched a strategic alliance with EVO Payments in the area of payment card acceptance. In this article we are going to look at one of the reasons for this increased transactional activity in the merchant acquiring business.

Merchant Acquiring Business

In a typical scenario of a payment processing business, "merchant acquiring" generally refers to a situation where a customer (i.e., a payment card holder) uses a credit or debit payment card to pay a merchant for goods or services. In order for this payment to occur, the bank that issued the payment card (usually referred to as the "issuing bank") must process the payment with the bank that receives the payment on the merchant's behalf (the "merchant acquiring bank").

In order to generate and clear these transactions on a global scale between millions of customers and merchants, an intermediary (usually referred to as the "merchant acquirer") enables the payment between the issuing bank and the merchant acquiring bank. Merchant acquirers are, therefore, payment service providers who facilitate the contact and the transaction between the issuing bank and the merchant acquiring bank. The merchant acquirer may be affiliated with the issuing bank, the merchant acquiring bank, a branch, or a separate independent entity.

Within the payment processing transaction, the merchant acquiring bank is obliged to pay a fee (an "interchange fee") to the issuing bank for the processing of the transaction which then becomes part of the fees charged to merchants by the merchant acquiring bank or the merchant acquirer. Interchange fees differ according to the type of card used. Ultimately, these charges are passed on to the end customers as they are 'built in' to the price of the goods or services.

Interchange Fees Regulation

Interchange fees are usually determined by multilateral agreements between banks or by the payment card schemes. These interchange fees have been the subject of some controversy in the past (most notably, the subject was dealt with in the judgment of the European Court of Justice in the Mastercard case in 2014), especially once merchants began including interchange fees in the final price of goods and services. The burden of payment of the interchange fee was then effectively placed on the shoulders of customers, who had no influence on the determination of its value. As a result, it was decided that a regulation of interchange fees should be implemented to ensure customer protection.

The regulation took the form of the European Parliament and the Council Regulation No. 2015/751 on interchange fees for card-based payment transactions, issued on April 29, 2015 (the "Regulation"), which applies only to four-party payment card schemes where the issuing bank and acquiring bank are different entities.

Pursuant to the Regulation, starting on December 9, 2015: (i) interchange fees on debit card payments shall be no higher than 0.2% of the value of the transaction; and (ii) interchange fees on credit card payments shall be no higher than 0.3% of the value of the transaction. The member states of the European Union may, however, pass further implementing legislation with regard to these maximum figures, such as allowing issuing banks to charge a weighted average interchange fee of no more than the equivalent of 0.2% of the annual average transaction value of all domestic debit card transactions within each payment card scheme. Member states may also define a lower weighted average interchange fee cap applicable to all domestic debit card transactions.

As a result of the Regulation, issuing banks now face a potential reduction in their income from interchange fees. Moreover, issuing banks may struggle to remain competitive in the market of payment technology services, as entities specializing in card processing can benefit from economies of scale. Thus, an increasing number of issuing banks have concluded that selling a part of their "Merchant Acquiring" business to a card processing-specialized entity – which after the sale will be responsible for providing payment card services to merchants while maintaining the current quality of services provided by the issuing bank – seems like a workable response to the challenges imposed by the Regulation.

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Lithuania

Green-lighting the New World of Payment Services

For years consumer-facing organizations have been hard at work trying to dethrone traditional payment service providers (PSPs) – such as banks – as the only go-to entities for customers needing to execute a transaction. These efforts have recently born fruit as a modern generation of payment companies has begun providing more

efficient, hassle-free, and inexpensive services than those provided by traditional banks. These new companies offer various services, including account openings, transactions with electronic money, and simplified and cheaper payment processing. An even higher level of pro-customer convenience was achieved by introducing all-in-one account services (so-called account information services) and payment initiation services. Provision of such services gives service providers the right to access the payment platforms and account systems of the traditional payment service providers.

In the wake of these breakthroughs in the payment services market, the European Union has recently adopted a new framework document – the Revised Directive on Payment Services (PSD2) – to formally acknowledge and regulate payment services. This major step, which has been in the works for year, should bring more clarity and structure to the fierce but healthy competition between modern and more traditional payment service providers.

The preamble of the PSD2 establishes "a software bridge between the website of the merchant and the online banking platform of the payer's account servicing payment service provider in order to initiate internet payments on the basis of a credit transfer." What this means in practice is that the payment initiation service provider (PISP) becomes an additional party in the traditional online payment model, aiding the customer in communicating with the payment service provider servicing the customer's account. Thus, the customer initiates the transaction via the PISP, which in turn passes the instruction to the payment service provider. This is very convenient for e-commerce as it allows for immediate payment for online goods.

According to the PSD2, account information services provide the payment service user with information on one or more payment accounts held with one or more other payment service providers via online interfaces. This allows the customer to obtain information about the accounts held at various payment service providers in one easily accessible and convenient dashboard-type interface.

The combined impact of account information and payment initiation services will profoundly transform the current payments ecosystem and lead to more efficient, convenient, flexible, and personalized online day-to-day payments.

The PSD2 establishes a two-year implementation term, during which the member states will have to enact local regulations and transpose the provisions of the PSD2. During this transitional period member states, existing market players, and local regulators will need to keep an open mind and refrain from applying the traditional view to these new types of services, as the PSD2 explicitly obliges the member states to ensure that current market players do not neglect or obstruct the activities of this new wave of competitors. Because the PSD2 implementation is in its pre-alpha stage, there are not yet any specific technical guidelines or local regulations detailing how interactions between the new and old market players are to take place, so eager new market entrants (many of whom started providing these services before the PSD2 came into force) may find it challenging to provide account information and payment initiation services in the form the PSD2 requires. This should, however, not restrict modern payments market entrants from providing these new types of services to the extent allowed by current local regulation. The PSD2 itself clearly lays down an instruction greenlighting and legitimizing modern payment solutions, which is great news. This will undoubtedly speed up the gradual integration of these new services into the payments markets, which will in turn bring much-needed competition and innovations into the payment services market. This will be especially true for Lithuania, where for years banks have enjoyed a dominant position with regard to any and all services related to payments.

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Latvia

Legal Framework for Transfer of Undertakings of a Credit Institution in Latvia

In summer 2015 the Latvian Law on Recovery and Resolution of Credit Institutions and Investment Firms (the "Law") came into effect, putting Latvia into compliance with the requirements of the European Union regarding establishment of a Bank Union in order to preserve financial stability and increase supervision of the banking sector.

The Law determines the instruments which may be used in case of resolution and governs in detail the procedures for their application, including the sale of the undertakings of a credit institution. The regulation is based on directive 2014/59/EU. In Latvia this instrument has been used since February 2010, when the regulation for transfer of the undertakings of a credit institution (a "Transfer") was adopted. This regulation was necessitated by the global economic downturn experienced in 2008, which was severely felt in Latvia's financial sector and which ultimately resulted in the State's 2009 assistance in stabilizing a leading Latvian bank. The Regulation has been used both with respect to the voluntary transfer of the undertakings of a credit institution and a transfer of the undertakings of a credit institution subject to insolvency proceedings.

A Transfer may be carried out by an operating credit institution, a credit institution under insolvency or liquidation proceedings, or by a credit institution where the Financial and Capital Market Commission (FSA) has appointed its authorized person due to, inter alia, instability or potential insolvency.

In light of the specifics of credit institutions and their role in the public economy, the law provides for regulation that is different from the general regulation for transfer of undertakings.

The permission of the FSA is required for a Transfer. In evaluating a potential Transfer, the FSA assesses the impact of the Transfer on the development and stability of the financial and capital market

as well as on the collective interests of depositors. The FSA has not yet refused a Transfer application.

Appeal of the administrative deed on the permission for a Transfer issued by the FSA does not suspend the deed's enforcement. If the Transfer is carried out according to the decision of the authorized person appointed by the FSA, the Transfer may not be declared invalid; thus it is ensured that the Transfer is both as fast as possible and final, and the stability and reliability of the banking sector in the financial market will be increased for the acquirer of the undertaking, while related interests will be protected.

The consent of the creditors or other persons involved in the Transfer is not required, which is an exception from the general regulation for transfer of undertakings and which significantly facilitates the Transfer, since it would be very complicated and even impossible to obtain the consent of all persons interested in the Transfer. In case of the Transfer, disclosure of information to the acquirer of the undertaking of the credit institution shall not be considered to be a breach of the confidentiality obligations of the credit institution.

An essential difference in Transfers is that the joint and several liability of the transferor and the acquirer of the undertaking does not apply. That exception ensures that separating a part of the undertaking of the credit institution and selling it for as high price as possible can be done both simply and quickly. Application of this instrument is especially important when there are measures taken for recovery of the operations of a credit institution. The possibilities provided by the law have already been successfully used in Latvia by division of a credit institution experiencing financial difficulties into its conditionally good-asset and bad-asset parts, and by sale of the good-asset part of its undertaking.

The exceptions from the general regulation for transfer of an undertaking applicable to the Transfer have led to some complaints about the potentially unjustified infringement of the legal interests of the creditors and shareholders of the credit institution – some reaching as far as the Constitutional Court, which concluded that the regulation was proportional and compliant with the Latvian constitution and was reasonably aimed at ensuring the stability of the financial sector and the interests of the entire society.

The banking sector in Latvia has historically had a significant role, and the issue of the Transfer is essential for ensuring stability and successful operation of the financial market. An assessment of the already-completed transfers of undertakings of credit institutions reveals that the regulation of Transfer, which is different from the general regulation for transfer of undertakings, is an efficient legal mechanism for ensuring successful and quick Transfers both during times of financial crisis and times of market stability.

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Russia

Pledge of Bank Accounts in Russia: Issues and Opportunities

A pledge of bank accounts is now specifically provided for in Russia. The necessary provisions, together with other pledge-related changes, were introduced into the Civil Code ("CCRF") with effect from July 2014, as part of the civil law reform in Russia that commenced in 2013. Now the pledge of bank accounts can be used in securitization deals and to secure specific cash flows in finance transactions.

Previously, the pledge of rights to a bank account was not used in Russia. Though there was no direct prohibition, market players did not use such pledges in finance transactions due to uncertainty in legal interpretation and unclear enforcement mechanisms. Instead, banks generally used "prior given acceptance" (in Russian: zaranee danniy aktsept) structures, which allowed creditors to withdraw funds from debtors' bank accounts. A typical agreement within this structure is usually called a "direct debiting agreement" ("DDA") – which is not entirely correct, because Russian law requires the debtor to give prior permission/authorization to withdraw funds. Such agreement is usually tripartite, among the creditor, the debtor, and the debtor's account bank. The prior given acceptance structure is not a strong instrument of financial security, as it does not prevent the debtor from opening new bank accounts, draining an account by multiple withdrawals, and other unfair and fraudulent actions (although these risks can be partially mitigated by using additional measures, such as an irrevocable power of attorney issued by the debtor). The other issue with a debtor's bank account is that it is not secured from claims of tax authorities and enforcement officers. However, as it is an easy and quick way to withdraw funds, the DDA is still used fairly often in finance transactions.

Now market participants can use the pledge of bank accounts (in addition to or instead of the DDA) as a form of security. In order to create such a pledge, the debtor has to open a special account (a pledge account) with an account bank. As it is unclear whether the debtor can transform an existing bank account into a pledge account, creditors currently insist that debtors open new pledge accounts. The debtor is not required to place any funds in the pledged account (Art. 358.9 CCRF). The pledge is created after notification to the account bank, including a copy of the pledge agreement, although neither the consent nor the approval of the account bank is needed. The law does not contain any requirements for the form of the copy provided to the account bank, and the current practice is to use a notarized copy.

If the account bank is also the pledgee, the pledge is created upon execution of the pledge agreement (Art. 358.11 CCRF). However, it is unclear whether the pledgor or the pledgee must notify the account bank of the pledge in order to create the pledge. In practice it is recommended that the transaction be structured so that no-

tification is sent by the pledgor, because an account bank does not need to run additional identification procedures (such as validity of signatures etc.) for a pledgor who is already a client. It is also recommended that pledge notification be signed by the same authorized officer of the pledgor, as his/her signature is known to the account bank from the specimen signature card already in its possession.

The pledgee is entitled to control the funds on the pledged account by requesting reports from the account bank, and by setting a minimum required balance (i.e., prohibiting the account bank from performing any operations if the account balance falls below the minimum amount). The account bank is jointly and severally liable to the pledgee if the pledgor violates the provisions of the pledge agreement by making an unauthorized withdrawal from the bank account. This liability is limited to the extent of losses incurred by the pledgee as a result of the unauthorized withdrawal, which in practice may be less than the amount of the unauthorized withdrawal – for example, where a withdrawal takes place, but the outstanding amount is sufficient to satisfy the claim of the pledgee.

The issue of direct debiting by tax authorities may still arise in relation to the pledge of bank accounts. Enforcement officers may only withdraw funds from a pledged account to satisfy prior claims of other creditors or if the debtor has no other assets. However, the tax authorities may still request that the bank make a wire transfer in the amount of a debtor's tax arrears.

It is also unclear whether a subsequent pledge can be created over a bank account and how that would work in terms of cooperation between senior and junior pledgees. Market players are looking forward to court practice or to guidance from the Supreme Court of the Russian Federation.

Stefan W. Weber, Partner, and Kirill Lelchitskiy, Senior Associate, Noerr

Next Issue's Experts Review

Insolvency/Restructuring