



CEE

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LEGAL MATTERS

IN-DEPTH ANALYSIS OF THE NEWS AND NEWSMAKERS THAT SHAPE
EUROPE'S EMERGING LEGAL MARKETS

Editorial by Michal Pawlowski of DWF: The Inevitable Change ■ Across the Wire: Deals and Cases in CEE ■ On the Move: New Firms and Practices
The Buzz ■ In a League (Table) of Their Own: A Look at Baltic Firms' Volume of Client Matters
Values Added: Interview with Doru Toma of the Leaders for Justice Program in Romania ■ Learning from Experience
Financial Restructuring and Consolidation in the Hotel Sector in CEE ■ Market Spotlight: Ukraine
Guest Editorial by Oleg Batyuk of Dentons: Making It Work in Ukraine ■ Hard At Work: Ukraine's Busy Legal Market
Plenty of Reasons for a Positive Outlook: An Interview with Timur Bondaryev of Arzinger ■ Market Spotlight: Bulgaria
Guest Editorial by Vladimir Penkov of Penkov, Markov & Partners: Lawyering in Bulgaria Throughout The Years
Dissonant Optimism: Mergers and Acquisitions in the Bulgarian Technology Industry
Inside Out: Arkad's Completion of the Balkan Stream Gas Pipeline in Bulgaria ■ Experts Review: Data Protection



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EDITORIAL: A TALE OF TWO RADUSES

By Radu Cotarcea

As early subscribers of this magazine will know, CEE Legal Matters was founded by “two guys in a coffee shop”, as we fondly like to recall our early days: David and yours truly. Over time, we grew into playing off each of our strengths – David was always a writer at heart, while I started running out of excuses for not writing up the editorial each month. On the flip side, his eyes would glaze over any excel sheet or financial statement, while I thrived on the rare days when I could lock myself away and make projections as to how we can make CEELM bigger and better.

There were quite a few things different in the daily CEELM life this past month, as David concluded his role as Executive Editor of this publication. The strongest phantom limb feeling, for me, was dealing with *our* editorial inbox. I grew comfortable with the idea that e-mails addressed “Dear David and Radu” that were, based on an initial skim, either press releases, deal notes, or the occasional complaint on anything content-related, could comfortably be marked as “done” in my inbox because *David* was on top of it – no further action needed. As tall of an ask as it may have been, it was obvious that we’d need to find somebody to step into those shoes.

We did find someone crazy enough to take on the challenge – and I’ve seen him work relentlessly to bring himself up to speed to meet it. This *Radu’s* need to have that inbox out of sight and out of mind, however, was nowhere near met. That is not a reflection on David’s replacement’s aptitudes or learning curve, though. It’s because – of all the people we could have scooped up for the role – we landed on *another* Radu.

This means, as I’ve so quickly come to realize, there will be loads more e-mail pop-ups starting with “Dear Radu”, and I’ll

just have to look them over.

Naturally, at this point, I’ll opt to embrace the situation by fueling potential confusion and introducing (new) Radu through the lens of our commonalities. Just like myself, he’s a former debater (in fact, the competitive debating circuit is where I first met him over a decade ago). He carries around (and I assume has paid good money for) an over-the-top, heavy laptop because it is a gaming one – something that he and I don’t share directly, but it certainly seems like something I’d do if I wasn’t so obsessed with Mac OS. And, while on the subject of gaming, in an e-mail he sent me today, he asked to talk about the *Total War* series – proper strategy games if you ask me. Lastly, his humor is definitely on the nerdy side as well, with *Ozzyman Reviews* and *Cinema Sins* being shared go-to places for entertainment.

Now that you’ve gotten to know him a bit, you’ll be tempted to reach out to him in a way that distinguishes him from the original Radu. Please, as a matter of personal favor, do not boost his ego by addressing him as Radu 2.0. I made the error of referring to him as such once, and he was quick to point out that it implies he represents an upgrade over the CEELM fossil authoring this piece. IF you must, kindly add a P.S. conveying greetings to “Radu Prime” to help me out in our subsequent nerdy debates.

P.S. Yes, the title is on purpose, because “Radu 2.0” was tasked with proofreading this, and the choice meant he had to dig deep into figuring out if I am wrong here on foreign proper noun plurals. ■



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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

GUEST EDITORIAL: THE INEVITABLE CHANGE

By Michal Pawlowski, Country Managing Partner (Poland), DWF



Over the years, all countries in the CEE region have drawn best-practice models from the West, particularly in legal, economic, and business terms. In a number of CEE countries, offices of international law firms opened in response to the needs of their global clients and market opportunities. These firms played a significant role and introduced their know-how to the legal market. Parallel to this, strong local players emerged in each of these countries, changing the competitive environment and challenging the

international ones. Over the last few years, you can see a revision of the need to maintain a presence in the region by some international law firms, most notably Magic Circle and White Shoe firms.

I see this change in the competitive environment as an opportunity rather than a threat. In my opinion, it will continue and international entities will operate in our region through their co-operating firms rather than having physical offices. Those international law firms that will be present, will focus on mid-market, sometimes having ALSP (Alternative Legal Services Provider) divisions as part of their offering. I think what clients will look for is a complex product – from advising on the more voluminous, less complex matters, to the high-end advisory, transactional, regulatory, or international arbitration projects. They will appreciate having a one-stop-shop so that they don't have to manage a group of 20 or 40 providers, but rely on one trusted external advisory organization that will be able to help with various legal challenges whilst also being able to provide business services at the same time. For example, managing a portfolio of 500 leases, or handling a very complicated transaction or litigation project.

We see this as a game-changer. I think in five or ten years we will have isolated cases of a financially integrated Magic Circle

or White Shoe law firm in CEE. It certainly won't be the norm as it was 20 years ago, and this market will be divided between international players operating mainly in the mid-cap sector, which we are, and the local entities that are growing in strength.

Furthermore, the pandemic has proven that a very important quality in business is flexibility – the ability to adapt to changes quickly. It was a circumstance that no one had anticipated or expected, but it disrupted economic life profoundly and the private lives of everyone. The market is already very competitive and, in my opinion, it will become even more so. I believe that a law business should be built by establishing lasting and long-term relationships with clients. Only in this way, is the business able to grow properly for the benefit of clients and us as trusted advisers. By getting to know our clients' businesses better, we significantly increase the effectiveness of our cooperation, which the client also benefits from in financial terms.

Finally, my years of leadership have taught me that managing people is one of the keys to success. Leadership is about understanding that everyone is different and has individual needs, challenges, and problems. You have to deal with everyone as an individual and manage them with empathy, whilst also trying to step into that person's shoes to understand how they feel. We have more than 120 people in Poland, each and every one of whom is different. Therefore, you cannot look at people only through the prism of how you function yourself. I have certainly gone some way, as a leader, in this respect, sometimes learning from my own mistakes. I keep this in mind all the time and continue on this path. Values like Diversity & Inclusion or ESG are becoming increasingly important for all lawyers and clients. This trend will absolutely continue. People working together want to believe that they share not only business but also values.

The legal market has seen several changes in CEE and it's clear that more changes are ahead. Whilst we have been playing catch-up with Western Europe and the United States, these differences will diminish over time. ■

TABLE OF CONTENTS

PRELIMINARY MATTERS

- 3 Editorial: A Tale of Two Raduses
- 4 Guest Editorial: The Inevitable Change

ACROSS THE WIRE

- 6 Across The Wire: Deals and Cases
- 16 On the Move: New Homes and Friends

LEGAL MATTERS

- 20 The Buzz
- 28 In a League (Table) of Their Own: A Look at Baltic Firms' Volume of Client Matters
- 32 Values Added: Interview with Doru Toma of the Leaders for Justice Program in Romania
- 34 Financial Restructuring and Consolidation in the Hotel Sector in CEE
- 36 Learning from Experience

MARKET SPOTLIGHT: UKRAINE

- 41 Guest Editorial: Making It Work in Ukraine
- 42 Hard At Work: Ukraine's Busy Legal Market
- 48 Market Snapshot: Ukraine
- 50 Plenty of Reasons for a Positive Outlook: An Interview with Timur Bondaryev of Arzinger

MARKET SPOTLIGHT: BULGARIA

- 55 Guest Editorial: Lawyering in Bulgaria Throughout The Years
- 56 Dissonant Optimism: Mergers and Acquisitions in the Bulgarian Technology Industry
- 60 Market Snapshot: Bulgaria
- 64 Inside Out: Arkad's Completion of the Balkan Stream Gas Pipeline in Bulgaria

EXPERTS REVIEW

- 68 Data Protection in CEE

ACROSS THE WIRE: DEALS AND CASES

Date Covered	Firms Involved	Deal/Litigation	Value	Country
17-May	Dorda; King Wood & Mallesons	Dorda and King & Wood Mallesons advised a fund managed by Pinova Capital and other shareholders of Deurowood Holding GmbH on the sale of Deurowood to Freudenberg Chemical Specialities.	N/A	Austria
21-May	Schoenherr; Wolf Theiss	Wolf Theiss advised Kommunalkredit Austria AG on its successful issue of ordinary senior eligible notes in the amount of EUR 300 million. Schoenherr advised joint lead managers Erste Group Bank AG, Landesbank Baden-Wuerttemberg, and Raiffeisenbank International AG, and co-lead manager Landesbank Hessen-Thuringen Girozentrale.	EUR 300 million	Austria
24-May	Brandl Talos; McCullough Robertson	Brandl Talos, working with McCullough Robertson, advised Sportradar Group on its acquisition of InteractSport Group, a sports data and technology company based in Australia and England.	N/A	Austria
28-May	Allen & Overy; CMS; Dorda	Dorda, working with lead counsel Allen & Overy, advised DIF Capital Partners on the sale of its stake in a PPP portfolio including two hospitals in Vienna to Equitix. CMS advised Equitix on the deal.	N/A	Austria
7-Jun	Brandl Talos	Brandl Talos advised Riddle&Code FinTech Solutions on its registration as a virtual currency service provider with the Austrian Financial Market Authority.	N/A	Austria
7-Jun	Schoenherr; Wolf Theiss	Schoenherr advised joint lead managers Commerzbank Aktiengesellschaft, Credit Agricole Corporate and Investment Bank, DekaBank Deutsche Girozentrale, Landesbank Baden-Wuerttemberg, and Raiffeisenbank International AG, on the placement of EUR 500 million 0.5% mortgage covered notes due 2041 issued by Raiffeisen-Landesbank Steiermark AG. Wolf Theiss advised the issuer.	EUR 500 million	Austria
9-Jun	42Law; Dorda; Kirkland & Ellis	Dorda, working with lead counsel Kirkland & Ellis, advised Boston-based growth equity fund Guidepost as lead investor on the USD 35 million investment in Austria's Tractive GmbH. 42Law reportedly advised Tractive on the deal.	EUR 35 million	Austria
15-Jun	Act Legal (WMWP); Herbst Kinsky	Herbst Kinsky advised property technology startup Propster on its EUR 3 million seed financing round led by Austrian AWS Grunderfonds, Axeleo from France, and Pi Labs from the UK, joined by new and existing private investors. AWS was advised by Wiedenbauer Mutz Winkler & Partner.	EUR 3 million	Austria
15-Jun	Binder Groesswang; Herbst Kinsky; Sidley Austin	Herbst Kinsky and Sidley Austin advised ESIM Chemicals on the spin-off and sale of its Intermediates & Specialty Chemicals division to Vertellus and Pritzker Private Capital. Binder Groesswang advised the buyers.	N/A	Austria
26-May	Deloitte Legal; LeitnerLaw	Deloitte Legal Lithuania and LeitnerLaw advised Hoerbiger on the cross-border merger of Lithuanian entity Hoerbiger LT UAB into Austrian entity Hoerbiger Wien.	N/A	Austria; Lithuania
14-Jun	Allen & Overy; RTPR	RTPR and Allen & Overy achieved a successful outcome for Premier Energy in an international arbitration case conducted under London Court of International Arbitration arbitration rules.	N/A	Austria; Romania

Date Covered	Firms Involved	Deal/Litigation	Value	Country
8-Jun	Cuatrecasas; Gugushev & Partners; Uria Menendez; Wolf Theiss	Wolf Theiss and Spain's Uria Menendez advised Spain's Glovo on its EUR 170 million acquisition of Delivery Hero's food delivery service businesses in Bulgaria, Romania, Serbia, Bosnia & Herzegovina, Montenegro, and Croatia. Cuatrecasas and Gugushev & Partners advised Delivery Hero.	N/A	Bosnia and Herzegovina; Bulgaria; Croatia; Montenegro; Romania; Serbia
20-May	Boyanov & Co; Freshfields; Mayer Brown	Boyanov & Co., working with lead counsel Freshfields Bruckhaus Deringer, advised initial purchasers Credit Suisse and Morgan Stanley on Bulgarian legal aspects of Standard Profil Automotive's issuance of EUR 275 million 6.250% secured notes due 2026. Mayer Brown advised the issuer on the deal.	EUR 275 million	Bulgaria
25-May	Djingov, Gouginski, Kyutchukov & Velichkov	Djingov, Gouginsky, Kyutchukov & Velichkov advised Blocks Group AD on a EUR 30.2 million ten-year secured bond issue, placed on April 12, 2021, and offered to a limited number of specific qualified investors. The anchor investor in the bonds is Bulgarian Development Bank AD.	EUR 30.2 million	Bulgaria
2-Jun	Dimitrov Petrov & Co.; Schoenherr	Dimitrov, Petrov & Co. advised Svilen Maximov – the sole owner of TV- and Internet-provider Networx-Bulgaria – on the sale of 100% of the company's shares to BTC. Schoenherr advised BTC on the transaction.	N/A	Bulgaria
8-Jun	Boyanov & Co	Boyanov & Co advised Mondelez International on Bulgarian law aspects of its approximately-USD 2 billion acquisition of Greek snacking company Chipita S.A. from the Olayan Group, Spyros Theodoropoulos, and several unidentified individuals.	N/A	Bulgaria
11-Jun	Boyanov & Co	Boyanov & Co advised EnerSys Holdings S.a.r.l. on the sale of its Bulgarian subsidiary EnerSys AD, to Recocycling EOOD. Solo practitioner Kiro Kirov advised the buyer.	N/A	Bulgaria
17-May	Karanovic & Partners (Ilej & Partners); Novak Law	NLaw advised the Czech Republic's J&T Ventures on an unspecified investment in Croatia's Robotiq. Ilej & Partners advised Robotiq on the deal.	N/A	Croatia
21-May	BPV Braun Partners	BPV Braun Partners advised Czech tech start-up SentiSquare s.r.o., on its second round of financing, in which it acquired EUR 1 million from new investors IXPERTA and Fazole Ventures.	EUR 1 million	Czech Republic
25-May	Clifford Chance	Clifford Chance advised sole lead manager J&T Banka and arranger J&T IB Capital Markets on Czech legal aspects of Energo-Pro Green Finance's increase of its CZK 530 million bonds issue to CZK 1.06 billion.	CZK 530 million	Czech Republic
27-May	JSK	JSK advised the shareholders of the North Moravian investment company Cresco&Finance on the sale of its Silnice Morava subsidiary to Imos Brno.	N/A	Czech Republic
28-May	Dentons	Dentons advised a syndicate of four banks – Komerční Banka, Česká Spořitelna, Československá Obchodní Banka, and UniCredit Bank Czech Republic and Slovakia – on the financing of DEK's acquisition of Best, including the refinancing of the Best group.	N/A	Czech Republic
28-May	Dentons; Giese & Partners	Dentons helped Crestyl secure a EUR 130 million loan from German banks PBB Deutsche Pfandbriefbank and Helaba for refinancing the Dock in Office Park in Prague. Giese & Partner reportedly advised the banks.	EUR 130 million	Czech Republic
28-May	Kocian Solc Balastik	Kocian Solc Balastik advised US software company Jamf on its USD 400 million acquisition of software developer Wandera.	USD 400 million	Czech Republic
4-Jun	DLA Piper; Schoenherr	DLA Piper advised Zip Co Ltd on the conditional acquisition of the remaining 78% of Spotii and 90% of Twisto. Schoenherr advised Twisto on the deal.	N/A	Czech Republic
7-Jun	Allen & Overy; Baker McKenzie; Paul Weiss	Allen & Overy advised CZG - Ceska Zbrojovka Group SE on its acquisition of US firearms maker Colt. Paul, Weiss, Rifkind, Wharton & Garrison advised Colt on US law matters while Baker McKenzie advised the company on Czech law.	N/A	Czech Republic

Date Covered	Firms Involved	Deal/Litigation	Value	Country
7-Jun	BPV Braun Partners; Peterka & Partners	BPV Braun Partners advised online wine retailer 8Wines Czech Republic s.r.o. on its acquisition of a 10% stake in Purcari Wineries Plc. Peterka & Partners advised the seller.	N/A	Czech Republic
7-Jun	Dentons; Hoffmannova Koranda; Kinstellar; Strnad Joch Lokajicek Advokati	Kinstellar advised a syndicate of Raiffeisenbank, UniCredit Bank Czech Republic and Slovakia, and Komerční Banka Raiffeisen on financing it provided to Raiffeisen Leasing for that company's acquisition of the Proton Therapy Center Czech from Immorent. Kinstellar also advised Raiffeisen Leasing on the underlying deal. Dentons advised Immorent. Hoffmannova Koranda reportedly also advised Immorent and Strnad Joch Lokajicek Advokati reportedly advised the Proton Therapy Center Czech.	N/A	Czech Republic
7-Jun	Havel & Partners; Weil, Gotshal & Manges	Havel & Partners advised British investment firm CapVest on Czech legal aspects of its sale of Valeo Foods to Bain Capital Private Equity. Weil, Gotshal & Manges reportedly advised the buyer.	N/A	Czech Republic
7-Jun	PRKPartners	PRK Partners advised Societe Generale on an unspecified investment in and increase in its stake in Czech online insurance start-up Mutumutu.	N/A	Czech Republic
20-May	Sorainen	Sorainen helped Estonian payment service provider Wallester obtain a license from the Estonian Financial Supervision and Resolution Authority to provide services cross-border in all EU and EEA states.	N/A	Estonia
20-May	TGS Baltic	TGS Baltic advised FitSphere on a seed-round involving multiple investors.	N/A	Estonia
21-May	Cobalt; Sorainen	The Tallinn office of Sorainen advised YIT on the sale of its paving and mineral aggregates business in Estonia to KMG Inseneriehitus. Cobalt reportedly advised the buyer.	N/A	Estonia
26-May	Sorainen; Taylor Wessing	Sorainen, working alongside Taylor Wessing in Germany, advised IT lifecycle company Foxway on its acquisition of recommerce business Flip4 from shareholders including its founders and Media-Saturn-Holding GmbH.	N/A	Estonia
28-May	DLA Piper; Sorainen	Sorainen advised Graphic Packaging International on the Estonian aspects of its approximately USD 1.45 billion cash acquisition of the AR Packaging Group from the CVC Capital Partners Fund VI. DLA Piper Stockholm was lead counsel to GPI on the deal.	USD 1.45 billion	Estonia
31-May	Sorainen	Sorainen helped Estonian non-governmental organization Eesti Tsiviilallianss submit proposed amendments to Estonia's Communicable Diseases Prevention and Control Act to the Estonian parliament.	N/A	Estonia
7-Jun	Cobalt	Cobalt advised the Nordic Secondary Fund on its acquisition of shares in Estonian financing facility company Fiizy.	N/A	Estonia
7-Jun	Cobalt	Cobalt advised Lixea on an investment of EUR 2 million into the company by the European Innovation Council Fund.	EUR 2 million	Estonia
8-Jun	Sorainen	Sorainen helped Estonian mortgage loan provider Clementer obtain a creditor's license.	N/A	Estonia
11-Jun	PwC Legal	PwC Legal Estonia advised Krauss-Maffei Wegmann on its acquisition of a 24.9% stake in Milrem Robotics.	N/A	Estonia
11-Jun	Sorainen	Sorainen advised state-owned Swedish energy group Vattenfall on its EUR 1 million seed investment into Fermi Energia.	EUR 1 million	Estonia
14-Jun	Cobalt	Cobalt helped Fortumo file a complaint to the Press Council regarding incorrect and misleading articles and headlines in the Aripaev and Postimees publications.	N/A	Estonia
4-Jun	Eversheds Sutherland	Eversheds Sutherland advised Estonian investment firm MM Grupp OU on its acquisition of control over Forum Cinemas OU in Estonia, as well as its branches in Latvia and Lithuania.	N/A	Estonia; Latvia; Lithuania
7-Jun	Cobalt; Sorainen	Cobalt advised Estonia's Aktiva Finants on its acquisition of specialized payment platform Viena Saskaita from ME Investicija. Sorainen advised ME Investicija on the deal.	N/A	Estonia; Lithuania

Date Covered	Firms Involved	Deal/Litigation	Value	Country
18-May	Drakopoulos	Drakopoulos advised the TUI Group on its sale of 100% of the shares in an unspecified SPV, which owns a hotel and a 75,000-square-meter plot of land in Ermioni, Greece, to an unidentified consortium of investors.	N/A	Greece
17-May	Lakatos, Koves & Partners; Schjodt; Szecskay	Hungary's Lakatos, Koves & Partners and Norway's Schjodt Law Firm advised Norbit ASA on its acquisition of IData Kft. Szecskay Attorneys at Law advised the sellers on the deal.	EUR 14.5 million	Hungary
25-May	Lakatos, Koves & Partners	Lakatos, Koves & Partners assisted the Duna Medical Center with the beginning of the development of a new hospital in Budapest.	N/A	Hungary
25-May	Lakatos, Koves & Partners; Orban-Perlaki Law Firm	Lakatos, Koves & Partners advised Portuguese insurance company Fidelidade on the acquisition of the 16,000-square-meter BC 140 office building on the Vaci Corridor in Budapest. The Orban-Perlaki Law Firm reportedly advised German asset management company DWS, the seller, on the transaction.	N/A	Hungary
26-May	Lakatos, Koves & Partners	Lakatos, Koves & Partners advised Budapest real estate company Convergence on the doubling of the office space it leases to private healthcare provider Doktor24 in Budapest's Cityzen office building.	N/A	Hungary
27-May	Kinstellar	The Budapest office of Kinstellar advised SK Innovation on its acquisition of land in Ivancsa, Hungary, for its new automotive battery factory.	N/A	Hungary
27-May	Noerr	The Budapest office of Noerr advised Polish pesticide distributor Chemirol on its acquisition of a 10% shareholding in Hungary's Chemark Zrt.	N/A	Hungary
11-Jun	CMS; Dentons	Dentons, advised Central Europe Alfa Asset Management Ltd. and its sole investor, Optima Investments Limited, on the acquisition of the Budapest Metropolitan University from Central European Education Holding Zrt for a cash consideration of USD 50 million. CMS advised the seller.	USD 50 million	Hungary
15-Jun	Freshfields; Oppenheim	Freshfields Bruckhaus Deringer advised Japanese petroleum company ENEOS on its acquisition of JSR Corporation's global elastomers business. Oppenheim cooperated with Freshfields, as local counsel in Hungary.	N/A	Hungary
4-Jun	BDK Advokati; Dentons; Lakatos, Koves & Partners; Zavisin Semiz & Partneri	BDK Advokati and Lakatos, Koves & Partners advised Hungarian real estate investor Indotek Group on its EUR 267.6 million acquisition of 11 office buildings from Globe Trade Centre in Belgrade, Serbia. Dentons and Zavisin Semiz & Partneri advised GTC on the deal.	EUR 267.6 million	Hungary; Serbia
27-May	RPHS Law	RPHS helped the Moxico Luma Kosova Mining consortium from the UK and Poland obtain strategic investor status in Kosovo.	N/A	Kosovo
19-May	TGS Baltic	TGS Baltic advised the representatives of the European Central Bank on Latvian law matters related to the rejection of the appeals of ABLV Bank AS and its largest shareholders of orders of the General Court of the European Union dismissing their actions for annulment of the ECB's declaration that ABLV Bank and its subsidiary, ABLV Bank Luxembourg SA, were failing or were likely to fail.	N/A	Latvia
28-May	Cobalt	Cobalt advised joint lead managers Luminor and Swedbank on Latvenergo AS's EUR 50 million green seven-year maturity bonds issuance.	EUR 50 million	Latvia
28-May	Ellex (Klavins)	Ellex Klavins successfully represented the Ministry of Finance of the Republic of Latvia in legal proceedings brought by Latvian state companies against the former shareholders of AS Parex Banka, now doing business as AS Reverta.	EUR 141 million	Latvia
28-May	Ellex (Klavins); Goodwin Procter; Latham & Watkins	Ellex Klavins and Latham & Watkins advised Printful on a USD 130 million investment into the company by Bregal Sagemont. Goodwin Procter advised Bregal Sagemont.	USD 130 million	Latvia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
28-May	Sorainen	Sorainen represented Danish furniture and home decor retailer JYSK before Latvia's Constitutional Court, Competition Council, and Ministry of Economics regarding the government-imposed restrictions on commerce at shopping centers.	N/A	Latvia
28-May	TGS Baltic	TGS Baltic, working with lead counsel Vinge, advised the Lagercrantz Group AB on its acquisition of a 75% stake in Libra-Plast AS.	N/A	Latvia
28-May	Walless	Walless successfully helped Latvia's state-owned SIA Publisko Aktivu Parvalditajs Possessor recover EUR 1.9 million in damages in a lawsuit against Grindeks shareholders Kirovs Lipmans and Filips Lipmans.	EUR 1.9 million	Latvia
4-Jun	Sorainen	Sorainen provided legal assistance to Latvian band Astro'n'out related to their composition of the anthem for the IIHF Ice Hockey World Championship 2021, which will be held in Riga, Latvia.	N/A	Latvia
10-Jun	Eversheds Sutherland	Eversheds Sutherland Bitans successfully represented the Latvian Privatization Agency and its subsidiaries in litigation against former Parex Bank shareholders.	EUR 124 million	Latvia
11-Jun	Ellex (Klavins); Ellex (Valiunas); Eversheds Sutherland	Ellex Klavins and Ellex Valiunas advised Livonia Partners on the sale of 100% of the shares in Santa Monica Networks to LMT in Latvia and Lithuania, respectively. Eversheds Sutherland advised the buyer.	N/A	Latvia; Lithuania
17-May	Orrick Herrington & Sutcliffe	Orrick advised EQT and Sprints on their investment in Vinted as part of a EUR 250 million round that also included Accel, Burda Principal Investments, Insight Partners, and Lightspeed Venture Partners. Taylor Wessing advised Vinted on the deal.	EUR 250 million	Lithuania
19-May	TGS Baltic	TGS Baltic advised Evernord, an investment firm based in Vilnius, on the placement of EUR 4 million in bonds by freeze-dried food manufacturer Dehidra.	EUR 4 million	Lithuania
20-May	Ellex (Valiunas)	Ellex Valiunas successfully represented Klaipedos Nafta in a dispute with the Achema Group over the financing of the development of the Klaipeda liquefied natural gas terminal that reached the Court of Justice of the European Union.	EUR 448 million	Lithuania
21-May	Ellex (Valiunas)	Ellex Valiunas successfully represented the Vakaru Baltijos shipyard in its appeal of a public procurement award to a consortium of Finnish companies to provide a specialized vessel for the Lithuanian Armed Forces to eliminate pollution incidents and carry out rescue operations in the Baltic Sea.	EUR 40 million	Lithuania
24-May	Sorainen	The Vilnius office of Sorainen, working with lead counsel Fasken, advised Canada-based payment technology provider Nuvei on its USD 250 million acquisition of Simplex.	USD 250 million	Lithuania
25-May	Bahr; Ellex (Valiunas); Wiersholm Law Firm	Ellex Valiunas, working alongside Norway's Bahr law firm, advised Sweden's Alfa Laval on its EUR 363 million acquisition of weather intelligence company StormGeo, including its Lithuanian subsidiary. The transaction is expected to close in the second quarter of 2021. Norway's Wiersholm Law Firm advised the seller, the EQT Mid Market fund.	EUR 363 million	Lithuania
25-May	Sorainen; TGS Baltic	Sorainen advised Eco Baltia, backed by the INVL Baltic Sea Growth Fund and the EBRD, on its acquisition of an 85% stake in Ecoservice from the BaltCap Private Equity Fund II. TGS Baltic advised the seller.	N/A	Lithuania
31-May	Averus	Averus advised newly established Lithuania-headquartered Heston Airlines on its launch. The company was granted an air operators certificate from the Lithuanian Transport Competence Agency and intends to initiate its charter and wet-lease operations this summer.	N/A	Lithuania
1-Jun	Cobalt; Orrick Herrington & Sutcliffe; Withersworldwide	Orrick, working with the Lithuanian office of Cobalt, advised Interactio, a Lithuania-based remote interpretation platform, on its recent USD 30 million Series A funding round. Withersworldwide and Sorainen advised the investors.	USD 30 million	Lithuania

Date Covered	Firms Involved	Deal/Litigation	Value	Country
1-Jun	Fort; Walless	Fort advised the Eika Real Estate Fund on its entrance into an agreement with Tamro UAB to develop a built-to-suit type logistics and business center and its lease in the Kaunas district of Lithuania. Walless advised Tamro on the deal.	N/A	Lithuania
3-Jun	DLA Piper; Sorainen	Sorainen, working with lead counsel DLA Piper Sweden, advised Storskogen on its acquisition of a majority stake in Scandia Steel.	N/A	Lithuania
8-Jun	Clifford Chance; Linklaters; TGS Baltic; Walless	TGS Baltic and Clifford Chance advised Baltic shopping and entertainment developer Akropolis Group on a EUR 300 million Eurobond issuance. Walless and Linklaters advised global coordinators and joint book-runners BNP Paribas and J.P. Morgan.	EUR 300 million	Lithuania
8-Jun	Triniti (Triniti Jurex)	Triniti Jurex successfully represented Lietuvos Pastas in a trademark dispute with Deutsche Post before the European Union Intellectual Property Office.	N/A	Lithuania
9-Jun	Sorainen	Sorainen advised video game developer and publisher Wargaming on its lease of 5,000 square meters of office space spread over five floors in the East building of the Quadrum Business Center in Vilnius.	N/A	Lithuania
11-Jun	Cobalt	Cobalt advised Danish renewable energy producer European Energy on its acquisition and development of wind and solar farms in Lithuania.	N/A	Lithuania
11-Jun	TGS Baltic	TGS Baltic successfully represented LTG Infra in a dispute with a consortium consisting of Leonhard Weiss RTE, Hidrostatyba, and Autokausta over a delay in the implementation of a EUR 54.8 million contract for the construction of the Kaunas-Palemonas railway.	EUR 0.5 million	Lithuania
15-Jun	SPC Legal	SPC Legal advised real estate developer Laisves 75 UAB on a built-to-suit lease agreement with Baltic online retailer Pigu.lt.	N/A	Lithuania
17-May	Norton Rose Fulbright	Norton Rose Fulbright advised BNP Paribas Bank Polska S.A. on financing granted to five SPVs managing photovoltaic installations in Poland.	N/A	Poland
17-May	Ozog Tomczykowski; Wolf Theiss	Wolf Theiss advised Burda Media Polska on its acquisition of Edipresse Polska from the Edipresse Group, a Swiss newspaper and magazine publisher. The Ozog Tomczykowski Law Firm advised the seller.	N/A	Poland
17-May	WKB Wiercinski Kwiecinski Baehr	WKB Wiercinski, Kwiecinski, Baehr advised E&W Spolka z Ograniczona Odpowiedzialnoscia ZOL Spolka Komandytowa, a company belonging to Denmark's Eurowind Energy A/S and Windbud Sp. z o.o., on the construction of the Zolkiewka wind farm.	N/A	Poland
18-May	KPMG Legal; Ozog Tomczykowski	The Ozog Tomczykowski Law Firm advised the Warsaw Equity Group on its sale of a 64% stake in Zaklady Przemyslu Cukierniczego Otmuchow S.A. and a minority stake in Przedsiębiorstwo Wyrobów Cukierniczych Odra S.A to Kervan Gıda Sanayi Ve Ticaret Anonim Sirketi. KPMG Legal advised the buyer.	N/A	Poland
19-May	Dentons; SSW Pragmatic Solutions	SSW Pragmatic Solutions advised Wave Properties Polska on the sale of the Adama Asynka 9 office property in Krakow to the Paref Group. Dentons reportedly advised the buyer on the deal.	N/A	Poland
25-May	Allen & Overy; Dentons	Dentons advised Reino IO Logistics on the acquisition by its investment vehicle Polish Logistics of logistics parks in Lodz, Poznan, Sosnowiec, Bielsko-Biala, and Rzeszow, from AEW Europe. Allen & Overy advised the seller.	N/A	Poland
26-May	Brzezinski Gregorczyk; Gessel	Gessel advised Resource Partners on an unspecified investment in playground producer Buglo. The Law Office of Brzezinski and Gregorczyk advised Buglo on the deal. Financing was provided by ING Bank.	N/A	Poland
27-May	DLK Legal	DLK Legal helped Mytaxi Polska sp. z o.o., which does business as Free Now, register with the Polish Financial Supervision Authority as an entity benefiting from the limited network exemption under the Polish Act on Payment Services.	N/A	Poland
28-May	DLK Legal	DLK Legal helped Kardynal&Kardynal obtain a license from the Polish Financial Supervision Authority to provide payment initiation services and account information services as a payment institution.	N/A	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
28-May	Olesinski & Wspolnicy; Ozog Tomczykowski	The Ozog Tomczykowski law firm helped Placeme.pl on a PLN 2 million investment into the company by the BValue fund. Olesinski & Wspolnicy advised the investor on the deal.	PLN 2 million	Poland
1-Jun	Clifford Chance; Rymarz Zdort	Rymarz Zdort advised Pepco Group N.V. on Polish law matters related to its IPO and the admission and introduction of its shares to trading on the regulated market of the Warsaw Stock Exchange. Clifford Chance reportedly advised joint global coordinators Goldman Sachs Bank Europe SE and J.P. Morgan A.G.	PLN 23 billion	Poland
1-Jun	Clifford Chance; White & Case	Clifford Chance advised Trinseo S.A. on the sale of its synthetic rubber business in Schkopau, Germany, to Poland-based Synthos S.A. for an enterprise value of USD 491 million. White & Case advised the buyers on the deal.	USD 491 million	Poland
1-Jun	JDP	JDP Drapala & Partners, representing Madrid's Acciona Construccion S.A. and Mostostal Warszawa S.A., obtained a partial judgment from the Appellate Court in Warsaw amending the judgment of the first instance court and ordering public employer GDDKiA to pay the firm's clients a total of over PLN 23 million (including interest).	PLN 23 million	Poland
2-Jun	Kondracki Celej; Mason Hayes & Curran; Orrick Herrington & Sutcliffe	Orrick and Kondracki Celej advised lead investor FF Ventures on the EUR 5 million in financing obtained by SpaceOS. Mason Hayes & Curran advised SpaceOS on the financing.	EUR 5 million	Poland
3-Jun	Baker McKenzie; Noerr	Noerr advised the shareholders of Adaptive Vision Sp. z o.o. on the sale of 100% of the shares in the company to a UK-based subsidiary of Zebra Technologies. Baker McKenzie advised the buyers on the deal.	N/A	Poland
4-Jun	Baker McKenzie; Dentons; DLA Piper; Wolf Theiss	Dentons and Baker McKenzie advised international investment manager BentallGreenOak on its acquisition of three 7R Park Tczew warehouses from 7R. Wolf Theiss advised the seller. DLA Piper advised ING on its provision of financing for the transaction.	N/A	Poland
7-Jun	DLA Piper; Gessel	DLA Piper advised convenience store chain Zabka Polska Sp. z o.o., part of CVC Capital Partners, on the acquisition of a majority stake in MasterLife Solutions Sp. z o.o., which owns the Dietly.pl. e-commerce platform. Gessel advised the owners of Dietly.pl on the deal.	N/A	Poland
9-Jun	Rymarz Zdort	Rymarz Zdort advised Pepco Group N.V. on Polish law matters related to a EUR 740 million senior facilities agreement, including secured term loans of up to EUR 550 million and a secured working capital facility of up to EUR 190 million, with a consortium of 11 Polish and international financial institutions, in order to refinance Pepco's existing debt.	EUR 740 Million	Poland
9-Jun	Taylor Wessing	The Warsaw office of Taylor Wessing advised the MLP Group on its PLN 123 million public offering of series E ordinary bearer stocks and their introduction to trade on the Warsaw Stock Exchange.	PLN 123 million	Poland
11-Jun	Clifford Chance	Clifford Chance Warsaw advised ING Bank Slaski on the amendment and restatement of the PLN 44.5 million financing agreement for the second phase of development of photovoltaic farms in the Sulechów municipality by Polenergia Farma Wiatrowa 17.	PLN 44.5 million	Poland
11-Jun	Dentons; Linklaters	Linklaters advised CP Developer S.a r.l. on its PLN 1.4 billion long-term forward sale of 2,500 rental apartments to Sweden's Heimstaden Bostad. Dentons advised the buyer.	PLN 1.4 billion	Poland
15-Jun	Rymarz Zdort	Rymarz Zdort and Setterwalls Advokatbyrå advised CEPD N.V. on its investment in the LloydsApotek pharmacy chain operator Admenta Sweden AB, including the acquisition of 100% of Admenta shares from the current shareholder.	N/A	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
18-May	Albota Law Firm; Peli Partners	The Albota law firm assisted Belgium-based real estate developer Atenor on its sale of the Hermes Business Campus to Adventum International. Peli Partners reportedly advised the buyer on the deal.	N/A	Romania
18-May	Bondoc & Asociatii	Bondoc si Asociatii advised Restart Energy on its issuance of 163,612 green bonds convertible into shares and their admission to trading on the Bucharest Stock Exchange's Multilateral Trading System. Romania-based brokerage company Goldring acted as an intermediary on the transaction.	RON 16 million	Romania
18-May	Nestor Nestor Diculescu Kingston Petersen	Nestor Nestor Diculescu Kingston Petersen advised Globalworth on its approximately EUR 18 million acquisition of Romania's Industrial Park West Arad and the IPW Oradea Industrial Park West Oradea from an unidentified seller.	EUR 18 million	Romania
20-May	Schoenherr	Schoenherr advised Engie Romania on the acquisition of a fully operational Romanian photovoltaic project from two German investors.	N/A	Romania
24-May	Schoenherr	Schoenherr advised Risen Energy Solar Project GmbH on the sale of a photovoltaic project with an installed capacity of 20 MW, located in Giurgiu county, Romania, to Alternus Energy Group plc.	N/A	Romania
27-May	Bondoc & Asociatii	Bondoc & Asociatii advised digital transformation and solution provider Intive on the acquisition of technology group Ammeon.	N/A	Romania
27-May	Clifford Chance; Linklaters	Clifford Chance Badea advised MAS Real Estate on a EUR 300 million green bond offer. Linklaters advised joint book-runners and lead managers Raiffeisen Bank International and Deutsche Bank.	EUR 300 million	Romania
28-May	Clifford Chance	Clifford Chance Badea advised guarantor and bond trustee Nordic Trustee AS on the Norwegian-law-governed EUR 200 million senior secured green bond issuance by a subsidiary of Ireland's Alternus Energy Group.	EUR 200 million	Romania
28-May	Maier, Ciucur & Asociatii	Maier, Ciucur & Asociatii successfully represented health and fitness operator Smartfit Timisoara in its challenge to the Romanian Government's mandatory shutdown of gyms and fitness centers in communities with a fourteen-day COVID-19 tally above four in one thousand.	N/A	Romania
8-Jun	Stratulat Albulescu	Stratulat Albulescu advised the Element Group on the acquisition of a 2.7-hectare plot of land near Pitesti, Romania, in the immediate vicinity of the country's A1 highway.	N/A	Romania
14-Jun	Stratulat Albulescu	Stratulat Albulescu advised QeOPS and its shareholders on a partial exit to Cargus, owned by Mid Europa Partners.	N/A	Romania
21-May	Dentons	Dentons advised Russian animation studio Soyuzmultfilm LLC on its acquisition of an unidentified stake in Mult Efir LLC.	N/A	Russia
25-May	Dentons	Dentons advised UniCredit on its provision of a USD 50 million sustainability-linked loan to PJSC Sibur Holding, the largest integrated petrochemicals company in Russia.	USD 50 million	Russia
27-May	Kachkin & Partners	Kachkin & Partners advised Sirin Development on the sale of the Norway logistics complex near St. Petersburg to investment development company Central Properties.	RUB 4.5 billion	Russia
2-Jun	Kachkin & Partners	Kachkin & Partners advised real estate developer Krasnaya Strela on the sale of a business-class residential development project on Moskovsky Prospekt in Saint Petersburg, including the 2.63-hectare plot, building permits, and RUB 6.3 billion in financing provided by the DOM.RF Bank, to developer E.Development of Moscow.	N/A	Russia
4-Jun	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners advised PPG Industries on Russian legal aspects of its tender offer for the shares of Finnish paint manufacturer Tikkurila.	N/A	Russia
8-Jun	Dentons	Dentons advised titanium producer VSMPO-AVISMA Corporation on an English law-governed unsecured five-year club loan facility for up to USD 400 million provided by a number of international banks.	USD 400 million	Russia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
11-Jun	Baker Mckenzie	Baker McKenzie advised the Russian Ministry of Finance on a EUR 1 billion issuance of 2.65% bonds due 2036, as well as a EUR 500 million tap offering of 1.125% bonds due 2027.	EUR 1.5 billion	Russia
11-Jun	Debevoise; Linklaters	Debevoise & Plimpton advised NLMK on its EUR 500 million 5-year Eurobond offering with an annual coupon rate of 1.45%. Linklaters advised joint lead managers and joint bookrunners J.P. Morgan, BofA Securities, and Societe Generale.	EUR 500 million	Russia
26-May	Dangubic Law Firm; NSTLaw	NSTLaw advised Amdico International Ltd. on the purchase of hospitality company HTP Srbija d.o.o, the owner and operator of the Srbija Hotel in Vrsac, Serbia, from Spain's Eix Daurada Invest sl. The Dangubic Law Firm in Vrsac advised the seller.	N/A	Serbia
28-May	Karanovic & Partners	Karanovic & Partners advised the Marriott International hotel chain on its entrance into a cooperation agreement with Millennium Resorts for the construction of a hotel complex in Vranjska Banja, Serbia.	N/A	Serbia
11-Jun	Milosevic Law Firm	Milosevic Law Firm advised Vocarescar d.o.o. Beograd on the acquisition of Vocar Merosina, a fruit cold storage company based in southern Serbia.	N/A	Serbia
15-Jun	Karanovic & Partners	Karanovic & Partners advised Take-Two Interactive on its acquisition of Serbian mobile game developer Nordeus.	USD 378 million	Serbia
7-Jun	CMS	CMS advised the Sportina Group on the implementation of a new online sales channel in cooperation with Shoppster.	N/A	Serbia; Slovenia
1-Jun	Deloitte Legal (Krehic & Partners)	Krehic & Partners in cooperation with Deloitte Legal advised Slovenia's Iskra on its acquisition of Croatia's Elka Cables from Cotra d.o.o and Miljenko Hacek.	N/A	Slovenia; Croatia
17-May	Baker Mckenzie; White & Case; White & Case (GKC Partners)	GKC Partners in association with White & Case advised Pegasus Airlines on its USD 375 million debut Eurobonds issuance, due in 2026. Baker McKenzie advised global coordinators and joint book-runners BofA Securities and Goldman Sachs International.	USD 375 million	Turkey
18-May	White & Case; White & Case (GKC Partners)	GKC Partners in association with White & Case advised Rollic Games on its acquisition of 100% of the shares of Uncosoft Yazilim.	N/A	Turkey
25-May	Baker McKenzie (Esin Attorney Partnership); Chiomenti; Gide Loyrette Nouel (Ozdirekcan Dundar Senocak)	Gide Loyrette Nouel and its associated firm in Turkey, Ozdirekcan Dundar Senocak, both working with lead counsel Chiomenti, advised Carel on its acquisition of a 51% stake in CFM Sogutma ve Otomasyon A.S. The Esin Attorney Partnership advised the seller on the deal.	N/A	Turkey
27-May	Paksoy	Paksoy advised Cisco Systems on the acquisition of Socio Labs, a US-based event technology platform that was co-founded by its Turkish CEO, Yarkin Sakucoglu.	N/A	Turkey
28-May	White & Case (GKC Partners); Paksoy	GKC Partners in association with White & Case advised joint bookrunners UBS and Bank of America Securities on LimakPort's issuance of USD 370 million senior secured bonds, under Rule 144A / Regulation S due 2036, at a coupon rate of 9.50%. Paksoy advised the issuer.	USD 370 million	Turkey
1-Jun	Ozbek Attorney Partnership; Turunc	The Turunc Law Firm advised Bogazici Ventures on its USD 1.4 million investment into Tarentum, a developer of machine learning and artificial intelligence technology solutions. The Ozbek law firm advised Tarentum on the deal.	USD 1.4 million	Turkey
11-Jun	Pelister Atayilmaz Enkur	The Pelister Atayilmaz Enkur Law Office advised Montana Tec Components on the acquisition of the remaining 20% stake in Turkish flexible packaging manufacturer Arimpeks.	N/A	Turkey

Date Covered	Firms Involved	Deal/Litigation	Value	Country
17-May	Asters	Asters advised Elementum Energy Ltd. on the acquisition of a majority stake in the Dnistrovskia wind park, in the Odessa region of Ukraine, and advised Elementum and Ukraine Power Resources on the construction of the first phase of the wind park.	N/A	Ukraine
20-May	DLA Piper; Orrick Herrington & Sutcliffe	DLA Piper advised the Stillfront Group on its acquisition of 100% of the shares in Game Labs Inc. from founders and management. Orrick advised the sellers.	USD 32.5 million	Ukraine
20-May	Sayenko Kharenko	Sayenko Kharenko helped Fiat Chrysler Automobiles N.V. obtain the approval of the Antimonopoly Committee of Ukraine for its merger with Peugeot S.A.	N/A	Ukraine
21-May	CMS; Redcliffe Partners	Redcliffe Partners and CMS advised the European Bank for Reconstruction and Development in connection with a EUR 13.8 million loan to the Kokhavynska Paper Factory.	EUR 13.8 million	Ukraine
25-May	Asters; Avellum; Hogan Lovells; Latham & Watkins	Latham & Watkins advised DTEK Energy on the restructuring of over USD 2 billion of its bank and bond indebtedness pursuant to two inter-conditional schemes of arrangement. Hogan Lovells and Asters advised an unidentified group of ad hoc lenders on the matter. Avellum advised DTEK on Ukrainian legal matters.	USD 2 billion	Ukraine
27-May	Sayenko Kharenko	Sayenko Kharenko advised the EBRD on the extension of an up-to-EUR 25 million loan to Credit Agricole Bank Ukraine.	EUR 25 million	Ukraine
31-May	Avellum; OMP	Avellum acted as Ukrainian counsel to Diligent Capital Partners on the joint acquisition with the FMO bank of a minority stake in Ukrainian feed producer Edinstvo Group. The OMP law firm reportedly advised the seller.	N/A	Ukraine
1-Jun	Vasil Kisil & Partners	Vasil Kisil and Partners successfully represented commercial audio content provider PressCom and its clients Testi Food (which operates the KFC restaurants chain) and Bastet Fem (which operates the Pesto Cafe chain) in a lawsuit brought against them by the Ukrainian League of Copyright and Related Rights for lost profits allegedly arising from their use of PressCom sourced music in their restaurants.	N/A	Ukraine
4-Jun	Aequo	Aequo advised BlaBlaCar on the acquisition of Ukrainian company Octobus, which developed an inventory management system for the automation of bus passenger transportation.	N/A	Ukraine
7-Jun	Aequo; Baker Mckenzie	Aequo advised Dragon Capital on the acquisition of the Amtel office-and-logistic complex in Ukraine. Baker McKenzie advised Amtel properties on the deal.	N/A	Ukraine
7-Jun	Avellum	Avellum advised Concorde Capital on its sale of a 72% stake in Zeleny Park LLC to an unidentified buyer.	N/A	Ukraine
9-Jun	Baker Mckenzie	Baker McKenzie advised Raiffeisen Bank Aval on its launch of the Fairo digital banking services platform, a mobile application aimed at freelancers and entrepreneurs.	N/A	Ukraine
9-Jun	Integrites	Integrites advised EuroCape Ukraine I on the commencement of commercial generation of electricity in Phase I of the 500 MW Zaporizhzhia Wind Park.	N/A	Ukraine
11-Jun	CMS; Sayenko Kharenko	CMS advised Horizon Capital and Datagroup on the acquisition of the Volia group of companies. Sayenko Kharenko advised Volia on the deal.	N/A	Ukraine



Table of Deals:

■ Full information available at:
www.ceelegalmatters.com
 ■ Period Covered:
 May 16, 2021 - June 15, 2021

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

Serbia, Montenegro: JPM Jankovic Popovic Mitic Creates Special Partnership with Vukmirovic Mistic

By David Stuckey

Serbia's JPM Jankovic Popovic Mitic has entered into a special partnership with the Vukmirovic Mistic law firm in Montenegro.

According to JPM, “for JPM Jankovic Popovic Mitic, [which] has a long tradition of working closely with first-rate firms throughout the region and around the world, this partnership will enable us to provide top-notch legal advice on the Montenegrin market with strong local lawyers' expertise.”

A JPM representative explained that, while local bar regulations preclude formal integration of firms in Serbia and Montenegro, its relationship with Vukmirovic Mistic “means a bit less than exclusivity and more than best friends, with joint market development and marketing efforts. With the law firm of Lana Vukmirovic Mistic we have found a trustworthy partner who speaks the same professional language and shares the same values we at JPM have been abiding for 30 years. We look forward to developing this partnership as much as possible For the time being we want to show this partnership for what it really is, and that is two independent firms from two jurisdictions working hand in hand in close partnership while remaining independent.” ■

Romania: 360Competition Opens Doors

By Radu Neag

Clifford Chance Badea Of Counsel Diana Crangasu and Former D&B David & Baias Partner Adrian Ster have founded 360Competition, a boutique competition law firm.

Both Ster and Crangasu specialize in competition law and state aid. The new firm's services will cover antitrust, merger control, state aid, and unfair competition.

Ster has spent the past two years as Partner in charge of Competition Law and State Aid at D&B David and Baias, which he joined in May 2019 after spending the previous three years at Wolf Theiss (as reported by CEE Legal Matters on May 8, 2019). He graduated from the Babes-Bolyai University Law School in 2005.

Crangasu will continue to supervise the competition practice at Clifford Chance Badea, overseeing its local competition team, and working with the antitrust teams of other Clifford Chance offices. She graduated from the University of Bucharest Law School in 2004.

“The opening of a specialized boutique reflects both the confidence we have in our capabilities and the maturity of the Romanian legal services market,” commented Ster. “Our experience and the portfolio of clients we set out with confirm that we are taking this step not only with the best team, but also at the right time,” added Crangasu. ■

Belarus, Ukraine: Belarus's Revera Opens Ukrainian Office

By Andrija Djonovic

Belarus's Revera law firm has opened a permanent office in Ukraine, headed by Associate Alexander Shtrykul.

According to Revera, the new Ukrainian office will focus on business technology sectors, migration matters, management company's/director's services, Diia City (a special legal framework for the IT industry), and ongoing corporate consulting matters.

Shtrykul specializes in real estate transactions. According to Revera, "he counsels clients on real estate management, leasing, and relations involving condominiums. Also, Alexander is experienced in legal support for disputes involving real estate and contestation of state registration." He is a graduate of the Law Department of the Belarusian State Economic University.

"First of all, we are focused on IT business," commented Revera Managing Partner Dmitry Arkhipenko. "Legal support for companies that have decided to open R&D offices in Ukraine, as well as our supranational expertise in structuring groups of IT companies in an international format, IP disputes, support for M&A transactions under English law. We will glad to assist your business in adjusting to the new market." ■

Poland: Moyers Law Firm Opens Doors in Warsaw

By Djordje Vesic

Walery Arnaudow and Magdalena Swiader have left Domanski Zakrzewski Palinka to establish the Moyers boutique law firm in Warsaw.

According to the firm, they will primarily focus on advisory work in the life sciences sector, namely transactions pertaining to regulated products, such as medicines and medical devices.

"We see ourselves as new-generation lawyers ... [and] clients value our dynamic and friendly way of being," says Swiader. "We are [already] working for notable pharmaceutical companies, even though we started our business in April."

Before establishing Moyers, Arnaudow spent nearly seven years at DZP's Life Sciences practice. He joined the firm as Junior Associate in 2014, was promoted to Associate in 2017, and was made Senior Associate in 2019.

At the beginning of her career, Swiader worked for Thomson Reuters as Junior Correspondent. After 11 months with the agency, she moved to DFL Legal, where she spent a year and eight months. In 2017, Swiader joined Kancelaria Czynewscy, and moved to DZP in 2018. ■

Ukraine: Kinstellar Scoops Up DLA Piper's Ukrainian Office

By Radu Cotarcea

Kinstellar has announced it is expanding its Kyiv team with the addition of the former DLA Piper office in Ukraine.

The combined team will be led by a Management Committee consisting of Co-Managing Partners Olena Kuchynska and Margarita Karpenko, formerly the Managing Partner of DLA Piper Ukraine, and Senior Counsel Daniel Bilak.

According to Kinstellar, the resulting team consists of 60 lawyers, including 10 partners.

"We are embarking on this journey with great enthusiasm," commented Patrik Bolf, Kinstellar Managing Partner. "Joining forces with DLA Piper's highly regarded practice in Kyiv greatly enhances Kinstellar's strength, scale, and ability to deliver seamless, exceptional legal advice across all of our core practice areas. Our growth strategy has always focused on attracting and retaining top talent to help our clients meet their business objectives." ■





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PARTNER MOVES

Date	Name	Practice(s)	Moving From	Moving To	Country
19-May	Anna Brzoza-Ostrowska	Real Estate	CMS	SKJB Szybowski Kuzma Jelen Brzoza-Ostrowska	Poland
20-May	Mateusz Rogozinski	Corporate/M&A	Crido Legal	SSW Pragmatic Solutions	Poland
11-Jun	Walery Arnaudow	Life Sciences	Domanski Zakrzewski Palinka	Moyers	Poland
11-Jun	Magdalena Swiader	Life Sciences	Domanski Zakrzewski Palinka	Moyers	Poland
28-May	Diana Crangasu	Competition	Clifford Chance	360Competition	Romania
28-May	Adrian Ster	Competition	D&B David & Baias	360Competition	Romania
31-May	Sergey Komolov	Corporate/M&A	King & Spalding	Rybalkin, Gortsunyan & Partners	Russia
11-Jun	Dragana Bajic	Labor	Kinstellar	CMS	Serbia
31-May	Yunus Emre Bakiler	Corporate/M&A	Yazici Attorney Partnership	Ozgur & Unuvar	Turkey
14-Jun	Margarita Karpenko	Corporate/M&A	DLA Piper	Kinstellar	Ukraine
14-Jun	Galyna Zagorodniuk	Corporate/M&A	DLA Piper	Kinstellar	Ukraine
14-Jun	Natalia Kochergina	Real Estate	DLA Piper	Kinstellar	Ukraine
14-Jun	Alla Kozachenko	Corporate/M&A	DLA Piper	Kinstellar	Ukraine
14-Jun	Oleksandr Kurdydyk	Energy/Natural Resources	DLA Piper	Kinstellar	Ukraine
14-Jun	Illya Sverdlov	Tax	DLA Piper	Kinstellar	Ukraine
14-Jun	Olga Vorozhbyt	Litigation/Dispute Resolution	DLA Piper	Kinstellar	Ukraine

PARTNER APPOINTMENTS

Date	Name	Practice(s)	Firm	Country
4-Jun	Philipp Mark	Banking/Finance; Capital Markets	CMS	Austria
1-Jun	Nikolay Artemyev	Banking/Finance	Borovtsov & Salei	Belarus
14-Jun	Edyta Zalewska	Litigation/Dispute Resolution	B2RLaw	Poland

IN-HOUSE MOVES AND APPOINTMENTS

Date	Name	Moving From	Company/Firm	Country
4-Jun	Dragan Lupsic	Flagship	PwC Serbia	Serbia
11-Jun	Merve Oney Barlas	Mapfre Genel Sigorta	DgPays	Turkey
25-May	Andrii Trostin	Philip Morris	Eterna Law	Ukraine



On The Move:

■ Full information available at:
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 ■ Period Covered:
 May 16, 2021 - June 15, 2021

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THE BUZZ

In “The Buzz” we check in on experts on the legal industry across the 24 jurisdictions of Central and Eastern Europe for updates about professional, political, and legislative developments of significance. Because the interviews are carried out and published on the CEE Legal Matters website on a rolling basis, we’ve marked the dates on which the interviews were originally published.

Bosnia & Herzegovina:

Interview with Jasmina Suljovic of Law Office Milanovic-Lalic, Suljovic and Devisevic

By Andrija Djonovic (June 17, 2021)



Bosnia & Herzegovina is finally seeing the breaking of a two-year-old deadlock that paralyzed its securities commission and halted business, says BH Legal Partner Jasmina Suljovic, underlining the most important recent development in the country.

“The first thing that has caught the attention of the legal market in Bosnia & Herzegovina is the unblocking of the Securities Commission of the Federation of Bosnia and Herzegovina (Komisija za vrijednosne papire),” Suljovic begins. “Ever since 2019, when one of the five members of the Commission retired, the regulatory body has been unable to reach a quorum, convene, and, essentially, work.” The Commission is the ruling body when it comes to registering changes for stock companies – everything from changes to base capital all the way to registering the supervisory boards. “This has been a major problem,” Suljovic says “because it paralyzed a lot of companies in doing their business, changing their governing bodies, or just getting on the market!”

Now, two years in, the President of the Federation of Bosnia & Herzegovina has announced that new members of the Commission are to be appointed, pending a parliamentary confirmation. “Finally, it appears that this stalemate will end,” Suljovic says. The issue has reached as high up as the IMF,

which, at one point, stated that the unblocking of the Securities Commission is a precondition for further credit financing to Bosnia & Herzegovina.

Furthermore, Suljovic says that an informal philanthropic forum is set to kick off in the country. “This is a major advancement for philanthropy and humanitarian aid in Bosnia & Herzegovina,” Suljovic reports. “The forum is initiated by the most prominent civil society organizations in the country and the region: Fondacija Mozaik, Fondacija Hastor, Pomozi.ba, Mreza za izgradnju mira, Fondacija Trag, and Catalyst Balkans with the financial support of USAID. This Forum is an informal venue for corporations, foundations, and people who contribute to a better society, allowing the philanthropic community to have more confidence in the giving process and improving the quality of life for philanthropic recipients.” This philanthropic network will help the current situation in the country by “finally giving a push for legislative change that can stimulate more philanthropic behavior,” Suljovic says.

According to her, the corporate sector in Bosnia & Herzegovina is already quite helpful and giving, both in monetary terms and in kind, but is facing a lot of hurdles due to the fact that an appropriate tax regime for donations is lacking. “Tax deductions for philanthropic aid are capped at 3% – which does not incentivize giving,” Suljovic reports. “Also, if a company wants to donate food, it has to pay VAT on it! This is sorely in need of an overhaul, which is what I think will happen now.” Finally, Suljovic says that she hopes this will stimulate others to help as well and will aid in growing philanthropic endeavors in the country. ■



Law Office
Milanović-Lalić,
Suljović and Dervišević

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BONA **B** FIDE

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While relatively slow on certain fronts, the North Macedonian Government seems focused on economic growth according to Aleksandar Kchev, Partner at Bona Fide Law Firm, with the country's IT industry and renewables sector seeing some notable movement.

“Business in North Macedonia in many ways depends on the political atmosphere in the country and having a stable government, considering that the most substantial projects in areas such as infrastructure, sustainable energy, *etc.*, need constant follow-up from different authorities,” begins Kchev. “Considering the tight majority of seats in the Parliament, the Government seems to have many delays in adopting new, and changing current, legislation to facilitate and run its economic agenda, but also in adopting certain laws that could have sped up the process of immunization of citizens against COVID-19.”

Kchev says that now, with the pandemic weakening, the Government plans to focus on economic growth and development, mainly via public and private investments in sectors such as energy, environment, waste management, public health, and the like. “The economy will also be influenced by what the Government does in lieu of aiding businesses, especially with pandemic shell-shock being present.”

Turning to legislative updates, Kchev reports that “several changes have been adopted in terms of environmental law and waste treatment law that straightened the legal framework to be considered by anyone entering a process of licensing and that, in general, will provide clearer interpretations for any future foreign investors.” At the same time, he says that the government has adopted special legislation that allows for obtaining North Macedonian citizenship quickly via an investment program. “This is a program with which the Fund for Innovation and Technology Development determines the economic interest for citizenship. It makes foreigners that have invested capital in the amount of at least EUR 200,000 in a private investment fund eligible to apply for citizenship.”

Finally, turning more to the economic reality itself, Kchev says that the North Macedonian economy was in a ‘stand-by’ mode due to the pandemic. “However, a more aggressive approach was noticeable by companies coming from stronger economies within the broader region that entered into acquisitions of Macedonian companies, especially those placed within the IT industry,” he says. As an example, Kchev points Payten, belonging to Asseco South Eastern Europe acquiring Grouper, a local e-commerce startup.

However, Kchev underlines the sustainable energy sector as the one with “the most crucial developments planned with several projects to be completed or in their final stages. For example, Germany-based WPD struck a deal to construct a 400 megawatt wind power plant,” with Kchev also mentioning a procedure that has recently been completed for a 30 megawatt wind farm in Bogdanci – a project by Energo Systems Slovenia and Austria, worth EUR 50 million. ■

North Macedonia: Interview with Aleksandar Kchev of Bona Fide Law Firm

By Andrija Djonovic (June 18, 2021)



A more aggressive approach was noticeable by companies coming from stronger economies within the broader region that entered into acquisitions of Macedonian companies, especially those placed within the IT industry.

Bulgaria:

Interview with Plamen Peev of Peterka Partners

By Andrija Djonovic (June 21, 2021)



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The sanctions were imposed on several Bulgarian officials and 64 entities owned or controlled by two of the sanctioned individuals, on account of severe corruption.

While the Bulgarian political landscape is not exactly what Peterka Partners Partner Plamen Peev would describe as stable, there seems to be notable movement in terms of legislative updates as well as reasons for cautious optimism related to the Bulgarian economy.

“In terms of the political situation, things are not too stable in Bulgaria,” Peev begins. “The political landscape is dominated by two major events – the upcoming parliamentary elections and US sanctions.”

Bulgarian parliamentary elections, scheduled for July 11, are extraordinary since the regular April 4 parliamentary elections failed to produce a government.” The parliament dissolved after a month or so – it was a rather unprecedented event,” Peev says.

And the sanctions imposed by the United States, under the Magnitsky Act, only add to the flame. “The sanctions were imposed on several Bulgarian officials and 64 entities owned or controlled by two of the sanctioned individuals, on account of severe corruption,” Peev explains. “It’s quite a massive intervention that was hardly expected by most political players in Bulgaria, let alone society as a whole.” While Peev thinks that this might have negative short-term blowback in terms of investments, he also feels that this might lead to corruption being deterred more easily in the long run.

As for the legislative updates, Peev mentions several of note: “A new law on industrial parks/zones has passed aiming at a much clearer legal framework on this topic. Some additional requirements were instituted when it comes to the sale of goods to consumers and the legal treatment of digital content and services. Amendments to the rules on work and residence permits for foreigners have passed as well.” He also says that the procedures related to work and residence of foreigners have long been a sore topic for the Bulgarian IT sector, seeing as how “IT companies have long been asking for a more adequate legal framework that would allow for more non-EU talents to enter the market, thus ensuring its growth.”

Finally, Peev says that there is room for moderate optimism as to how things are developing in terms of the Bulgarian economy, overall. “Despite the political context described, I’m happy that investors are still considering Bulgaria for their projects. We are currently in touch with businesses planning setting up local subsidiaries in various sectors, such as e-mobility, logistics, consumer goods, industrial repairs,” he says. “If you look at the numbers, the Bulgarian economy overall hasn’t been devastated by the crisis and current predictions are being revised to include a more optimistic outlook,” Peev concludes. ■

With the municipal and county elections in Croatia resulting in a changing of the guard, of sorts, Vukelic Law Office Partner Luka Vukelic explains how it might affect the Adriatic country going forward, while also sharing developments regarding the country's newest unicorn.

"The most important things of note, lately, are the local municipal and county elections that took place in May," Vukelic begins. "The elections saw the dominant, ruling party – HDZ – lose both Zagreb and Split, which are two of the biggest cities in the country," he adds. Vukelic says that this is a major hit for the long-governing political party, seeing as how it will lead to them losing access to some HRK 60 billion of budgetary funds.

The second reason for which Vukelic believes the elections are of note is that they led to fresh faces entering the political stage. "This was the first time in a long time that neither of the two standard-bearing parties, HDZ and SDP, swept the elections on this level," he says. According to him, having fresh faces means that it may "finally be the time that Croatia breaks the cycle of HDZ and SDP passing the baton." Still, changes in government notwithstanding, Vukelic feels that it would take a year at least before it could have any impact on investments. "It remains to be seen if the new leaders will fulfill all of their promises of transparency and advancement."

What does seem to be a favorable thing for reintroducing trust in the legal system in Croatia, Vukelic reports, is the recent apprehension and arrest of three criminal court judges from the Osijek County Court, on charges of corruption. "This made huge waves with lawyers recently – such a thing hadn't happened in a long time – and could go a long way towards restoring trust in the system," Vukelic says.

Finally, speaking of the general atmosphere of the Croatian market, Vukelic says that things have been picking up this year. "Investments, transactions – it all went a level higher this year in comparison to the pre-COVID-19 era," he says. "Investors are propping up, acquiring companies, and the economic outlook predictions are looking up too." As an example of things improving, Vukelic says that Croatia has just got its second unicorn – Rimac Automobili. "Rimac just unveiled Nevera, a fully electric hypercar, which is the world's fastest accelerating production road car in history – and it's a thing of beauty," he says. "It's getting a lot of international investor attention."

Additionally, Vukelic says that the Peljesac bridge – connecting the two parts of Croatia that have been hitherto accessible only via Bosnia & Herzegovina – is due to be completed "in the coming few months." Tourists are slowly coming back to the country as well, and Vukelic reports that, with daily newly infected numbers hovering around 50 and more than half of the population being inoculated, Croatia may see a good tourism season. "Things are slowly returning to some form of normal, as the country no longer finds itself on red/orange lists when it comes to COVID-19. This holds nothing but promises for the immediate future," Vukelic concludes. ■

Croatia:

Interview with Luka Vukelic of Vukelic Law Office

By Andrija Djonovic (June 22, 2021)



This was the first time in a long time that neither of the two standard-bearing parties, HDZ and SDP, swept the elections on this level.

Greece:

Interview with George Bersis of Potamitis Vekris

By Andrija Djonovic (July 01, 2021)



With the summer kicking off another (tourism) season for Greece, Potamitis Vekris Co-Managing Partner, George Bersis, shares with us how this Mediterranean country's economic outlook is shining brighter and brighter.

“Things are hyper in Greece” Bersis begins. “Our economy and our society, in general, are opening up for the first time with a clear view that most of the pandemic is behind. The vaccination effort is moving fast, Greece is opening up for tourists ... the general sentiment is very positive.” He says that, finally, optimism is materializing.

“Despite some reasonably expected hiccups, the government, supported by the responsible and conscientious behavior of the Greek people, performed particularly well during this period” Bersis notes. “Following turbulent political times during the recent financial crisis, Greece is and shall remain for the foreseeable future politically stable,” Bersis reports, adding that the government, and all major political parties, are very pro-investment, which kicked off a lot of reforms set to further boost the economy.

The most recent major reforms, Bersis reports, are the revision of the Bankruptcy Code, the overhaul of the Labor Law framework, and a “devoted and continuing effort to bring the Greek administration into the digital era.” Moreover, the gov-

ernment has lowered taxes and has issued business-stimulating subsidies to combat the COVID-19 pandemic. “All of this, plus the looming EU support funds that are set to come in and further boost our economy, spell a very positive outlook for Greece,” Bersis says.

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Our economy and our society, in general, are opening up for the first time with a clear view that most of the pandemic is behind. The vaccination effort is moving fast, Greece is opening up for tourists ... the general sentiment is very positive.

And business is doing well. “Bookings for the tourist season are off the charts and for the period starting from the mid of July onwards, it looks like we’re heading into a new record-setting period,” Bersis says. “Also, investors are rushing in, now that the worst of the pandemic seems to be behind us, and the horizon is full with promising new opportunities and an uptick in transaction projects.”

Finally, Bersis says that this all means that the legal market needs to “start investing heavily in people and resources in general. With everything opening up – or already being open – I think that we all ought to be picking up additional capacity to be able to respond to the beat of business.” Reporting that their own firm grew some 10% during the pandemic – and that the market stayed quite busy despite everything – Bersis concludes with a positive projection: “We are heading into a period of strong expansion both in the economy in general and in the legal services sector in particular.” ■

Montenegro:

Interview with Slaven Moravcevic of Schoenherr

By Andrija Djonovic (July 02, 2021)

Even though it's been a year since its parliamentary elections, the outcome still seems to be the talk of the town and the biggest influence on business in Montenegro, according to Schoenherr Partner Slaven Moravcevic.

“The new government, that was formed in December of 2020, is still getting its grips on things, somewhat,” Moravcevic says. “The governmental change has created a new dynamic that has, without a doubt, reflected on the investment atmosphere.”

Moravcevic reports that the new government is still “taking stock” meaning that some ongoing investment transactions – especially those that had the Montenegro state as a counterparty, have grinded to a halt. On the other hand, Montenegro is still an attractive investment destination for foreign investors. “This, by and large, is reflected the most on the real estate, energy, and tourism sectors, but others are impacted as well,” Moravcevic says. “The government is trying to create an operational framework for itself and this has affected beginnings of several large projects.”

What is noticeable, Moravcevic says, is an increase in arbitration disputes – some even including the Montenegrin state – that could reflect on the economy, going forward. “There have been several arbitration proceedings initiated by investors, that attracted the attention of other investors,” Moravcevic reports. “Several large projects have halted, with investors waiting out the entire situation in the country.”

Finally, Moravcevic says that it is difficult to predict when will the new government kick it up a gear and re-energize the investment climate of the Balkan country. “It is very difficult to make any projections and predictions, especially when it comes to the direction the government will take,” he says. “What we can notice, however, is that the entire region – Croatia, Serbia, North Macedonia – has bounced back economically, to an extent, following the pandemic in 2020. Life has found a way forward and, with the latest vaccination efforts, it is likely to pick up speed,” Moravcevic concludes. ■



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There have been several arbitration proceedings initiated by investors, that attracted the attention of other investors. Several large projects have halted, with investors waiting out the entire situation in the country.

IN A LEAGUE (TABLE) OF THEIR OWN: A LOOK AT BALTIC FIRMS' VOLUME OF CLIENT MATTERS

By Djordje Vesic

Regional periodical league tables ranking M&A activity through the lens of the law firms advising on the deals are often dominated by Baltic law firms, with the **CEELM Index** special issue of the **CEE Legal Matters** magazine reflecting the same trend. To better understand why that is so, we spoke with several Partners – from both Baltic firms and other CEE jurisdictions.

A Word Not Used Lightly

In the *CEELM Index*, the table representing the overall number of client matters reported in CEE in 2020 is *dominated* by two pan-Baltic law firms – Sorainen and Cobalt, with 116 and 86 deals and cases, respectively. Dentons holds third place with a total of 80 deals reported across many more jurisdictions in CEE.

Furthermore, when looking at lists that rank firms on a national level, a pattern begins to emerge. In Estonia, the top-ranked firm is Cobalt with a total of 46 cases, while Stratulat Albulescu is ranked first in Romania with 15 reported cases. In Lithuania, Sorainen leads with 60 reported cases, while Dentons holds the top position in the Polish market with 42. Cobalt reported the most cases in Latvia, a total of 30, as opposed to 12 reported by NKO Partners in Serbia.

Firms with the most client matters reported by CEE Legal Matters in 2020 in CEE.

Rank	Firm	# of Reported Client Matters
1	Sorainen	116
2	Cobalt	86
3	Dentons	80
4	CMS	78
5	DLA Piper	59
	Clifford Chance	59
7	Kinstellar	56
8	White & Case	54
	Schoenherr	54
10	Linklaters	46

Do the Numbers Tell the Whole Story?



Tomas Kontautas,
Country Managing Partner,
Sorainen (Lithuania)

Of course, one simple explanation could be that the amount of work handled by Baltic law firms is simply higher than that of their colleagues in other jurisdictions. Tomas Kontautas, Country Managing Partner at Sorainen in Lithuania reports that Sorainen, and the Baltic firms in general, have kept extremely busy in the past year: “the Baltic economies were not hit by the COVID-19 pandemic that hard, mainly because the

first wave was fairly light and sensitive sectors, like tourism, are not as developed in our region as in other parts of Europe.” Kontautas explains that, during the second wave, governments printed a lot of money to deal with the economic backlash of the pandemic, which “caused a fear of inflation, so foreign investors decided to invest the money they were sitting on.” There is, of course, more to that story. He points to Lithuania’s well-regulated tax system, the rule of law, and digitalization as some of the key elements which keep the investors coming: “we are a small, yet transparent, tech-savvy market, with a lot of talented people.”

Indeed, looking at economic parameters, the Baltic region seems to be well off. Estonia, Latvia, and Lithuania together have a population of around six million people, yet each of the states rivals much larger and more populous Poland in terms of GDP per capita. According to the OECD, Poland’s

Firms with the most client matters reported by CEE Legal Matters in 2020 in Estonia.

Rank	Firm	# of Reported Client Matters
1	Cobalt	46
2	Sorainen	34
3	Ellex	14
4	TGS Baltic	10
5	Pohla & Hallmagi	7

Firms with the most client matters reported by CEE Legal Matters in 2020 in Latvia.

Rank	Firm	# of Reported Client Matters
1	Cobalt	30
2	Sorainen	28
3	Ellex	7
4	TGS Baltic	7
5	Allen & Overy	3

Firms with the most client matters reported by CEE Legal Matters in 2020 in Lithuania.

Rank	Firm	# of Reported Client Matters
1	Sorainen	60
2	TGS Baltic	22
3	Cobalt	19
4	Wallace	17
5	Motieka & Audzevicius	14

GDP was estimated at slightly over USD 33,000 per capita, whereas estimates for Estonia, Latvia, and Lithuania were USD 38,359, USD 31,367, and USD 38,885, respectively.



Gelu Maravela, Founding Partner, MPR Partners (Romania)

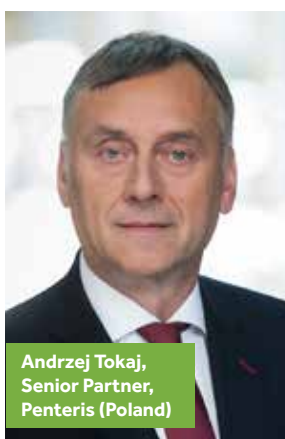
In contrast to Kontautas’ report, Romania’s legal market experienced a somewhat different year, as attested by Gelu Maravela, Founding Partner at MPR Partners. According to him, “even though there was a large number of transactions in Romania in 2019, the market was calm through 2020 due to the pandemic.” He explains that the players were very cautious with their investments, even though most businesses were not heavily affected by the crisis. Jelena Gazivoda, Senior



Jelena Gazivoda, Senior Partner, Jankovic Popovic Mitic (Serbia)

Partner at Jankovic Popovic Mitic, echoes this impression when talking about Serbia: “The reported number of transactions is most often the real number of transactions a law firm has worked on.” She explains that several factors influence the total number of deals. “In an election year, which 2020 was in Serbia, there are usually fewer transactions taking place,” she says. COVID-19 also played a role,

Gazivoda points out, as the pandemic affected the transactional activity in the first three quarters of 2020. She explains that, after months of uncertainty, the market began to recover in October last year. “The number of transactions done in Serbia changes from year to year,” she says. “In 2020, there were a larger number of lower-valued transactions, which was contrasted with the high-value sale of Komercijalna Banka in December last year,” she explains. But, while two non-Baltic jurisdictions report an indeed slower 2020 – thus backing the numbers, Kontautas still feels it is difficult to tell whether his firm has worked more deals than others listed in the *CEELM Index*.



Andrzej Tokaj, Senior Partner, Penteris (Poland)

One possible explanation raised is that some jurisdictions are more prone to self-filtering what they announce. Andrzej Tokaj, Senior Partner of Penteris in Poland, explains that, potentially, the very fact that the market is larger is what leads to fewer *reported* deals: “I believe that, because the Polish market is rather bigger than the Baltic markets, it is highly likely that both the number and the size of the deals are greater in

Poland.” As a result of that, he says “the threshold for what we think is worth reporting is no doubt higher than in many other smaller jurisdictions.” For context, Tokaj points out that despite working across CEE, he focuses on Polish real estate, where “the value of the transactions can go up to several hundred million Euros.” Similarly, Maravela states: “We are a well-established firm, so we choose to be more discreet

and report only on those deals that actually matter.” But it is unlikely for that to fully explain the league tables, since Baltic firms report self-filtering as well with Dace Silava-Tomsone, Managing Partner at Cobalt in Latvia, explaining their approach: “we normally report larger transactions, and we tend not to report day-to-day ‘housekeeping’ deals and matters.”

Do, Don't Tell

Of course, there are actual legal barriers to advertising for law firms in several of the countries compared, and Gazivoda notes that “local regulation in Serbia does not allow law firms to advertise like some other industries do.”

And even where regulations are eased, there is inertia in place. Tokaj explains that “until ten to fifteen years ago, marketing on the legal market was a big ethical issue, and the Bar Association’s rules related to marketing were strict.” Yet, despite the rules being softened more recently, many lawyers still believe that legal services should not be advertised.

It is ultimately a balancing act, according to Maravela: “In Romania, there is a clash between the common law system and the continental system, in terms of marketing rules.” He explains that, within the common law system, rules are much looser in terms of what you can advertise. In contrast, the French school of the continental system, partly endorsed in Romania, is much stricter, though he believes his firm has found a fine balance between the two.

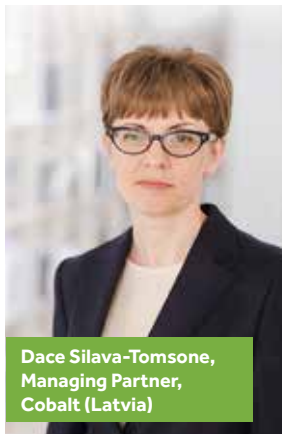


Ivars Grunte,
Managing Partner,
TGS Baltic (Latvia)

In contrast, “deals and cases are fairly transparent in the Baltics, so we are usually allowed to report most of them,” Ivars Grunte, Managing Partner at TGS Baltic in Latvia says, noting that the client’s approval is the customary prerequisite to publicizing the deal. Even that, however, touches on yet another barrier for some towards announcing their work, with Gazivoda pointing out that the number of reported deals may

also depend on the firm’s clients, as they occasionally object to having their deals publicized.

A Differently-Structured Market



Dace Silava-Tomsone,
Managing Partner,
Cobalt (Latvia)

Maravela points out that the legal market in the Baltics is structured differently. It began consolidating around two decades ago, with firms forming pan-Baltic alliances, like Cobalt or Ellex, or integrating into a single firm, like Sorainen. Silava-Tomsone explains that consolidation has helped the Baltic legal market mature over the years, with tough competition across the board: “there is fierce competition not only

among top-tier firms but between them and the runners-up.” According to her, the name of the game is staying visible in such an environment, which is achieved, in part, by reporting your achievements to legal publications. Grunte too acknowledges that “competition in the Baltic legal market is tough, so you need to come across as active.” He explains that keeping up with the competitors requires a lot of resources, some of which are invested in promoting TGS Baltic via international publications: “the obvious benefit of our marketing approach is that we stay in focus and make ourselves visible to potential clients.”

In contrast, according to Maravela, Romania has not experienced a similar consolidation process, quite the opposite: “It is quite hard to retain talented lawyers, as they usually want to spin off their own firms. Compared to two years ago, we have more law firms in general, especially boutique law firms that focus on specific areas.” Maravela believes that the fragmentation of the legal market makes it more competitive, as the new, smaller, yet highly-specialized firms wish to compete with even the largest ones, on their niche.

Tokaj too suspects a possible explanation can be found in the structure of the legal market, but from a different perspective: “Polish firms individually report a smaller number of deals because the market is still dominated by large international law firms.” As to why that is less reflected in the league tables, according to him, these international firms are very active in the transactional segment, but their marketing focus is much wider than that of a local, or even a regional firm. “Even though these firms do a lot of work in Poland, the work itself comes from London, or some other economic



center, which is why these firms might be focused more on advertising their success to a British clientele, instead of the local one.”

Show Me What You Got

Ultimately, law firms’ marketing strategies are based on, as Gazivoda puts it, “maintaining visibility and promoting our firm’s strengths, as a way to support the core aspect of legal work – the provision of prompt, expert, and dedicated legal assistance to our clients.” There does seem to be a different approach as to *how* one goes about achieving this.

For Gazivoda, “the main ways of presenting your firm to the market is through quality work, publishing expert reviews and articles, participation in conferences, and within associations of experts.” Maravela too says that while their “less aggressive marketing policy doesn’t mean we are not advertising our services and achievements,” the firm is better served by having its lawyers’ expert reviews and articles published in periodicals and printed publications.

Grunte, on the other hand, says that having his law firm’s achievements reported on creates an online database of the type and value of deals his firm has worked on. If a potential client decided to research the database, it would provide valuable insight into the firm’s capabilities.



Dovile Burgiene,
Managing Partner,
Walless (Lithuania)

Furthermore, when a law firm publicizes deals, especially complex ones, it showcases its capabilities to potential clients. That may be more pertinent today than before because, according to Dovile Burgiene, Managing Partner of Walless in Lithuania, the role of a lawyer has been transformed. “30 years ago, it was expected from a lawyer to provide basic legal services,” she says, whereas “nowadays, law firms need to provide high-quality and sophisticated service, accompanied with deep client industry knowledge, in order to maintain their leading position.” And, as she notes, this does come with perks: “when you establish yourself as a recognizable pan-Baltic firm, you are not limited in terms of the type of mandate you can take.” ■

VALUES ADDED: INTERVIEW WITH DORU TOMA OF THE LEADERS FOR JUSTICE PROGRAM IN ROMANIA

By Djordje Vesic

Doru Toma, Project Manager of Konrad Adenauer Foundation's Leaders for Justice program, provides insight into the program's values, goals, and structure.

CEELM: What is the Leaders for Justice program and when was it established?

Doru: Leaders for Justice is a leadership program for young Romanian legal professionals. Most of the people who participated in the program work as judges, prosecutors, lawyers, police officers, academics, public notaries, or as in-house counsel with NGOs and companies.

The program was conceived in 2009 under the auspices of the Konrad Adenauer Foundation, under its Rule of Law Programme Southeast Europe. The program was officially launched in 2010. My colleague Corina Rebegea, who subsequently received the Fulbright scholarship, was in charge of the program at its beginning. I took over as project coordinator in 2012.

The program receives funding mainly from the KAS, but we are also supported by external partners such as the Black Sea Trust for Regional Cooperation.

CEELM: What is the program's mission?

Doru: Our mission is to inspire individuals to realize their potential. We want to bring together people of integrity who believe in a specific set of values, who want to lead in promoting the rule of law principles and enforce them in their work.

Our goal is to train young legal professionals and equip them with the necessary skills to become the leaders of tomorrow. This set of tools includes leadership, visioning, teamwork, decision-making, communication or project management skills, extensive knowledge about democracy, the rule of law, justice, as well as professional ethics.

CEELM: What values does the program stand behind?

Doru: During the selection process, we ask our applicants to submit their CV, a cover letter, and an essay about the change they would like to implement in their profession, organization, or the justice system as a whole. We then interview them about their views about values such as integrity, justice, respect for others, friendship, equality, and freedom. We turned down some very qualified applicants because they came across as too opportunistic and self-centered. Instead, we are looking for people who not only want to improve themselves, but who want to give something back to their community.

CEELM: How is the program structured?

Doru: The leadership program is taken by up to 20 Romanian legal professionals each year. We have had 12 editions of the program since its inception in 2009. The program is carried out in six training sessions from January to July. Every month, the participants spend four days in various training modules and workshops, where they gain abilities and tools with help from our trainers.

The workshops are focused on specific areas, such as vision and creativity, team leading, decision making and change management, communication skills, and project management.

CEELM: How large is your alumni network and what effect has the program had on them?

Doru: We used to be a network, but over the years we have truly grown into a community in the real sense, gathering 230 individuals with strong motivation to become change-makers. Our alumni share the same values, so they bonded very well and maintain regular contact. We also host different internal events throughout the year (open discussions with experts and personalities, personal and professional development workshops, informal gatherings such as hiking and other fun activities), culminating with the Annual Reunion of the



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Our goal is to train young legal professionals and equip them with the necessary skills to become the leaders of tomorrow. This set of tools includes leadership, visioning, teamwork, decision-making, communication or project management skills, extensive knowledge about democracy, the rule of law, justice, as well as professional ethics.

Leaders for Justice Community. Having a similar experience throughout the program and being selected on the same criteria, inter-generation communication comes naturally.

We believe that the program has provided our alumni with experience, know-how, and tools and abilities that can help them improve their leadership skills. We believe that this gives them courage that they might not have had to take things into their own hands and realize their full potential.

CEELM: What are some of the projects your alumni worked on?

Doru: The first generation of our alumni founded the LiderJust Association, which has since functioned as a way to implement projects and initiatives of the members. Over the years, one of the main focuses of the Leaders for Justice members was judicial education, and several projects were implemented since, having thousands of beneficiaries. Mainly, practical judicial education workshops were designed and implemented throughout the country, having some thousands of high school teenagers as beneficiaries. The workshops are designed to teach the students about their rights and obligations, through study cases built on highly relevant topics for them: bullying, fake news, contraventions, environment, *etc.*

We have also filmed documentaries, such as People of Justice (2019) and Justice Unseen (2021), and have organized the Career Compass project, aimed at helping law students choose a career path by engaging in several internships of their choice, at law firms, courts, prosecutors' offices, ministries, or other public institutions.

CEELM: What is the future of the program?

Doru: The Leaders for Justice program has been growing for the past 12 years and has recently been launched in Bosnia and Herzegovina, with the first edition in 2020. Also, since 2017, through the INK Association and with support from the Romanian team of trainers, we are implementing the LEAD Moldova leadership program for Moldovan young legal professionals.

For the future, we aim at developing complementary formats in order to reach many more professionals from the justice system and have a greater impact.

I believe that the program will continue helping young people realize that they are the leaders of tomorrow. With them, the justice system is in the right hands. ■

FINANCIAL RESTRUCTURING AND CONSOLIDATION IN THE HOTEL SECTOR IN CEE

By Radu Cotarcea

Few global industries have been as strongly affected by the COVID-19 pandemic as the hotel industry. All over the world, chains and bespoke hoteliers have had to face the impact of travel restrictions on bookings, in most cases leading to dire falls in occupancy rates and, subsequently, income. Now that the pandemic has been wreaking havoc for over a year, how is the hotel industry in CEE coping, and what options do hoteliers have? We spoke with three CMS Partners – Ana Radnev, Gregor Famira, and Lukas Hejduk – to get their opinions on the current situation and outlook on the future of the sector.

A Rough Year

“In the region’s largest cities, Prague, Warsaw, Budapest, and Bucharest, occupancy sharply declined and revenues plunged”, explained Lukas Hejduk, CMS Partner and Head of Real Estate – CEE. Particularly damaging was the fact that “most properties have incurred expensive stop and start costs,” Ana Radnev, CMS CEE/CIS Finance Partner and a finance restructuring lawyer, noted on the severity of the problems hotel operators face. “Uncertainty is the key problem here: if a hotel operator wants to restart operations in a city or country, it must first ask itself what the future holds. The cost of the restart will be wasted if the pandemic resurges in that territory and the hotel has to shut down again.”

Gregor Famira, CMS Partner and Head of Real Estate for Austria & SEE, highlights an unevenness of support in the region to meet such challenges: “The effects varied depending on how much each government offered. Some countries gave bigger subsidies than others, which led to a lot of frustration. In Austria, hoteliers received huge grants and now, with occupancy rates having crashed, they are more bored than bankrupt.”

Ultimately, Famira makes a clear distinction between locations: “While city hotels rely more on business travelers, and have thus suffered badly, countryside hotels have weathered the storm slightly better. This is because they tend to have local owners and have been able to benefit from native populations vacationing in their own countries. In the cities, the large international chains are now relying on new ‘show-stopper’ hotels to generate publicity and get people looking forward to a return to business travel.” When considering

the current options for hotel chains, Radnev echoes Famira’s sentiments: “With uncertainty being the biggest problem, the primary objective is to try and preserve the markets. This has seen hotels reorientate themselves to appeal to a more urban customer base, for example, local populations restricted to ‘staycations’.”

Buyer’s Market?

“Everyone was expecting to see distressed sales and pick up bargains, but that hasn’t transpired to be the case,” comments Hejduk, but that seems inevitable according to the CMS Partners. “Financially, we can say that – unsurprisingly – healthy businesses have suffered while for those that were already saddled with debt, the outlook has worsened,” Radnev explains. “Banks and other debt providers are therefore concentrating on consolidation while also considering more pragmatic solutions such as offloading assets. Perhaps more than most other sectors, the hotel industry is slowly becoming a buyer’s market. Pressure on hotel operators to take mitigating steps is increasing. For investors, if assets are coming to market relatively cheaply, then it makes sense to invest in anticipation of the assets’ values increasing once the pandemic has passed.”

Famira adds: “The issue here is that some costs were not ultimately avoided, but only delayed. Those landlords who were unable or unwilling to reduce rents to almost zero often agreed on shifting rental payments into the future, and the future is... now! This adds financial stress at a time when businesses have barely picked up. As a result, we’d expect that some of the more challenged operators will have to give up, and so there could be quite an interesting playground for

new operators on the market. On the property owners' side, we expect that the difficulties in operations will lead to a gentle decrease in prices, but as there is a lot of money in the market, and some notable 'investment pressure', the effect on values will not be that material. We are expecting a boom in transactions in the near future."

Hejduk also notes the relative attractiveness of the hotel sector to other property sectors. He says: "We see that investor appetite in the hospitality sector – among international and local investors alike – is increasing. A year ago, there was an element of doom surrounding the pandemic, and many were expecting to see distressed sales. Those forecasts have not been fulfilled, and now with high hopes of the pandemic coming under control, investors look at potential investments in the sector recovering. Compared to other real estate sectors like logistics, offices, residential, and health care, hotels will offer better returns. Generally, we expect to see a quick rebound in the sector with travel restrictions easing."

Reasons for Optimism

According to Radnev, "banks have been supportive and want to continue to be. In many jurisdictions, the government introduced legal moratoria (either automatic or opt-in). These measures had the effect of 'buying time' while the pandemic played out. However, it's now been over a year and despite the available vaccines, improvement in travel in the region – and thus prospects for the hotel industry – is progressing with agonizing slowness." But, while progress is slow, Hejduk is optimistic:

"While we have all adapted to working remotely, people want to be able to meet face to face again, and I expect a positive rebound in the hotel industry later this year. This applies both in business travel to the major CEE cities, and in broadening tourist travel." Famira agrees, saying: "Although I would expect business travel to return ahead of tourism, in countries like Austria, Slovenia, and Croatia, people are anticipating the return of tourists this summer."

Ultimately, Hejduk explains that "despite the current slump, it's important to note that the fundamentals have not changed. What we are dealing with here is a health crisis, not an economic or structural crisis. People still want to travel, they just can't right now. But the situation is temporary; both business and leisure travel will come back."

The consensus between the three CMS Partners is that we seem to have turned a corner and the hotel and leisure industry in CEE can tentatively look forward to better days ahead. ■



Ana Radnev, CEE/CIS Finance Partner, CMS



Gregor Famira, Partner and Head of Real Estate for Austria & SEE, CMS



Lukas Hejduk, Partner and Head of Real Estate – CEE, CMS

A close-up portrait of a middle-aged man with short, dark hair and glasses, wearing a purple checkered shirt. He is looking directly at the camera with a slight smile. The background is a blurred outdoor scene with green foliage and a blue sky.

LEARNING FROM EXPERIENCE

By Djordje Vesic

CEE Legal Matters sat down with Go2 Law owner Hugh Owen to talk about career choices, training others, and his newest project, Go2 Law Training.

CEELM: Why did you decide to leave Allen & Overy four years ago?

Hugh: Allen & Overy is a great firm. I had an amazing experience working there for over 23 years and I met many wonderful colleagues along the way. In fact, we have continued to co-operate on a number of projects right up till the present day. However, working for Allen & Overy, for me personally, was also a high-intensity job that required a lot of traveling. Every time a client says, for instance – can you be in Amsterdam tomorrow morning? – that causes a disruption in your work, in your family life, and so on.

My goal was to continue doing interesting deals, but to have more time for my family. Taking off on my own four years ago and establishing Go2 Law seemed like the way to achieve that goal. So, even though this decision was a big risk, I decided to go through with it. My leaving was very amicable and I remain close friends with many people at A&O.

CEELM: What have you been focusing on, following your departure from Allen & Overy?

Hugh: I advise on the English law aspects of M&A transactions, but I like to focus on trying to share my 25 years of experience on deals. I am not necessarily chasing after the most prestigious and largest deals (though they are always nice to have). Instead, I want to actually help people who need good, steady, experienced advice. I felt that my expertise would prove invaluable to entrepreneurs and businesspeople who, although experts in their own field, may not be as well-versed in M&A transactions, or other lawyers who just like to have a helping hand in the background. For entrepreneurs, the deals that they are doing may be extremely significant milestones for them, and I like to help them navigate through the process safely.

CEELM: Why did you decide to launch the Go2 Law Training platform?

Hugh: A big part of my work, even during my time at Allen & Overy, has been training other lawyers. I have always enjoyed the enthusiasm of the people I was training, and I love sharing my knowledge and experience with others. Unfortunately, the COVID-19 pandemic shut down that part of my work, so I just continued to focus on deals.

However, a few months into the lockdown, I was inspired by my wife to consider setting up an online training platform. She had decided to move her own (Pilates) business online and it was going well. She thought I could do the same with my training. I learned a lot from her about how something like this could work really well.

CEELM: Could you tell our readers a bit about the format of the courses?

Hugh: We have six courses at the moment – SPA: Clause by Clause, Drafting Skills, Negotiation Skills (SPA Case Study), Negotiation Skills (Soft Skills), Finance for Lawyers, and Presentation Skills. I will be teaching the first three courses, while the remaining three will be taught by former Deloitte Partner John Nicholson. Depending on the size of the group, John and I can also assist on each other's Negotiations courses.

I was inspired by my wife to consider setting up an online training platform. She had decided to move her own (Pilates) business online and it was going well. She thought I could do the same with my training. I learned a lot from her about how something like this could work really well.

I am not a big fan of the webinar format, because it seems a bit restrictive, and (for me) something always comes up just as it gets started. Instead, I opted to record and upload videos on our platform and couple them with live follow-up Q&A sessions. The courses vary in length and include practical exercises for people to do at home. For instance, the SPA: Clause by Clause course has around six and a half hours of content. From my previous experience, the Q&A sessions can last for several hours.

As lawyers are typically very busy, I do not expect them to watch the whole six-and-a-half-hour video in one sitting. That is why, once a participant subscribes to the courses, they will have access to the content for a whole year. The beauty of this is that it enables the viewer to watch whatever content they want, whenever they want. They can pause and come back to it. They can view it several times if they want to understand a particular issue more clearly. The live Q&A session allows participants to clear up any things that they are not

sure about. I am also available if anyone has any questions or queries about things that they may not understand fully. Also, the courses are modular, so each of them can be taken on its own, or can be done in a linear way, for example, doing SPA: Clause by Clause, then doing the Drafting course (where you can draft an MOU, for example), and then the Negotiations workshop, where that MOU gets converted into an SPA and teams can learn how to negotiate the SPA with each other.

CEELM: What will John Nicholson's courses look like?

Hugh: Both his Negotiation and Presentation Skills courses are soft skills oriented, so John prefers to do them in person or live online.

With Negotiation Skills, it is very much addressing the psychology of negotiations and some specific techniques you can recognize and learn to use, whether it is preparation, body language, how to listen, how to ask the right questions, or more to do with tactics and how to influence the other side and get the best out of negotiations. It also addresses the different dynamics of online negotiations as opposed to face-to-face negotiations, where different skills may be used.

With Presentation Skills, it is about maximizing the whole process and experience of giving presentations, in terms of understanding what you are trying to achieve, different types and styles of presentations, and working out what works best for you and for your audience. Also, how to work with the venue, how to connect with your audience and deliver more for them, as well as designing better slides and improving one's delivery.

The third course John teaches is Finance for Lawyers. There are many financial aspects to a transaction, which some people struggle with. There is sometimes an assumption that we should leave it to the professionals, the accountants and the bankers. Of course, at some level that is true, but as lawyers, we can much better serve our clients if we better understand the commercial imperatives behind the deal, and how the numbers work, and the role of the accounts in valuations and apportioning risk and liability. Our goal is to help people better understand finance, so that they can, in turn, provide a more comprehensive service to their clients.

CEELM: Where do you see your platform in the future?

Hugh: There are six courses at the moment, but we have several others in the pipeline – such as a course on Shareholders' Agreements, and a course on how a law firm can position itself in the market, win work and price it effectively, as well as techniques for managing budgets on-deal and working with clients to ensure better communication and satisfaction on fees, which can lead to better recovery.

A big part of my work, even during my time at Allen & Overy, has been training other lawyers. I have always enjoyed the enthusiasm of the people I was training, and I love sharing my knowledge and experience with others. Unfortunately, the COVID-19 pandemic shut down that part of my work, so I just continued to focus on deals.

We are also exploring the possibility that the website can actually become a platform through which other people can offer their courses. We have a number of interested parties right now who are keen to offer their courses through the website as well, and we are working with them to get some additional content ready in the future.

Originally, I intended to launch this project earlier, while people were, sadly, still more firmly under lockdown. Naturally, I was focused more on developing the online version of the courses. However, with COVID-19 measures relaxing (on and off) in Europe, I would be happy to continue doing either online courses or face-to-face training. Prior to the pandemic, I had been training lawyers from many regional and international firms. Usually, those firms would fly and drive a select number of their lawyers to, say, Budapest, Belgrade, or Ljubljana, where the training would be held physically. That method implies a smaller number of people being trained and higher costs, in terms of travel and accommodation, but it offers advantages too for the firms, in terms of personal contact, socializing, and cross-marketing internally. The idea is that in the post-COVID-19 era (if/when that comes) we can offer people the choice of video and online training, perhaps reaching a wider audience in a more cost-effective manner, or go back to the traditional model of face-to-face training. I am very happy with either alternative. ■

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MARKET SPOTLIGHT: UKRAINE



GUEST EDITORIAL: MAKING IT WORK IN UKRAINE

By Oleg Batyuk, Managing Partner, Dentons, Ukraine



The pandemic has been devastating for Ukraine, with underfunded health services struggling to contain COVID-19 contagion. Scenes of hospitals overwhelmed with patients and lacking staff, equipment, and medication will haunt us even as cases drop and vaccinations rise. It has been a traumatic time for our team at the Kyiv Dentons office. We have been working hard to support and guide each other towards the glimmer of light at the end of this long and, at times scary, tunnel.

What strikes me as most noteworthy is that the pandemic is only one more chapter in Ukraine's difficult and conflict-ridden recent past. Ukraine remains at war on its eastern front. In fact, it is the world's largest economy operating during an active conflict on its own soil. This, coupled with the economic after-effects of lockdowns, corruption, and ongoing political power struggles, has put significant pressure on us as we try to support our clients and their businesses.

It is a good thing then that we are no strangers to operating in conditions of serious adversity. Despite the trauma of the pandemic and the fear of an escalating conflict in the East, Ukraine's economy continues to function, with people digging deep to find energy, ideas, and hidden talents to open new, and grow traditional, businesses. The IT sectors, e-commerce, and home working support are of course booming, much like home delivery for all kinds of goods and services and the rise of domestic tourism due to international travel restrictions. In our particular practice, we are helping global pharmaceutical companies successfully navigate uncertain regulatory environments as they conduct clinical trials of COVID-19 vaccines and treatments.

The situation in the Ukrainian legal market has been

tough and highly competitive since 2008. The number of international players in Ukraine has more than halved since 2005. There was a notable reduction in expenses for external legal advice in transactional practices. At the same time, labor and employment practices, as well as life sciences and technology advisory services, were growing. We have also seen the rise of demand in compliance, cybersecurity, and data privacy. Naturally, dispute resolution, debt restructuring, arbitration, and tax practices will do well. The pandemic has prompted a huge boost to digital and video BD and marketing, as lawyers are expected to make greater efforts in business development.

In the microcosm of our office, we, like everyone else, had to abandon our office routine and move to agile working overnight. This was not as difficult, technologically or logistically, for our team as some of our other European colleagues reported it was for them. Ukraine is well-wired, with low prices for high-speed internet and wide-reaching mobile networks easing the transition to flexible working without too many interruptions.

On the other hand, the learning curve for our team, suddenly deprived of the sociable and stimulating life in our beautiful new offices and plunged into isolated home working, has been steep. We had to quickly fill in any gaps in our communication and task management, and I do believe that taking this forward will make us more efficient as we return to the office in due course.

Working and living in Ukraine is a remarkable experience. As a country in constant transition and as a burgeoning European nation, we have been struggling through numerous political and financial upheavals. Yet with each regime change, revolution, corruption scandal, conflict, and, now, epidemic, we have not only survived but have become more resilient and learned to do better under ever-changing circumstances. We may be dealing with the worst but we are hoping for the best and, in the meantime, we are making it work. ■

HARD AT WORK: UKRAINE'S BUSY LEGAL MARKET

By Andrija Djonovic

The Ukrainian legal services market has been buzzing with work in the first half of 2020. **CEE Legal Matters** hosted a round table conversation in which Partners at **Asters**, **Avellum**, **Integrites**, **Kinstellar**, and **Sayenko Kharenko** discussed the driving forces behind the workload and their outlook for the months to come.

Round Table Participants



Armen Khachatryan,
Senior Partner,
Asters



Mykola Stetsenko,
Partner,
Avellum



Oleksiy Feliv,
Managing Partner,
Integrites



Olexander Martinenko,
Partner,
Kinstellar



Vladimir Sayenko,
Partner,
Sayenko Kharenko

Busy Times

“Energy has been the thing pushing us forward, I must say,” begins Integrites Managing Partner Oleksiy Feliv. “There are two factors behind this: the energy market reform, that took place in 2019, and a strong uptick in the renewables market.” Feliv reports that Integrites has been rather active in the field of renewables since 2009 and that they “managed to capture the biggest projects on the market – this kept us really busy!” And the efforts of the firm reflect this – Feliv reports that six out of the firm’s 13 Partners at Integrites Ukraine focus on energy, alongside two full teams. “I’d say that this is about 50% of our work these days,” he adds.

“All of this work has allowed us to grow our experience, expertise, and knowledge – which will help shift our focus more to climate change projects,” Feliv explains. “Focusing on projects with a decarbonization effect would be a great path forward for us – renewables, storage capacities, green electricity trading, green hydrogen projects, and anything related to energy efficiency in big industries.”

Asters Senior Partner Armen Khachatryan agrees with Feliv, and says that their firm has experienced an uptick in energy projects as well. “It extends to areas that include both electricity and oil and gas – but also hydrogen, which is very much on the rise,” he says, describing this as a future for this

industry. “This also includes environmental and energy-saving aspects, both of which are getting more client attention when it comes to investing.” Khachaturyan adds that construction is also closely bound to this, with “new projects relating to land issues, allocation and designation of specific land, construction licenses, and the like. This broadens the scope of what an energy practice traditionally used to be – purely regulatory – and extends to other practices as well.”

Khachaturyan believes that the energy market will continue to have a lot of developments in the future. “The recent unbundling of Naftagas and the issues surrounding Northstream – both of which are geopolitical issues relating directly to energy draw a lot of attention to the energy market. That, and the fact that more and more ‘new’ countries are investing in Ukrainian energy, like Qatar for example, is what makes me believe that the future holds a lot of exciting developments.”

Echoing both Feliv and Khachaturyan, Avellum Partner Mykola Stetsenko underlines that there is a lot of market focus on energy, “in a broader sense. If perceived as an industry, rather than as a practice, there is a lot of room for investments in infrastructure, which will only lead to further growth.”

Focusing more on Avellum’s hot practices at the moment, Stetsenko says that they are all very busy. “Bar a short break in January, over the holidays, we really have been firing on all cylinders – M&A work, disputes, tax, energy, global infrastructure... it’s all been working like a well-oiled machine,” he smiles. “To focus more on M&A – after a slowdown when the pandemic started last year – there has been a ‘super-drive’ mode that kicked in around October 2020 that has not stopped to this day,” Stetsenko says. He points to increased access to liquidity in the global markets as one of the causes of this and adds that “Ukrainian clients are increasingly accessing this potential via Eurobond issuances. Also, with Ukraine building strong relationships with the United States – it stands to reason that our country has become a stronger target for investments.”

For Sayenko Kharenko Partner Vladimir Sayenko, the choice of the hottest practice was easy – competition. “The competition practice in our firm has seen a 20% growth – well above all others,” he says. “On our end, we’ve seen no effects of the slowdown of the M&A market – the competition follow-through of it, one related to mergers and clearances, has been relatively stable.”

Sayenko’s impression is that the increase in work has been primarily driven by the enforcement efforts of the competition agency, and not so much with transactions picking up speed. “Potential cartels, abuse of dominance, unfair competition practice, state aid... these segments all compound to spur this kind of unexpected growth – but then again, it could be just that we set low targets,” he laughs. “We were expecting a decrease in the activity, given the fact that the leadership of the competition agency changed, but it turned out to go the other way around.”

Furthermore, Sayenko reports that new pieces of legislation that were supposed to change the merger filing thresholds have not yet come to pass. “We believed that these changes would lead to a drop, but with them being pushed back to this year – it didn’t happen.” Sayenko does believe that, once these legislative changes pass, there could be a short slowdown period, but that it should not last long.

Kinstellar Partner Olexander Martinenko reports that the firm’s busiest practice has been dispute resolution. “It is really an evergreen practice – good times, bad times, it’s always there,” he says, underlining that dispute resolution has, traditionally, been Kinstellar’s bread and butter. “Looking at market tendencies, there is a reformation drive on part of the Minister of Justice to liberalize the international investor arbitration market,” Martinenko continues, saying that this has opened the market up. “Should this legal reform pushed for by the Minister of Justice pass, international investor courts would take hold in Ukraine,” he adds. However, it is still not clear if it will become a reality – the merits of the legislation are still being debated and its fate is uncertain. “There are fears that these reforms would open up the path for ‘less than ethical’ actors to gain a foothold in the decision-making process in the course of an arbitration, which could endanger the business market.”

Infrastructure Is All the Rage

The one area that all of the round table participants mentioned was infrastructure. “The last time we had a boom on the infrastructure market was before 2012 – before the country was set to host the UEFA European Championships,” Feliv starts. “In those days, the market was busy building mainly stadiums and airports. Now, there are a number of project types that drive the market.” For these, Feliv underlines the privatization processes for seaports via concessions and mentions that there are 11 seaports currently in some

Bar a short break in January, over the holidays, we really have been firing on all cylinders – M&A work, disputes, tax, energy, global infrastructure... it's all been working like a well-oiled machine.

stage of being privatized.

Furthermore, Feliv says that Integrites has, so far, supported “at least 30 bids for road infrastructure projects, in terms of major construction undertakings. Also, the Ukrainian railways and the power grid are being modernized, big hydro energy projects are under development, there are initiatives on road concessions... a lot is going on!”

Sayenko chimes in by saying that there is a lot of potential in concession projects. “We have had a recent experience of handling one and I must say that the entire tender process was very transparent,” he says. “There is a lot of talk from the government to restart the privatization processes so there is bound to be some vibrancy in the market here.”

The funding for all of these large infrastructural undertakings, Khachatryan reports, stems from their very nature as PPP projects. “The Ukrainian PPP law has never been fully implemented in a way – concessions are but one of the forms of arranging business,” he says. “The idea is to rely on investors to arrange for the financing of these projects – for example, Chinese banks heavily support Chinese companies participating in these projects, which gives them an edge.” He adds that, in addition to all the projects already mentioned, there are tendencies to reconstruct a number of airports in Ukraine. “The idea is to have a more active domestic air traffic so that all regional centers – with currently obsolete airports – could start servicing local flights.” In this tune, Khachatryan mentions that one of the airports in Kyiv even is being considered for an additional runway that would be longer than the current ones and in a position to support more international flights.

Rising to the Challenge of the Workload

Overall, Khachatryan reports that a lot of practices have been quite active, leading to never-ending personnel needs. “Based on our experience, a lot more practices have been rather active – family law, tax law, criminal law, IP, antimo-

nopoly, M&A, corporate... client work is not lacking, by any measure!”

” Taking a look at how law firms rose to meet the workload increase, Stetsenko says that Avellum has been putting in an effort to grow their departments for a while. “We do not rely that much on lateral hires – even though we have had some this past year,” he says. “Instead, we prefer to focus on an internal growth program – developing in-house talent from their early internship days, all the way to fully-fledged lawyers.” It is a merit-based selection, Stetsenko clarifies, that allows Avellum to focus on those young individuals that hold the most promise and potential.

Sayenko shares Stetsenko’s inward focus: “A rational response to growth would be hiring new people, however, at this stage, we rely more on internal reallocations and trying to encourage people to specialize in more than one practice area.” According to him, this allows lawyers to be more flexible and to broaden their background, preparing them better for the future.

Ultimately, Stetsenko points out that human resources are not the only available option: “Our internal, immediate response to an increase in workload has been an increase in pricing.” He says that this has been a trend in the entire legal market since “simply increasing the headcount in our team will not be enough to tackle the increased workload.”

Tackling the crucial question – if the market really is booming to such an extent that a price hike is feasible – Feliv says that it mostly depends on how proficient a firm is in given practice areas. “We talked a lot about the interplay of strictly legal work with the industry you’re trying to advise on – like energy. If a firm is well specialized in such an area, then it can apply hourly rates (which can seem like a luxury at times) if there is a lot of work,” he says. “If your advice goes beyond just legal work and adds value to the project – clients take it without any problem and agree with success fees.”

Towards that, Feliv reports Integrites has divvied up its work between different teams that focus more on specific industry work, more so than a legal practice as such. “Additionally, we have employed a lot of back-office personnel like client relationship managers and analytics staff – at this point, the ratio of legal to non-legal staff might be as high as 50-50,” he says. The managers, as Feliv describes, help the teams coordinate between various involved practices. “They help manage the

UKRAINE LAW FIRM OF THE YEAR



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processes, the timeline, the delivery – and to take care of the client.” This enables smooth navigation for Integrites, even in the stormy environment of complex projects. “All of this helps us not to simply come up with legal memos for our clients but to aid them in implementing that advice,” Feliv continues. “For example, we help our clients with attracting financing through and through, not just point them towards different potential sources like commercial banks or financial institutions.”

Avellum, on the other hand, opts for a leaner approach. “We tend to cut as much as possible when it comes to hiring non-fee-earning staff,” Stetsenko says. And, Martinenko agrees, saying that Kinstellar “sticks to a similar philosophy to that of Avellum – we have a very slim business support staff, but I must say that the ones we do have are more than apt for tackling all of the complex projects we work on.” Still, with the increase in workload and the complexity of matters Kinstellar works on right now, Martinenko says he is not ruling out expanding that “part of the office population, at some point, to ensure quality delivery.”

Lastly, Stetsenko also notes that law firms have been turning to automation as a helpful resort. “Even though I’m not sure if there are firms that use AI – or if there is a clear need in the Ukrainian market for AI at this point – firms do use sophisticated software to speed up the way we prepare and process documents, such as template preparation tech like AxDraft,” he says. “Comparing to what our colleagues in London and New York are doing – I think we are responding pretty much the same, even though we are not reinventing the wheel,” he smiles.

Gazing Into the Crystal Ball

Looking into the future, Sayenko feels that it will be difficult to predict how it will pan out, from one practice to another. “We expect a slowdown in the competition practice, as mentioned, after the legislation to lower the merger control thresholds passes,” he says. “For the corporate practice, it’s pretty obvious that the government is attempting to alter the corporate governance reform of a few years ago, which I believe was very successful and has kept us quite busy with working with major state players in recent times.” Finally, speaking of transactions, Sayenko feels that it will very much be hinged on geopolitical matters. “For example, if Russian troops approach the border once again, some investors may stop or withdraw their interest, as history has shown us.”

Khachaturyan expresses difficulty in predicting the future too. “Everybody is optimistic, given that 2020 was a very good year despite everything, but there are talks about a global recession, so caution is warranted,” he says. Still, he feels that, even with reality not always corresponding to the ever-present Ukrainian optimism, larger firms will be able to cushion whatever may come. “Being in a position to cross-balance easier and to adapt to new market conditions faster could prove crucial, going ahead,” he concludes.

A rational response to growth would be hiring new people, however, at this stage, we rely more on internal reallocations and trying to encourage people to specialize in more than one practice area.

“Kinstellar has had quite a strong start of this year,” Martinenko says. “We have merged with the local office of DLA Piper in Ukraine [see page 17] – they have a very proficient team and, from what I can tell, our teams will have a highly complementary set of skills and I think we’ll play well together.” He, for one, is optimistic in light of the strength in numbers and the pipeline the firm has lined up.

Stetsenko too is optimistic. “I believe that Ukraine has gone through so many crises that we are used to it by now,” he smiles. “The country is in growth mode, and the competition right now is not as much for work as it is for talent. I believe we have, at least, a year or two to prepare for whatever economic crisis may hit.” And, even if it hits, he feels they will be prepared for it. “There will be a lot of distressed M&A, debt restructuring, tax work... it will simply be a matter of recognizing which part of the economic cycle we find ourselves in and where to place our focus on,” he finishes.

Lastly, Feliv shares Stetsenko’s optimism. “Last year was a good year for us, and we plan to hire new partners this year,” he says. “Coming out of a solely online regime of work and planning more in-person business development activities, I think that we will be even more efficient.” Even if the recession comes, according to him it would be another opportunity to realize what part of the market to sharpen their gaze on and adapt. “We did good in difficult times, and I’m positive we could again if need be.” ■

MARKET SNAPSHOT: UKRAINE

M&A IN UKRAINE

By **Ilyya Tkachuk, Partner and Head of Corporate M&A, Integrates**



Like the rest of the world, the Ukrainian M&A market was dramatically hit by the coronavirus (COVID-19) pandemic. Indeed, the number of M&A deals decreased in 2020, for the first time since 2014. However, the fourth quarter of 2020 saw a positive surge in the number of M&A deals, and although most of those deals started before the pandemic, the fact that they still happened sent a clear signal: investors are ready to buy in the new reality.

The leading areas for investment remain the same, and include agriculture, real estate and construction, infrastructure and logistics, IT and telecommunications, retail, and mineral resources.

There were fewer M&A deals in the renewables field last year than in 2019. Evidently, the decrease of the previously lucrative feed-in tariff and the unstable situation with the Guaranteed Buyer prevented investors from new acquisitions in this area. Nevertheless, interest in green energy projects is likely to grow due to the increase of the carbon tax in Europe.

Some industries were impacted by the pandemic more than others, of course, including travel and recreation, entertainment, automotive, and aviation and aircraft production, all of which saw a dramatic decrease in M&A transactions. Even here, however, some did better than others; in both the retail and recreation sectors, for instance, we saw several important transactions, including most significantly, Rewe International's sale of its Billa supermarket chain to Novus, and the sale of downtown Kyiv's Dnipro Hotel in the course of the privatization process.

At the same time, the pandemic boosted the development of certain areas, like pharmaceuticals, online technologies, food delivery, online shopping, and cloud services. This explains the increasing

interest by investors in these areas, which may result in a number of deals this year.

Moreover, there are several positive developments likely to boost M&A activity in Ukraine in coming months. First, this year the Ukrainian high delegation signed various memoranda with the United Arab Emirates expected to attract USD 3 billion of investments into Ukraine.

Also, in May 2021, during the visit to Ukraine by Bruno Le Maire, the Minister of the Economy and Finance of the French Republic, the Government of Ukraine and the Government of the French Republic signed four framework agreements aimed at implementing projects worth a total amount of EUR 1.3 billion.

Finally, in March 2021, the Parliament of Ukraine adopted a law unblocking the large-scale privatization process that had been put on hold during the quarantine. According to numerous reports, the State Property Fund of Ukraine expects to receive around EUR 350 million in 2021 from this process. If so, M&A lawyers can expect it to result in a considerable amount of work.

Similar to the privatization process, Ukraine is actively promoting several PPP or concession-based infrastructure projects, and there were successful concession projects in Ukraine's Kherson and Olvia seaports in 2020. In both cases the tenders were prepared and run under the auspices of the EBRD and the IFC. In addition, in the first months of this year, both IFIs agreed to fund the development of a feasibility study and tender documentation for the concession of the Chornomorsk port.

Another opportunity opened last year for investors in mineral resources: the presentation of the so-called Investment Atlas of Deposits, a database of the State Service of Geology and Subsoil of Ukraine that contains detailed information about available deposits.

All these opportunities keep lawyers in Ukraine positive about the perspectives of the local M&A market. We also expect that the ongoing vaccination will allow more investors to come to Ukraine to explore opportunities for new projects and deals. ■

EXTRACTIVE INDUSTRIES: NEW AND PROSPECTIVE REGULATION IN UKRAINE

By Alyona Shulima, Associate Partner, Hillmont Partners



While mineral extraction in Ukraine has a high potential for development and attracting investment, it always entails ecological risks which must be properly mitigated. Recently adopted laws, as well as legislation currently considered by Parliament, are aimed at balancing economic development and environmental protection.

Stimulating investment into extractive industries

The government is undertaking steps, on both a legislative and a technical level, to attract additional investment. In terms of legislation, large investment projects in extractive industries are now eligible for state support under *Ukrainian Law 1116-IX On state support of investment projects with significant investments*, with certain exceptions and caveats for coal, gas, and oil. Even though not all incentives prescribed by the law are available to extraction projects – extractive companies are not eligible for CIT exemption, and iron ore extraction projects cannot use budget funds to build supporting infrastructure – this is nevertheless an important win for investors in the industry, as initially those projects were not eligible for state support at all. On a technical level, the government made further efforts in promoting Ukraine's potential. The State Geology Service of Ukraine played a crucial role in this process, being proactive in spreading information on available mineral deposits, digitalizing its services, and holding regular auctions of special permits for subsoil use.

Streamlining of subsoil use regulation

During the last year, several steps were taken to streamline the procedures necessary to start extractive industries operations. Access to state-owned primary geological information was unblocked, and it is now available free of charge. Easier access to previously restricted geological information regarding deposits of certain minerals has also been on the state agenda, according to recent Presidential Decree 122/2021. This mainly concerns releasing information on balance reserves of precious metals, non-ferrous ores, and rare earths.

The Parliament has recently adopted *Law 1423-IX On Amendments to the Land Code of Ukraine and Other Legislative Acts to Improve the Management and Deregulation System in the Sphere of Land Relations*, ensuring land purchase priority for subsoil users, for the area corresponding to a valid special permit for the extraction of cer-

tain minerals of national importance. These include non-ferrous metals, precious metals, rare metal ore and rare earth metals, radioactive metals, and raw materials for electronic and radio devices. Such amendments are especially important as the Ukrainian land market opens on July 1, 2021.

In terms of prospective legislation, we may expect a major reform of the general legislative framework for subsoil use in the nearest future. Firstly, through enactment of Draft Law 4187, which includes rather complex innovations: integrated permits for geosynoptics and extraction, liberalization of special permit issuance, and ensuring transparency of procedures for obtaining permits. Secondly, through the adoption of a new Subsoil Code of Ukraine, codifying all legislation in the subsoil sphere. The Ministry of Ecology and Natural Resources is currently advocating this reform.

Ecology matters

While extraction industries are important for economic development, they are always associated with risks for the environment. That is why it is important to keep an eye on current legislative initiatives in the ecological sphere now being considered by Parliament. Among those relevant to extractive industries, the most important draft laws are the following: *4167 On control over industrial emissions*, aiming to implement Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control); *3091 on State Ecology Control*, aiming to relaunch the mechanisms of eco-control; *4461 On the territory of Emerald network*, aiming to implement the Bern Convention on the Conservation of European Wildlife and Natural Habitats, Directive 2009/147/EC, and Directive 92/43/EC. Understanding the importance of sustainability, it is now crucial to ensure a balance between economic development and ecology, based on the EU's experience and best practices.

Overall, Ukraine's legislation on extractive issues will be on the Parliamentary agenda for the coming year, regarding both subsoil and ecological aspects. State support of projects with significant investments in extractive industries, streamlined legislation on geo-prospecting and extraction, solved land access blockages, as well as implementation of international ecological standards, will increase Ukraine's attractiveness for new investment in this sphere. ■

PLENTY OF REASONS FOR A POSITIVE OUTLOOK: AN INTERVIEW WITH TIMUR BONDARYEV OF ARZINGER

By Radu Cotarcea

According to **Arzinger** Managing Partner **Timur Bondaryev**, competition investigations, investment disputes, and white-collar crime matters have been keeping his team particularly busy these last few months. CEE Legal Matters sat down with him to learn more about the driving forces behind these areas in Ukraine.

CEELM: Let's start with an overview of 2021. What would you point to as the busiest practices for your firm for 2021?

Timur: While the last few months have been solid in terms of the pipeline of transactions we've been working out, the main three areas, where I would say we've been particularly well-positioned in, were competition matters, in particular in terms of investigations and litigations, investment dispute arbitrations, and white-collar crime matters.

CEELM: Looking at each of the three, what do you feel drove up your work in those areas?

Timur: Taking them in order, I see competition investigations as something that reflect a global trend, with agencies actively pursuing players all over the world at all levels – may it be globally, regionally, or locally. That's also compounded with competition agencies sometimes being used as a means to advance some political agenda, and Ukraine is no exception in this regard. What I think is something particular to the Ukrainian market is the tendency of state agencies to try and regulate the prices of what they deem as socially important goods or services. There is a case to be made for that, sure, given the relatively weak Ukrainian economy – despite massive progress over the last few years – but I still see the state as having the bad habit of trying to involve itself a bit too much, in terms of regulating the market.

CEELM: Is this a rather new trend?

Timur: Not at all. You need to keep in mind that these kinds

of investigations tend to last a very long time – and litigations that might result from them might take even longer. For example, we recently represented Imperial Tobacco, which received one of the largest fines for an alleged cartel. The fine was challenged, and it took years before it got to the Supreme Court, which finally canceled the fine.

CEELM: While on the topic of competition, are clearances keeping you busy these days?

Timur: Yes, but I expect (and hope!) that will change. Ukrainian merger control is simply outdated in terms of thresholds at the moment, despite the fact that the threshold for requiring a merger clearance was increased 4-5 years ago. It seems they will be streamlining the process further, so we hope things will be better on this front soon.

CEELM: Why do the current thresholds disadvantage you, though? Don't they simply represent more work for the firm?

Timur: That *is* the case, yes. For us, as a law firm, the current thresholds generate some nice bread and butter work, but that's not what we're targeting – we'd prefer freeing up our resources to focus on larger matters, to cease working on a mass product, and focus more on the *sexy* work.

CEELM: You mentioned a lot of work on investment dispute arbitration as well.

Timur: Ukraine has certainly been a very litigious ground recently. One of the main reasons for this is the huge stakes

UKRAINE

involved in the Government's decision to significantly reduce green energy tariffs. Following this move, many companies have already filed their claims, with several others at a level of trigger notice. There are still some that are hesitating, because their corporates need to decide if they will attempt to negotiate with the Government.

I am not surprised it got to this point. Ukraine was *extremely* generous towards green energy – primarily as a result of the drive to get rid of the dependency on Russia. It simply did not count on *such* an influx of projects and, when they drew a line and realized it wouldn't be sustainable from a budget perspective, they decided to retroactively reduce their incentives. You can imagine that all involved, from the developers to banks offering the financings for these projects, were not too happy with the call.

CEELM: What about the white-collar crime work? What's been the main driver there?

Timur: It is, in many ways, similar to the competition investigations we spoke about. There's certainly a huge push towards cleaning up the market, but there are also a few cases resulting from the state coming up with... let's call them creative solutions to block certain transactions, especially if a merger control mechanism is not feasible.

I am not surprised it got to this point. Ukraine was extremely generous towards green energy – primarily as a result of the drive to get rid of the dependency on Russia. It simply did not count on such an influx of projects and, when they drew a line and realized it wouldn't be sustainable from a budget perspective, they decided to retroactively reduce their incentives.

CEELM: You also mentioned a healthy pipeline of transactional work. What's behind it?

Timur: The main element is the privatization program. I can now comfortably say that the Government is *finally* serious about selling state assets. Several alcohol plants have already been sold off as well as several smaller assets, such as hotels.

This push has certainly built a solid pipeline of transactions, especially because it was complemented by a number of consolidations in the agricultural market, a few private equity



deals in healthcare/pharma, international interest in real estate apparently returning to the country, and, last but definitely not least, a boom in the IT sector – both in terms of consolidations of teams, but also in terms of basic elements such as investments in larger real estate for office spaces (despite the COVID-19 pandemic).

I believe there are plenty of reasons for which to have a positive outlook. The Government seems to have a very, very, very, positive attitude towards privatizations. I see them being done in a truly proper manner. If in the past these sales seemed to always be tailored to some local guy, I find the current ones to be carried out in a very transparent and well-structured manner – they are conducted online, and all can see that the highest bid truly ends up being the winning one.

CEELM: Who are the most important buyers in the country in terms of this transactional pipeline?

Timur: I wouldn't really say it's private equity firms – there's only really around two-three firms that are strong locally. The risk appetite of the types of hedge funds you'd see in other countries in the region tends to be quite low, and they are built to try to leverage a transaction in such a way that they end up looking at an almost risk-free deal. Based on that, it comes as no surprise then that they barely have a pipeline.

When it comes to the privatizations we spoke about, we're traditionally seeing interest from the local guys. These strategic buyers don't just have a different risk appetite, but they also know the pitfalls of the market, as well as any skeletons in the closet of the companies they look at.

But I think they will benefit massively from the clean-up push we're seeing at the moment. Within the current context of white-collar crime investigations booming, I think these local players have a great opportunity to take these companies and clean them up, in terms of corporate governance, thus making them far more attractive in a market that I hope will be progressively less perceived as plagued by corruption and a lack of transparency.

CEELM: Taking a step back, is there a legislative update in the works that you believe would further enhance the country's

attractiveness and/or your transactional pipeline?

Timur: Probably most noteworthy is that the moratorium on agricultural land sale is to be lifted. As of July 2021, agricultural land can start exchanging hands, which will definitely add to our workload, despite the fact that FDI will still not qualify to purchase such land. The hope is that, with this huge amount of land coming to the market, we'll also see a huge cash influx.

Beyond that, FDI screening is being discussed and will likely be enacted soon. Sure, opponents to the idea argue that it will be an obstacle for investors, but it *is* a global trend and Ukraine is one of the last few exceptions in Europe that don't employ it. I believe the market will remain very much open to investments, irrespective of this screening – except for competition clearances, that is.

CEELM: Overall, would you say you are optimistic over the outlook of the next 12 months? Why/why not?

Timur: I believe there are plenty of reasons for which to have a positive outlook. The Government seems to have a very, very, *very*, positive attitude towards privatizations. I see them being done in a truly *proper* manner. If in the past these sales seemed to always be tailored to some local guy, I find the current ones to be carried out in a very transparent and well-structured manner – they are conducted online, and all can see that the highest bid truly ends up being the winning one.

And it's not just about the process. The state seems set to put up any reasonable asset – even a prison was privatized recently, again, in a very transparent manner.

Between this drive, a potential game-changing land reform, and the ongoing judicial reform, I believe we're in a prime position to witness a skyrocketing economy in the next few months.

Of course, there are always pitfalls that one must be on the lookout for. The biggie in my mind is that the political class may not fulfill all it has promised. I have gotten used to seeing skepticism in the eyes of my clients, resulting from years of them seeing a lot of good promises that were not delivered on. This, of course, is an issue everywhere and not just in Ukraine, but I feel it is all the more important for us not to disappoint those looking at the country at the moment. We're in a pivotal place where we have the opportunity to prove that we can do it. ■



Legal



Tax



Social Security



Customs and Foreign Trade



Intellectual Property Law and R&D



Competition Law and Antitrust



Occupational Health and Safety



MARKET SPOTLIGHT: BULGARIA



GUEST EDITORIAL: LAWYERING IN BULGARIA THROUGHOUT THE YEARS

By Vladimir Penkov, Chairman and Senior Partner, Penkov, Markov & Partners

Before the democratic changes of 1990 lawyers worked independently but under the supervision of the Minister of Justice. Remunerations were limited, leading to an administrative distribution of work. Lawyers were mainly involved in family and inheritance law, sale-purchase of housing, and cooperative relations.

Industrial enterprises, banks, energy, radio, television, telephone companies, and others were exclusively state property. Foreign exchange was also in hands of the state enterprises. Only appointed legal advisors participated within the economic relations, but not lawyers (attorneys-at-law). Disputes were reviewed by state arbitration, influenced by ministries, instead of the courts.

These limitations notwithstanding, the Contracts and Obligations Act, adopted in 1950 and still in effect to this day with some minor amendments, entirely resembles the German Civil Code. It, along with the admission of personal (private) property and small industrial enterprises under the guise of cooperative societies, led to relatively well-developed contractual relations within the predominantly authoritarian socio-economic order. This helped lawyers adapt easily to the new conditions when the market opened up. Furthermore, good communication with lawyers at commercial companies abroad meant that Bulgarian lawyers had the opportunity to become familiar with the rules of free market relations and the rule of law. And it should be noted that, even before the changes in regime, an opportunity was created for citizens to incorporate their own firms and private business was stimulated.

With the new Constitution of 1991, the division of powers was established, along with the free economic initiative and a newfound focus on the defense of personal rights and freedoms. All these lead to a massive wave of firm registrations, which tremendously increased the engagement of lawyers, as well as court disputes. Lawyers worked freely and began to manage their own business, without the state interaction.

Property illegally seized during socialism was restituted, with the restitution proceedings strongly activating the search for legal advice and representation. With the privatization of the economy, whereby as early as 2004 57% of the state assets were privatized, an almost entirely private banking system, and the need to serve hundreds of thousands of new companies, the work of lawyers increased significantly. Subsequently, as

of 2020, approximately 70% of former state assets are now in the possession of private persons.

The introduction of transparent concession conditions, public procurements, the Commercial Act, the electronic commercial register, and the register of special pledges further increased the sheer amount of lawyering work. In particular, The Commercial Act established different types of companies, including limited liability companies and joint-stock companies, defined all types of deals well-known in other countries, and covered insolvency proceedings. It paved the way for free, unimpeded, and fast company creation, based on free economic initiative, with some lawyers organizing their activity through the legal forms stipulated in the Commercial Act (LLC or JSC).

In 2007 the Legal Profession Act envisaged the incorporation of law firms for the first time. By virtue of this law, lawyers from the EU were also allowed to provide legal assistance in Bulgaria. Still, western law firms entered Bulgaria relatively late, which allowed for the successful incorporation and work of Bulgarian law firms with the most experienced lawyers, who successfully cooperate with some of the largest western law firms.

A drive to harmonize with EU law saw the adoption of several pieces of legislation affecting the private sector – from energy and banking regulations to customs regimes, environmental and data protection regulations, and measures against money laundering and financial terrorism – all of which were an additional impetus to lawyering in Bulgaria. In 2015-2016 a judicial reform was undertaken, securing the main parameters of the full independence of the judiciary from the prosecution offices and other authorities. Of course, the reform should continue even if amendments to the Constitution of the Republic Bulgaria would appear necessary for it.

The existence of an electronic commercial register and an electronic connection between public procurements and special pledges, the ability to perform administrative services online, and the anticipated e-Government will, to a considerable degree, free lawyers from uncharacteristic activities, giving them the opportunity to direct all efforts towards an even more comprehensive defense of their clients. ■



DISSONANT OPTIMISM: MERGERS AND ACQUISITIONS IN THE BULGARIAN TECHNOLOGY INDUSTRY

By Radu Neag

Looking at the past 18 months, as economies across CEE contracted, the technology, media, and telecom sector has been surging. A balancing factor for economies, it helped avoid a deeper recession. For CEE law firms, TMT's solid performance brought in a steady amount of work, helping polish what might otherwise have been a lackluster year.

Bulgaria is no exception to this pattern, as lawyers from some of the country's top firms broadly concur. "In general terms, M&A in 2020 and the first half of 2021 were affected by a Covid slowdown," said Nikolay Zisov, Partner at Boyanov & Co, with some transactions carried over from 2019 and many others "either delayed or outrightly abandoned." Despite being slower in some sectors, M&A work has overall been stable, according to Ilko Stoyanov, Partner at Schoenherr, thanks to an increase on telecommunications and TMT in general performing well. This sentiment was echoed by Veronika Hadjieva, Partner at Kambourov & Partners: "With key deals taking place in all three sub-sectors – technology, media, telecoms – arguably the TMT sector has been the most active one deal-wise." The sector has been "quite active in terms of M&A for the last three to four years", Hristo Nihrizov, Partner at Dimitrov, Petrov & Co, pointed out, "with big transactions yearly, such as United Group acquiring Vivacom (2020) and then the Nova Broadcasting Group (2021)."

With business and life in general becoming more digital, Diana Dimova, Partner at Kinstellar, explained that "TMT has been the hottest sector in CEE, with more than a 50% rise in volume year on year. We have seen quite a lot of transactions. The pandemic has accelerated the development of technology companies, with the digitalization of some sectors and the expansion of e-commerce." Violetta Kunze, Partner at Djingov, Gouginski, Kyutchukov & Velichkov, outlined three reasons for the technology, media, and telecom sector's ascendancy: "The pandemic played a role. Then there were the milestone transactions of mobile players and media

operators. But there was also a large number of transactions over the last 18 months – of strong technology and software companies and startups."

Overall, "the TMT sector was the biggest winner, with an intense, sustained M&A activity," Zisov also said. "TMT was already an appealing sector in pre-pandemic times," noted Hadjieva, "with value-adding targets such as market-leading telecoms, top media groups, and innovative startups." This, she explained, created "the perfect environment for M&A activity, through which companies could reinforce their market position and diversify. Subsequently, when the pandemic hit, as opposed to other sectors that were deeply disrupted, TMT, and in particular the technology sub-sector, thrived."

A League of Its Own

There are key differences between the technology industry and its brethren in TMT: whereas Bulgaria is following global and regional trends on media and telecoms – vertical and horizontal integration, transnational capital, the emergence of three or four key players to dominate a market – the country is carving a path of its own making in tech.

"While past transactions would mean US or EU investment into Bulgaria, the more recent deals saw local startups beginning to go overseas," said Kunze of recent developments and highlighted: "This is a good metric for the development of the tech sector, for how the local industry is growing. There are also local angel investors and there is local venture capital available to support tech-oriented companies from Bulgaria."

There is a consensus that the COVID-19 pandemic has supercharged the technology industry. "Companies everywhere were faced with a pressing need for technology solutions to help them cope with, and adapt to, social distancing and the remote way of doing business," noted Veronika Hadjieva. "This spurred deal activity in the [industry], as a way to foster

BULGARIA

growth and meet demand, especially in areas such e-commerce, food delivery, telehealth, IT security, SaaS.”

While past media and telecom transactions have relied on market share and infrastructure, “on the technology and startup side, it is harder to say what made them click” Violetta Kunze said, adding: “They are unique, either in the technologies they are developing, or the skillsets they employ. Financial technology was a common denominator for many of these recent transactions. Broadly, I would say they represented a good investment, offering the opportunity to expand globally or the prospect of a profitable exit.”

As to which technology startups attracted attention and why, Diana Dimova said: “Acquisition targets were usually well-marketed companies that made a good business impression and knew how to attract attention. They had good business models, were managed by capable people. Some were rather large, with 1000 employees and over. Overall, it is a sum of vision, proven business model and presentation,” adding that the deals usually made sense from a vertical integration standpoint.

Speaking about recent acquisitions, as part of the larger trend of “digitalization of news and consumption”, Ilko Stoyanov pointed out that the companies were targeted because of the products they had developed: “Unlike most past IT transactions, which revolved around developer teams, the buyer was primarily interested in the product, a unique technology that they wanted to release worldwide. Being able to expand the business model is also a plus.” He concluded that the “Bulgarian market is now mature enough to provide world-class solutions.”

Banks are becoming more active investors, especially in fintech, noted Hristo Nihrizov: “they are also running startup development programs and investing in tech companies.” This development is closely entwined with another focus of the technology industry, cybersecurity: “we expect that this topic will become even more relevant this year, and in the years to come,” said Nikolay Zisov. “Many local businesses invested in cybersecurity solutions, processes, internal policy improvements, and training.”

It Takes an Ecosystem

What gradually emerged through discussions about the technology industry in Bulgaria, is the idea of a stable ecosystem that connects companies and professionals to capital and an extensive support network, able to provide know-how and guidance for future development.

“This is one of the best-paid sectors of the economy, and wages are going up,” noted Stoyanov, adding: “Stability is actually incentivizing



Diana Dimova,
Partner,
Kinstellar



Hristo Nihrizov,
Partner,
Dimitrov, Petrov & Co



Ilko Stoyanov,
Partner,
Schoenherr



Nikolay Zisov,
Partner,
Boyanov & Co



Veronika Hadjieva,
Partner,
Kambourov & Partners



Violetta Kunze, Partner,
Djingov, Gouginski,
Kytchukov & Velichkov

Notable Recent Technology Deals in Bulgaria



Yotpo Acquires SMSBump (February 2020)



Earlybird VC Invests in Payhawk in EUR 3 Million Seed Funding (March 2020)



Eljoy / Eonic One Completes Investment Round (April 2020)



DraftKings Completes Acquisition of SBTech (May 2020)



CloudCart Receives Investment Round Led By New Vision 3 (June 2020)



Silversmith Capital Acquires Botron Software Through Appfire (June 2020)



Sportal Media Group Acquires a Stake in CloudCart (June 2020)



Freigeist Capital Invests in EnduroSat (June 2020)



Healee Received Funding from Eleven and HR Capital (June 2020)



Team.Blue Acquires SuperHosting (July 2020)



HeleCloud Acquires DataStork (July 2020)



Embracer Group Acquires Snapshot Games Sofia (November 2020)



Silverfleet Capital Invests in Bulpros/ec4u Merger (March 2021)



Ringier AG Acquires Majority Stake in Bulgarian Digital Ventures (March 2021)



Confirmit and FocusVision Merge (March 2021)



MYX Receives Investment from New Vision 3 Fund (March 2021)



OnlineOnly Acquires Majority Stake in PHPJabbers from StivaSoft (April 2021)



Payhawk Raises USD 20 million in Round Led by QED Investors (April 2021)



Glovo Acquires Foodpanda in Bulgaria from Delivery Hero (May 2021)



ICN Sells Hosting and Domain Business to SuperHosting (June 2021)

professionals to go out and start their own companies. The entrepreneurial trend is developing, and startup incorporation is not slowing down. In this more mature market, we see a lot of startup activity, and venture capital is gaining speed. There are virtually no entry barriers, and the only limitation is the insufficient supply of developers.”

Nihrizov confirmed there are several active, local venture capital funds that are providing support for the development of startups. And this is not necessarily a new development, either. Neveq, the first alternative management fund under Bulgarian legislation was “groundbreaking at the time of its launch in 2007”.

“Bulgaria is a very good destination for IT businesses, with a talented and educated workforce” Dimova noted. “The EU legal and regulatory framework currently adopted in Bulgaria is also a facilitator.” Technology companies and startups have managed to attract the attention of international strategic and private equity investors, as well as local venture capital funds, like Neveq, BlackPeak, Eleven, LaunchHub, and Empower. She explained they offer funding for startups and have “helped a lot of companies in the early development stages. They have also managed some quite successful exits.” She described the Bulgarian technology startup ecosystem as led by young entrepreneurs, adding: “Apart from the VC funds, we have BASSCOM, an association of IT companies, as well as angel investors (including founders who have made a successful exit) who are all helping to develop and support the ecosystem.” Dimova attributed the technology industry’s rise in its GDP contribution, as well as the growing number of professionals returning to Bulgaria (as salaries are attractive and rising), to this ecosystem and its young entrepreneurs.

About the handful of Bulgarian funds supporting the tech sector, using a mix of private capital, state funds, and EU money, Kunze said: “They bring extra resources to support the local economy and rely on experts with a proven track record, with good business and market knowledge.” The ecosystem helps nurture innovation and technology and, when all is said and done, is a deal generator. “As a result, smart ideas are becoming an increasingly popular Bulgarian export,” she concluded.

Speaking about the structures now in place to support technology startup growth, Stoyanov mentioned the Bulgarian Private Equity and Venture Capital Association and

the funds themselves. As a network, they are able to provide different tiers of funding, “from very, very early grants of USD 50,000, through several-hundred-thousand seed investments, up into million-dollar investments and beyond.” He added that “the ecosystem is also able to provide coaching and support – not just for technical skills, but for entrepreneurial ones as well.”

It is also worth mentioning that the law firms themselves form an active part of this support ecosystem. Advising on transactions is an important, but rather late step in their process. The first, frequently *pro bono*, steps variously include initial advice on how to set up a company, startup mentorship, partnering with incubators, accelerators, or innovation programs, and offering advice on projects, policy, regulatory aspects, or licensing procedures. “Supporting tech clients is quite an adventure,” Zisov concluded on the matter.

According to Stoyanov, while Bulgaria can still be regarded as marginal in many fields, that is no longer the case in the technology industry. While most conferences can be a bit boring, “DigitalK, an annual digital innovation event in Sofia, is world-class.” He concluded by saying: “The keys to a successful tech startup are vision and confidence. The market is easy to enter at this point, as there is freedom in building your own company.”

Striking a similar tone, Nihrizov advised: “The technology sector, while important for Bulgaria, is still comparatively small in global terms. One avenue for growth would be the Israeli model – invent, produce, and export it.”

No End in Sight

Speaking to trends and his expectations for the future, Nihrizov said: “the market is still open for business, more transactions are coming.”

“There is a lot of growth potential in the technology sector,” according to Zisov. He singled out banks, the digital transformation of which brings renewed interest in developing or acquiring financial technology projects. “Plenty of investors are showing an interest, especially in fintech projects. With new developments on the remote/hybrid regime of work, Software as a Service is also an attractive market. With other sectors seeing less growth and technology having a positive outlook, there is a lot of capital out there looking for good, interesting technology projects.”

Hadjeva also said she expects the positive dynamic to con-

tinue in 2021 and beyond. She zoomed in on past deals to identify areas of particular interest: app-based food-delivery services, telehealth, low-code technology (platform software that gives corporations the tools to develop apps internally, without developer talent), and, of course, e-commerce.

For Kunze, never-ending tech development is a given. As this is not slowing down, neither will M&A work in the tech industry, for the foreseeable future. She points to financial institutions and the accelerating role of 5G technologies, especially in healthcare, as factors of further growth.

Dimova offered that, based on the firm’s current pipeline, we are nowhere close to a peak in transactions: “We’re optimistic that we will see more and more deals. A compelling fact is that some companies are not looking to sell, but rather to expand. They themselves are looking to acquire assets outside of the country.”

Stoyanov also pointed out that, as a result of a maturing technology industry, “Bulgarian tech companies have themselves started acquiring foreign assets.” The bonus, he said, was that “we see young professionals returning to Bulgaria. We didn’t have a severe lockdown here and for many it was good to be back home.” He also noted that young people, especially those working in IT, “do not bear the burden of where they are born, and this empowers them. Unlimited internet plans on one of the fastest networks worldwide mean they can be anywhere, connected to anything.”

Bulgarian Optimism

As several partners felt the need to point out when speaking about their country’s technology industry, Bulgarians are usually a pessimistic bunch. Indeed, a 2009 Gallup World Poll places Bulgaria in the Very Pessimistic category, along with Haiti or Afghanistan. No matter if the economy is slowing down or picking up steam, Bulgarians routinely score near the bottom on the ‘Opinion on the situation of the national economy’ questions of the Eurobarometer (just 20% positive in 2019).

While Bulgarian pessimism may very well be real, none of it was apparent when speaking of the technology industry. There might even have been flashes of (cautious) optimism. As Ilko Stoyanov suggested, at one point during our interview: “We need good stories in Bulgaria, and this is a particularly bright spot. Not too big as of now, but a reason for optimism.” ■

MARKET SNAPSHOT: BULGARIA

BULGARIA – INSOLVENCY IN THE SPOTLIGHT

By Gergina Kyoseva, Partner, Kyoseva Yakimova Dimitrova Attorneys at Law



The July 17, 2021 deadline for implementing Directive (EU) 2019/1023 of the European Parliament and of the Council of June 20, 2019, on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency, and discharge of debt, and amending Directive (EU) 2017/1132 is quickly approaching, leaving little time for EU Member States to adjust their national legislations to its requirements.

Against this background, the Bulgarian Ministry of Justice recently proposed amendments to the Bulgarian Commercial Act, supposedly to partially transpose Directive (EU) 2019/1023. Although the proposed amendments provide for some substantial changes in the insolvency regime, they can hardly be seen as a transposition of the Directive.

With regard to the insolvency process, the amendments would make parts of the process quicker and more efficient with minimum opportunities for debtors to undermine actions. Some of the positive developments worth noting include: (i) the criteria for opening insolvency are made more clear by elucidating the definition of over-indebtedness; (ii) the risk of forum shopping by the debtor is minimized with the introduction of the requirement that the competent insolvency court be the one at the registered address of the debtor six months prior to filing; (iii) sale through direct negotiations between the insolvency administrator and the buyer is no longer an option; (iv) sale through electronic public auction is introduced, which is expected to ensure transparency of the sale process; and (v) amendments to creditors' rankings in the distribution removes certain privilege attributed to creditors who imposed interim measures. In other areas, such as preferential claims and claims for voidance of certain transactions, there is still room for legislative improvement, but hopefully, those

provisions will be clarified once the bill enters the Parliament for approval.

From a purely restructuring perspective, however, the bill does not provide for any material developments, omitting from its scope important topics of the Directive such as the cross-class cram-down, the protection of new and interim financing, and the content of the restructuring plan. The stabilization proceeding as an early restructuring tool was initially introduced in Bulgaria's Commercial Act in 2016 but since its entry into force very few stabilization proceedings have been opened (there was only one in 2018, only five in 2019, and only two in 2020). This is a clear indication of the inefficacy of this preventive procedure and the need for its improvement. In most cases, the proceeding does not develop beyond the opening phase because the debtor turns out to be already insolvent, and some cases are terminated due to a lack of good faith or active involvement of the applicant. One of the drawbacks of the current regulation that is likely to discourage debtors from using this option is the appointment of a trusted person (the equivalent of a practitioner in the field of restructuring under the Directive) and his powers. As per the Commercial Act, the appointment of this trusted person is mandatory in all cases. Moreover, in the resolution to open stabilization proceedings the court may order restrictive measures, which may include entering into a transaction that is subject to the preliminary consent of the trusted person. However, the debtor is entitled to appeal neither the appointment of the trusted person, nor the restrictive measures. This legislative decision contradicts some of the main goals of the Directive, among which is maintaining the total or at least partial control of the debtor over its business and the appointment of a practitioner in the field of restructuring only on a case-by-case basis.

It remains to be seen whether Bulgaria will manage to meet the timeframe for transposing the Restructuring Directive, although, given the ongoing political turmoil in the country, it seems increasingly unlikely. What is undebatable, however, is that the current legal framework of both the insolvency and the stabilization proceedings need to be revised to put in place an effective mechanism for the restructuring of company debts. ■

THE SOMEWHAT SURPRISING SIDE EFFECTS OF THE CORONAVIRUS PANDEMIC IN BULGARIA

By Dimitar Vlaevsky, Head of Real Estate Bulgaria, Schoenherr



A year ago, Bulgaria took its first steps into a new world after several months of almost total lockdown following the outbreak of the COVID-19 pandemic.

It seemed for a while that life had stopped and that Mother Nature was on the verge of reclaiming territory she had lost in the thousands of years of human evolution. In these first months of the pandemic, lawyers around the world turned to old case-law books and reviewed existing contracts to find ways for business to continue. Memories of the almost decade-long consequences of the 2008 financial crisis only increased anxiety about the potential fallout of COVID-19.

But within a short time, the pandemic started to feel familiar, at least to the legal world, where previous experience with similar crises led to the development of mechanisms to help regulate contractual relations such as *force majeure* and frustration-of-contract. Like most EU countries, Bulgarian law defines both concepts, so it is not mandatory for a party to have explicitly provided for either *force majeure* or frustration-of-contract in the agreement for these concepts to apply if necessary.

It soon became clear that the COVID-19 pandemic and the temporary lockdown measures constituted *force majeure* in only a limited number of cases and for a limited time. Therefore, most lawyers and webinars (very popular in the first months of the pandemic) focused on the doctrine of frustration.

This doctrine was much discussed and reviewed in Germany following the hyperinflation that the country experienced in 1923. But as time passed and the world economy started to function again, it became evident that even this doctrine might not apply. For example, in November 1923, the price of a loaf of bread in

Germany, which had cost only 250 marks in January 1923, had risen to 200,000 million, and workers were often paid twice per day because prices rose so fast their wages were virtually worthless by lunchtime. Luckily, we did not see such drastic changes in Bulgaria in 2021, either in prices or in most of our daily activities.

The negative effects of the COVID-19 lockdown measures were felt mostly by the owners and landlords of businesses in shopping malls, office buildings, hotels, and restaurants. However, since most of these owners and tenants are professionals, they realized that it is better to renegotiate and settle their contractual relations between themselves rather than go to court and see how judges will apply the 100-year-old doctrine of frustration. As a result, for now, at least, no major negative effects are visible in these sectors, compared to the gloomy aftermath of the financial crisis a decade ago. Still, it is early days, and the situation may change as the crisis unfolds.

Another surprising effect of the crisis is the continuous rise in residential property prices. Statistical data for the largest Bulgarian cities shows that, after a brief period of stagnation in the first quarter of 2020, prices not only continued to rise but the pace of development of new residential projects by the end of the year had reached the levels of 2019, which was already the best year in the past decade. Office development took a big hit, however, and it is still too early to predict when this market will return to pre-pandemic levels. ■

MODERNIZATION OF THE BULGARIAN MILITARY: RECENT DEVELOPMENTS AND NEW OPPORTUNITIES

By Dimitrinka Metodieva, Senior Partner, Gugushev & Partners



Bulgaria's accession to NATO in 2004 challenged the country's army to modernize its armaments and replace obsolete military equipment.

This is a multi-stage process, based on a series of political decisions and a consistent implementation of a long-term strategy. Bulgaria must catch up with the other CEE members

of the Alliance, which have already completed or are in an advanced stage of modernizing their armies and are already in the capacity-building process.

What Bulgaria is planning, how that plan is being executed, and what opportunities we should look forward to in the near future are critical considerations.

In February 2021, the National Assembly adopted the Program for Developing the Defense Capabilities of the Armed Forces of the Republic of Bulgaria 2032 (or Program 2032), a critical long-term strategic document defining the development framework of Bulgaria's defense policy. Program 2032 envisions the acquisition of defense capabilities to occur in two stages: from 2021 to 2026 and from 2027 to 2032. Consistent with that, a Draft Plan for the Development of the Armed Forces until 2026 (Plan 2026) has been developed as the main medium-term strategic document of the Armed Forces, organizing and ensuring the implementation of the first stage of Program 2032. It is to be adopted by a future Council of Ministers.

According to Program 2032, the complete modernization of the Bulgarian army will cost about EUR 15 billion and will involve the development of 180 new defense capabilities. Therefore, it is envisaged that defense expenditures will increase up to 2% of Bulgaria's GDP by 2024, and they are required to remain at least at that level for the period after that, depending on the growth of the country's economic opportunities.

This increase in defense expenditures has already begun with the signing of two major contracts: an approximately EUR 1 billion acquisition of eight F-16 Block 70 multi-role fighters from Lockheed Martin in 2019, and an approximately EUR 500 million acquisition of two patrol ships from German shipyard Fr.

Lurssen Werft GMBH & CO.KG in 2020. In December 2020, another contract for over EUR 40 million was signed with Bulgaria's state-owned company TEREM for the modernization of 44 tanks, including the modernization of other equipment necessary to increase the overall combat capabilities of the tanks. However, as TEREM facilities cannot carry out the main modernization activities, a significant part of the funds might be redirected to another company.

A significant project that has been on the agenda for almost ten years is the acquisition of 150 armored vehicles for the ground forces, which is worth about EUR 750 million, and which is currently at a deadlock due to the dissonance between the set budget and the two competing offers. That is why the Ministry of Defense commissioned TEREM to prepare a report on the possibility for the machines to be built within Bulgaria's military-industrial complex. Based on the report, the next Bulgarian government will have to decide whether to increase the project budget or assign it to a Bulgarian company.

Among the priority projects envisioned in Plan 2026 are the acquisitions of 3D radars for near and far surveillance: five radars for long-range detection and two for short-range detection, all at a combined cost of between EUR 150-200 million. The hope is that the radars can be supplied by 2023-2024, as they complement the capabilities of the new F-16 Block-70 fighters, which are expected to be in service in the next couple of years.

Other priority projects in Plan 2026 include the acquisition of submarines, the modernization of the E-71 frigates, and the development of the full operational capacity of the Command for Communication and Information Support and Cyber-Defense, as well as the acquisition of remotely controlled systems, including the acquisition of a strategic and operational command and control system.

The modernization of the Bulgarian Armed Forces has triggered an unprecedented wave of large-scale public projects in the past couple of years. The goals declared in Program 2032 suggest the formation of a sustainable trend, envisioning many more such projects in the pipeline, as long as defense and security continue to be a top priority for future governments. ■

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INSIDE OUT: ARKAD'S COMPLETION OF THE BALKAN STREAM GAS PIPELINE IN BULGARIA

By Radu Cotarcea

On December 31, 2020, CEE Legal Matters reported that CMS had advised contractor Arkad on the completion of the Balkan Stream Gas Pipeline project. We reached out to CMS Sofia Managing Partner Kostadin Sirlishtov for more information about the deal.

CEELM: How did you and CMS become involved in the project?

Kostadin: As with many matters, this one started as a very small corporate mandate directed into the registration of a branch in Bulgaria and general regulatory advice on public procurement matters. The client was referred to CMS Sofia by another CMS office. There wasn't really a selection process as such, as the initial advice was a very small and basic one. It happened around 4 years ago when the client started looking at Bulgaria given the public procurement opportunities, which were appearing on the market.

CEELM: What exactly was the initial mandate when you were retained for this project?

Kostadin: The client wanted to know how the Bulgarian law treated foreign public procurement contractors, what the requirements for participation in public tenders were, and the like. The mandate was a general regulatory one, well before the start of the actual project. CMS Sofia was assisting the client with the understanding of the regulatory environment and the risk allocation in infrastructure public procurement projects in principle. We were also assisting with all the corporate law and employment legal advice that the client needed. Once the public procurement was launched, the team fully embraced the project and assisted in the successful completion of the tender process.

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

Kostadin: Over the last four years, we had almost half of our CMS Sofia lawyers involved in one way or the other in the project. I was the one that picked up the initial referral for the client and, for four years now, I am leading and monitoring the project on our end. For the last two years, as the workload

increased, we were asked to allocate a senior lawyer to work almost exclusively for the client. The client picked the most experienced and knowledgeable senior lawyer in the field of oil & gas with CMS Sofia – Denitsa Dudevska. I am quite confident in suggesting that Denitsa was the member of our team who was the largest contributor to the success of the project on our end. As the project required coordination with many other CMS offices, it was me and various Associates ensuring fluent communication and collaboration with other offices. CMS Sofia assisted a lot on various financial and employment matters, where the work was led by Senior Associate Borislava Piperkova. The tax-related questions and issues were addressed by our Head of Tax Senior Associate Alexander Rangelov. I will stop here just to avoid the risk of missing someone.

CEELM: Describe the Balkan Stream project in as much detail as possible.

Kostadin: The concept for the establishment of a gas distribution center on the territory of Bulgaria is based on the idea that significant natural gas quantities, from various sources, are entering the country through several real physical points, for further transportation. At the same time, a gas trading point/hub is also being established, where each market participant carries out transactions in natural gas on a market-based principle. The idea for the building of a regional gas center is supported by the strategic geographical location of Bulgaria, the well-developed existing gas transmission and storage infrastructure, and the interconnection projects with Turkey, Greece, and Serbia, as well as the completion of the connection with Romania.

Specifically, the Balkan Stream project represents a complex, multicomponent, staged project for the modernization, rehabilitation, and expansion of the existing gas transmission



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Projects exceeding EUR 1 billion in the Balkans and CEE more often fail than get to the finish line. From a legal and project management point of view, the project is something that all law firms, consultants, and others should be proud of. Such success stories usually lead to a higher investment appetite and an increase in foreign investment for Bulgaria and for the region.

infrastructure on the territory of Bulgaria, owned and operated by the combined gas operator Bulgartransgaz EAD.

The project has been implemented in phases and includes: (i) modernizing and rehabilitating compressor stations; (ii) repairing and replacing gas pipeline sections following inspections; (iii) expanding and modernizing the existing gas transmission network; (iv) carrying out inspections to determine and characterize the gas pipelines' condition; (v) and implementing systems for optimization of the management process of the network technical condition.

The Balkan Stream project is an extension of TurkStream, which begins at the Russkaya compressor station near Anapa, in Russia, and crosses the Black Sea into Turkey. The extended 474-kilometer Balkan Stream pipeline runs from Bulgaria's southern border with Turkey to its western frontier with Serbia. With the completion of the Balkan Stream Gas Pipeline project, the natural gas coming from TurkStream will now progress through Bulgaria into Serbia, Hungary, and Austria.

CEELM: What is the current status of the pipeline?

Kostadin: The project is now complete and the pipeline is operational.

CEELM: What was the most challenging or frustrating part of the process? And why?

Kostadin: Any project of this magnitude (exceeding EUR 1 billion in capital expenditures) exposes the stakeholders to many challenges. This project wasn't any different. The initial main challenge was faced at the time of the actual tender and the following challenges and appeals. We managed to successfully overcome these just to face the next set of challenges, related to the construction process and short deadlines. Once we streamlined the construction process preparation, we were hit by COVID-19 and the impact on an international project of such magnitude was huge. CMS managed to assist with the justification and the achievement of as many as 5 *force majeure* certificates from Bulgarian authorities to justify the delays, which were attributable to the pandemic. As a result, no liquidated damages were imposed on the client by its customer.

CEELM: Was there any part of the process that was unusually or unexpectedly smooth?

Kostadin: The smoothness of the construction process (given the circumstances) was something that pleasantly surprised me. The project included many jurisdictions and many stakeholders, but I am happy to report that the efficiency of the

project implementation was something that you don't see in every project of such magnitude.

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

Kostadin: The final result had nothing to do with the initial mandate that we were provided with, but the final result was in full compliance with the objectives of the client and, therefore, I am happy that CMS Sofia and the rest of the CMS offices involved delivered the best quality legal advice and services required, in a timely manner.

CEELM: What specific individuals at Arkad directed you, and how did you interact with them?

Kostadin: The client's team consisted of many individuals, but my direct contact was particularly with the Head of Legal, who was coordinating legal functions on the client's end.

CEELM: Quite a few firms were involved in this deal – CMS, ANG, Dentons, KPMG Legal, TBK, and Latham & Watkins. How difficult was it to coordinate/communicate between so many different teams?

Kostadin: As the project was very complicated, including separate work-streams such as public procurement, construction, financing, and others, these law firms had different functions. CMS was in contact with most of the law firms involved – either directly, or through our client. The level of coordination demonstrated by the client was extraordinary and, given the professionalism of the law firms involved, this guaranteed the positive results that followed. At times, projects of this nature look chaotic and therefore require strong coordination efforts, but I do believe CMS had its fair share of contribution to the successful coordination of the entire process.

CEELM: How would you describe the significance of the pipeline to the Balkans and CEE in general?

Kostadin: Projects exceeding EUR 1 billion in the Balkans and CEE more often fail than get to the finish line. From a legal and project management point of view, the project is something that all law firms, consultants, and others should be proud of. Such success stories usually lead to a higher investment appetite and an increase in foreign investment for Bulgaria and for the region. The project will allow for greater access of natural gas to the Balkans and to CEE, and, together with the rest of the interconnections and the other pipelines that are in the works, will hopefully lead to a higher diversity of supply. ■

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EXPERTS REVIEW: DATA PROTECTION





The theme of Experts Review this time around is **Data Protection**, and the articles are presented in order of the number of Facebook users as of December 31, 2020, according to Internet World Stats. Thus, Turkey is first, with 44 million users, with the articles from Kosovo and Slovenia sharing the last spot, with 0.91 million users each.

■ Turkey – 44 million	Page 70
■ Poland – 14 million	Page 71
■ Russia – 13.1 million	Page 72
■ Ukraine – 9.5 million	Page 74
■ Romania – 8.9 million	Page 75
■ Hungary – 5.3 million	Page 76
■ Greece – 5 million	Page 78
■ Czech Republic – 4.6 million	Page 79
■ Serbia – 3.4 million	Page 80
■ Croatia – 1.8 million	Page 81
■ Kosovo – 0.91 million	Page 83
■ Slovenia – 0.91 million	Page 84

TURKEY: DATA TRANSFERS IN M&A TRANSACTIONS

By Ilay Yilmaz, Partner, Esin Attorney Partnership



With the introduction of Turkish Data Protection Law No. 6698 (the KVKK) back in 2016, data privacy has become an important aspect of M&A transactions and due diligence processes. Concerned about the potential administrative fines under the law and the strict scrutiny of the Turkish Data Protection Authority (DPA), buyers

started to place greater importance on the compliance of target companies' privacy practices with the law.

It must be noted that privacy compliance in an M&A transaction is not only about the target company's privacy practices. As part of the due diligence process, companies exchange large quantities of data, which also includes personal information on real persons such as employees or representatives of business partners; and such exchanges have a number of privacy implications.

To Transfer or Not to Transfer

Privacy issues and proposed solutions usually differ based on the time of the transaction. The early stages of a transaction are usually the trickiest in terms of data privacy. As the parties are still in negotiations, and it is unclear whether the transaction will go through, disclosure of a large amount of personal data at this stage may be contrary to data minimization and proportionality principles. Additionally, at this stage, it is usually difficult to identify a legal basis for such transfers, other than the legitimate interests of the seller, and certain types of personal data cannot be processed based on legitimate interest. Finally, considering that parties may want to keep the negotiation phase confidential, it may not be desirable to notify the data subjects involved pursuant to the notice requirement or obtain their explicit consent where necessary for the transfers. Accordingly, companies tend to consider anonymizing personal data for transfers during the pre-signoff phase.

Anonymization of personal data during the transaction may be especially crucial for sensitive data. Processing of sensitive data is subject to strict requirements under the KVKK, and in most cases, data subjects (*e.g.*, employees) consent may be required prior to the disclosure of sensitive data. Considering the practical difficulties of obtaining consent, and the risk of that consent being withdrawn, the recommended approach in practice is to anonymize sensitive data or remove it from files shared with the prospective buyer.

Data Room Issues

M&A transactions usually involve the setting up of a data room to exchange documents and information for the due diligence process. Unless the data room provider is located in Turkey, transferring documents that contain personal data to the data room would trigger cross-border data transfer obligations.

In Turkey, the cross-border data transfer requirements have been heavily debated due to the availability of feasible mechanisms data controllers may resort to. In the current legislative framework, companies may either obtain consent or rely on undertaking letters or the BCRs approved by the DPA. The approval process may take years, and thus undertaking letters/BCRs are seen as long-term solutions. Therefore, in terms of M&A transactions, some of the disclosing parties either obtain consent from concerned data subjects or anonymize data where possible to avoid the requirements for cross-border data transfers. Others choose to adopt a risk-based approach, particularly if the personal data that needs to be shared is minimal (*e.g.*, only the names and signatures of authorized signatories).

When and How Should I Notify?

As briefly mentioned above, among other considerations, the fulfillment-of-notice requirement is another privacy-related issue. As a rule, data controllers must notify data subjects prior to processing their personal data. On the seller's side, as most M&A transactions have a confidential nature, making it difficult to notify the data subjects whose personal data will be processed, sellers generally ensure that potential M&A transactions are included as a potential purpose of personal data processing in the privacy notices they give to their employees.

Buyers must also comply with the notice requirement to the extent they process personal data they obtained during the transaction as a data controller, which also raises confidentiality concerns. Unlike the GDPR, the KVKK does not provide comprehensive exemptions from the notice requirement (*e.g.*, professional secrecy or impossibility/serious impairment of the objectives of processing). Therefore, it is currently unclear how and to what extent the buyer may comply with this requirement.

Conclusion

Privacy compliance is elemental to M&A transactions, and companies must carefully analyze privacy risks concerning not only the target business but also the transaction process itself. ■

POLAND: GDPR ENFORCEMENT TRENDS IN POLAND

By Tomasz Koryzma, Partner, and Damian Karawala, Senior Associate, CMS



The challenges arising from the protection of personal data are countless and inescapable in our landscape.

Three years after the GDPR came into force, some clear trends can be seen on the Polish market, from which a set of good enforcement practices may be derived.

Although a majority of the fines for violations of the GDPR have been imposed on companies in the industry and commerce, media, telecoms and broadcasting, finance, and insurance sectors, a number of fines have also been imposed on the public sector and education entities. Nevertheless, the Polish Data Protection Authority has not focused on specific sectors. The DPA often goes beyond its public inspection plans for a given year and often fines entities from different sectors, and for different infringements.

The majority of the GDPR fines in Poland have been issued due to insufficient legal bases for data processing (GDPR Articles 5 and 6), deficiencies in information security (Article 32), or based on insufficient fulfillment of the data breach notification obligation (Articles 33 and 34). There is no common, official calculation method for these fines, and each case is considered separately. The Polish Data Protection Authority makes its decision based on the factors listed in the GDPR, considering, in particular, the intentional or unintentional nature of the act, its duration, the nature and gravity of the infringement, and the level of cooperation with the authority. As penalties count towards revenue for the state budget, the legislator introduced lower penalties for public entities.

The three biggest fines in Poland so far (*i.e.*, those levied on Morele.net, Virgin Mobile Polska, and ID Finance Poland) have been linked to insufficient organizational and technical safeguards that led to unauthorized access to personal data stored by companies. To date, the highest GDPR fine in Poland – PLN 2.8 million (approximately EUR 660,000) – was imposed on Morele.net, for having insufficient organizational and technical safeguards leading to a breach of the personal data of 2.2 million people. The data theft occurred through unauthorized access to an employee's workstation. According to the authority, this was possible due to a lack of security measures, in this case, because of one-step authentication.



In practice, before the start of the relevant administrative proceedings (and the subsequent imposition of a fine), data controllers/processors may also face an inspection under the Polish Data Protection Act of May 10, 2018.

The whole process can be broken down into a few steps, the first being the notice of inspection, followed by the actual inspection, then the finalization of the inspection, when the authority decides whether a violation has occurred. Then the actual administrative proceeding and, possibly, finally, the judicial-administrative proceeding, if there is an appeal of the decision.

If the President of the Data Protection Authority concludes it is in the public interest, upon completion of the proceedings he/she may inform the public about the decision in the Public Information Bulletin (BIP). A decision that is made public should be appropriately anonymized. It seems, however, that the DPA may choose to post a notice on the BIP website stating that a decision has been issued, provide the content of the decision along with the notice, or hold a press conference.

The sanction does not necessarily have to be financial – the authority also has a number of other remedial powers under the GDPR. In practice, for example, the Polish authority generally only requests that entities comply with the information obligation or the data breach notification obligation. Entities have also been sanctioned in several cases for failing to cooperate with the authority.

Failure to co-operate with the Polish DPA during the inspection may, in itself, lead the authority to impose an administrative fine in line with the provisions of the GDPR. In 2020, for example, the Polish DPA imposed a fine of PLN 20,000 (approximately EUR 4,700) on telemarketing company Vis Consulting Sp. z o.o. for failing to cooperate with the supervisory authority during an inspection. ■

RUSSIA: PERSONAL DATA TRANSFERS TO RUSSIA IN POST-SCHREMS II ERA

By Eldar Mansurov, Head of Data Protection, and Marcin Kryszko, Senior Associate, Peterka & Partners Moscow



In its July 2020 *Schrems II* judgment, the Court of Justice of the European Union invalidated the Privacy Shield for EU-US personal data transfers for commercial purposes. In a case concerning data transfers by Facebook Ireland to the US, the court concluded that because of its mass surveillance programs, the US does not provide the adequate – that is, a sufficient – level of personal data protection that is guaranteed by

EU law. What conclusions may be drawn from *Schrems II* for personal data transfers to Russia almost one year later?

EU Personal Data Export Rules

Under EU law, personal data transfers to third countries lacking adequacy decisions, including the US and Russia, require that *appropriate safeguards* be put in place, unless specific exceptions apply. In practice, the most widely used safeguard (which is also used for transfers to Russia), is Standard Contractual Clauses – a set of pre-approved legal provisions to be included in the contract with a data importer outside the EU.

Unfortunately, from *Schrems II* it follows that the mere conclusion of SCCs may not be sufficient to legitimize the transfer, where local laws and practices in the country of the data recipient hinder or make standard clauses ineffective. In *Schrems II*, the court held that US surveillance legislation allows authorities access to personal data beyond what is necessary and proportionate, and that EU individuals are not afforded redress. As result, the court concluded that US law does not require minimum safeguards equivalent to the ones required under EU law. In conjunction with the inherently contractual nature of SCCs, making them non-binding for authorities, in the post-*Schrems II* era, having SCCs in place is not enough for EU-US personal data transfers.

Another, a more general conclusion is that prior to transfer, an EU data exporter should always ensure that the domestic law of the importer does not undermine the effectiveness of SCCs. Specific attention should be focused on the rules for the access of public authorities to personal data for national security purposes.

Russian Surveillance Legislation

So then, is Russian surveillance legislation compliant with EU data protection and privacy standards? Compliance would mean meeting, among others, the following requirements: (1) that the data processing be limited to what is necessary and proportionate for the objec-

tive pursued; (2) the existence of independent, preferably judicial, oversight mechanisms; and (3) the existence of effective rights of redress for individuals.

Meanwhile, Russia's *Yarovaya Law* requires Russian telecoms and Internet companies to retain copies of all contents of communications – including text messages, voice, data, and images – for six months, and related metadata for up to three years. All information must be disclosed to the Russian police and intelligence services upon request, even without a court order. This approach is unlikely to meet the proportionality and oversight requirement.

Moreover, in the landmark case *Roman Zakharov v. Russia*, the European Court of Human Rights concluded that Russian legislation on data interception for law enforcement purposes does not provide adequate and effective guarantees against arbitrariness and the risk of abuse. One of the reasons was the lack of effective remedies.

Consequently, if the *Schrems* cases had involved transfers to Russia instead of the US, the conclusions of the CJEU would almost certainly be the same, and for the very same reason – intrusive surveillance legislation. As a result, SCCs alone are also no longer sufficient for EU-Russia personal data transfers.

What Can be Done?

The rules are simple: where SCCs cannot guarantee EU data protection standards, additional measures must be adopted. If a level of protection essentially equivalent to the EU still cannot be secured, transfers must not take place.

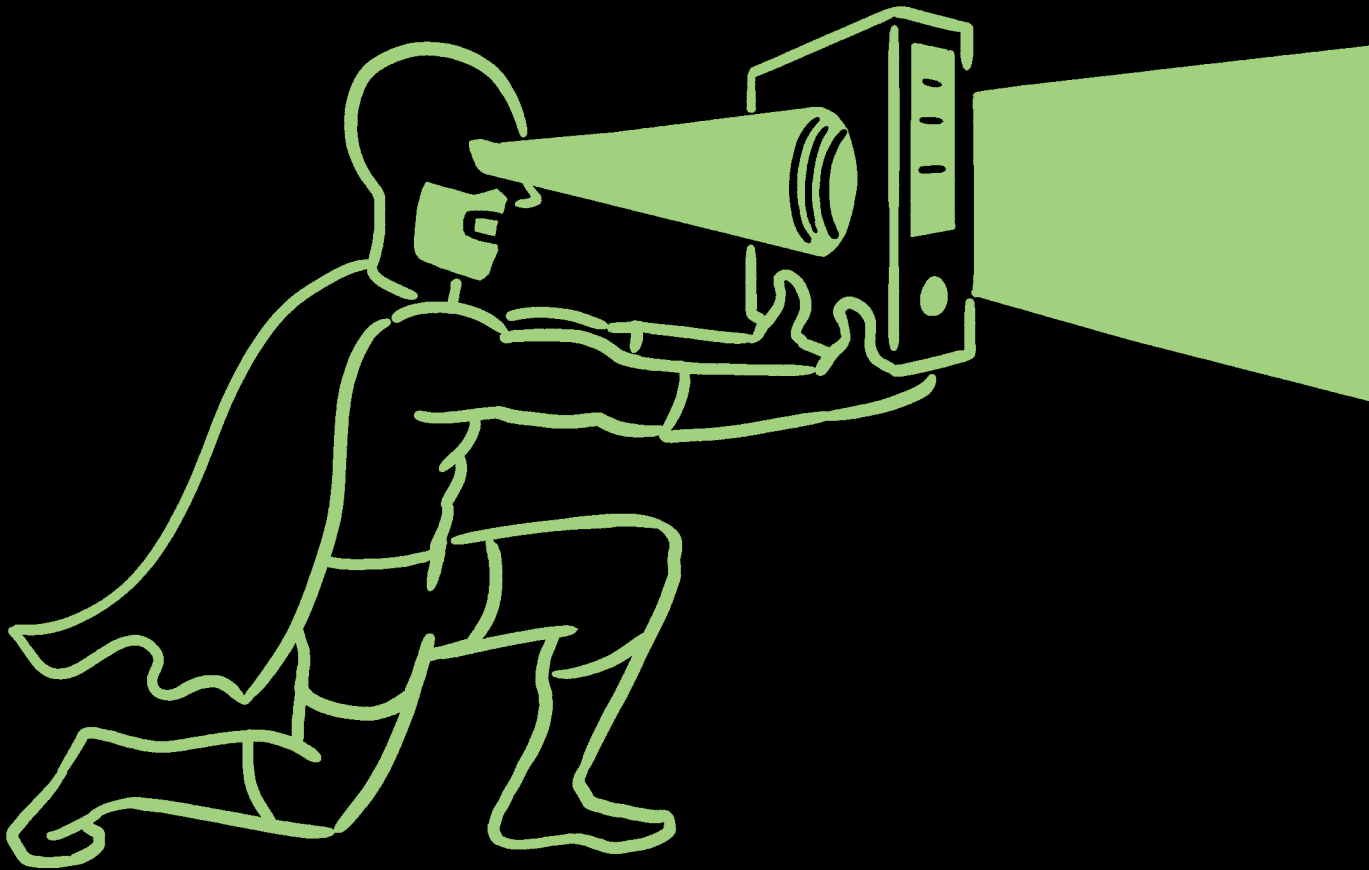
The problem is that with respect to countries like Russia, in most instances there may be no effective and reasonable safeguard. After all, what could two private companies effectively do to prevent Russian authorities from intercepting data? Accordingly, one year after *Schrems II*, almost all personal data transfers to Russia remain in the risk zone. What then may be recommended to EU data processors for whom termination of all transfers to Russia is not an option?

First, EU data processors should evaluate the actual need for personal data transfers to Russia, and avoid unnecessary transfers. Second, data exported to Russia should be minimized. Third, in addition to SCCs, adopting relevant contractual, organizational, and technical measures on a case-by-case basis is a must. With respect to Russia, parties should particularly consider data pseudonymization, encryption, and split or multiparty processing.

Though taking these steps may be costly, and they do not guarantee compliance, they may help mitigate potential liability. ■

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UKRAINE: THE PANDEMIC'S IMPACT ON PERSONAL DATA PROTECTION – WHAT REGULATIONS REMAIN RELEVANT?

By Maria Orlyk, Managing Partner, and Diana Valyeyeva, Associate, CMS Reich-Rohrwig Hainz, Kyiv



The COVID-19 pandemic has triggered substantial social changes and a seemingly never-ending rollercoaster of legislative amendments and re-adoptions. Both social and legislative changes occurred in the Employment Sector, inevitably including the sphere of Personal Data Protection (PDP).

Remote working and the desire of employers to monitor the performance and processes of their employees has given rise not only to a series of legislative amendments but also to a series of misconceptions about these amendments and about compliance with existing legislation.

One of the first rounds of COVID-related changes in Ukraine included the establishment of a new exception to the requirement of consent for personal data processing: a data subject's consent is not required when the processing is necessary for the purpose of combating the virus. This was a common headline in the news in April and May of 2020. However, this exception is only applicable to specific entities (*i.e.*, the Ukrainian Ministry of Digital Transformation), and does not apply at all to most private businesses. The processing of personal data (especially sensitive data) remains subject to many restrictions and additional compliance actions must be taken before, during, and after processing (for sensitive data).

Another common misconception is that video-surveillance does not constitute the processing of personal data. Even though it's very tempting to trust this statement, it is misleading and should not be relied upon. It has been well established that an image of a person contained in a video is in itself personal data. When using such monitoring instruments, an employer (or anyone conducting monitoring) must follow the usual "compliance steps" for personal data processing.

The pandemic has also provided fertile soil for remote work tracking and monitoring software. Most of the software packages offered on the market contain built-in confidentiality disclaimers and personal data processing consent. However, these do not offer a panacea for PDP compliance. One should choose software that provides an option for the person being monitored to pause the monitoring. This will ensure that no excessive personal data is collected (especially sensitive data). For example, financial data, private correspondence

(conversations with other employees on non-work-related topics might also include private life details), *etc.*

It is commonly (and incorrectly) understood that where someone consents to processing, the processor is free to collect any data (or all the data provided for in the consent).

Again, data processing consent is not a magic shield from PDP-law violation. It is well established that even when a personal data subject consents, if the scope of data collected and processed exceeds what is necessary to process for the purpose at hand, such processing is unlawful.

For example, when tracking an employee's activities, software can collect data regarding time spent by an employee on a project that helps the employer monitor and assess the employee's performance; but if the software collects and transfers to the employer such data as screenshots of bank account details or online payment information, *etc.*, even when included in the consent, this exceeds the lawful purpose of processing and constitutes a PDP-law violation. Moreover, collecting sensitive personal data will trigger additional compliance requirements (such as sensitive data processing notification).

Furthermore, the earlier described "lawful data" is usually used for a lawful purpose (such as work performance evaluation). However, an employer should still be on guard when, for example, a decision related to an employee is made based exclusively on this data. Ukrainian law specifically protects data subjects from any automated decision affecting their rights. Depending on the particularities of the software and the procedure by which the decision (for example, to fire an employee or to distribute bonuses) is adopted, such decision could potentially result in a PDP-law violation. The same is true for profiling.

Evidently, most of the PDP law that was already in place is still applicable and relevant to "COVID-19 amended relations," and businesses simply need to consider it as carefully as possible and not rely upon tempting but misleading statements.

All of this is also applicable to subcontracting relations and the data collected from subcontractors when monitoring their services. ■



ROMANIA: DATA PROTECTION OFFICERS IN ROMANIA

By Raluca Botea, Coordinator of Data Protection Practice, and Flavia Denisa Margas, Associate, Noerr Bucharest



Following the adoption of the GDPR, an important new element was brought into Romania's legal framework – the required designation of a Data Protection Officer (DPO), which is mandatory in some cases.

Romania has implemented the provisions of the GDPR and enacted additional rules in Law No. 190/2018 to enforce the GDPR at the national level, add additional criteria for designating a Data Protection Officer to those in the GDPR, and establish that national identification numbers (*e.g.*, personal identification number, series and number of ID card, passport number, driver's license number, social security code) can be processed only if there is a legitimate interest in the processing and if additional guarantees are established by the data controller.

Such guarantees are: (i) ensuring data minimization, security, and confidentiality of processing by implementing appropriate technical and organizational measures; (ii) appointing a DPO; (iii) adhering to an approved code of conduct intended to contribute to proper enforcement of the GDPR; (iv) setting data retention periods, as well as specific data erasure deadlines; (v) regular training, regarding data protection obligations, of persons who process personal data under the direct authority of the data controller in order to raise awareness regarding the obligations laid down by the GDPR.

To determine whether it is mandatory to appoint a DPO, the practice according to the provisions of Romanian law is to make an assessment/evaluation of the activity of each entity's department in order to determine the manner in which personal data is processed and whether the entity has the legal obligation to appoint a DPO in accordance with GDPR rules and Romanian legal provisions.

In addition, Romania's National Supervisory Authority for Personal Data Processing (ANSPDCP) recommends that companies document the analysis regarding the appointment of a DPO under the GDPR, as well as their final choice with respect to the appointment.

Companies can also appoint external DPOs.



Even in cases when companies do not have an express obligation to appoint a DPO, the ANSPDCP recommends an appointment due to the beneficial effect of the responsible person's activity on compliance with the GDPR. Should the company decide to voluntarily appoint a DPO, the same requirements regarding the position and tasks apply as would have applied if the appointment had been mandatory. The ANSPDCP has launched a portal where controllers and processors can notify the ANSPDCP of the identity of the DPO.

In addition, Draft Law No. B653/2020 regarding the organization of the profession of the Data Protection Officer has been published on the website of the Romanian Senate. The draft law is designed to define the duties of the person responsible for personal data protection and to identify the conditions that he or she must meet. Another goal pursued by the Romanian legislator was to regulate a profession that can be exercised in Romania only by persons who have been registered in a professional body and are legal persons of public and autonomous utility. Because the draft did not satisfy the norms of legislative procedure required by law, being deficient in terms of both content and substantiation of the proposed legislative solution, it did not receive the approval of the Legislative Council.

It is important to mention that, since 2017, the position of DPO has been included in the Romanian Classification of Occupations under code 242231.

In conclusion, a DPO can play a key role in an organization's data protection governance structure and help improve accountability. Our recommendation is to appoint a DPO even if such an appointment is not mandatory. This will help to ensure that the company is proactive in monitoring GDPR compliance. ■

HUNGARY: VERIFYING COVID-19 IMMUNITY – DATA PROTECTION CONSIDERATIONS

By Peter Berethalmi, Partner, and Zsuzsanna Lukacs, Associate, Nagy & Trocsanyi



In Hungary, immunity to COVID-19 may be verified on the basis of Government Decree 60/2021 by way of an immunity certificate or the mobile app of the National eHealth Infrastructure (EESZT). While in principle both methods may establish immunity based on either vaccination or recovery

from the illness, only the immunity certificate has been available for use since February 2021, as the EESZT mobile app is currently still in its introductory phase.

At this moment, presentation of the immunity certificate may be lawfully requested by employers or specific service providers. Either way, the disclosure of personal data – in particular, health data – is unavoidable when complying with such a request.

Although there is no specific data protection legislation or established decision-making practice in the matter, key advice has already been provided by the Hungarian Data Protection Authority (NAIH) regarding the limits of requesting such disclosure of personal data.

Verifying Immunity Towards Service Providers

Hungarian law currently allows those who are able to verify their immunity by presenting their immunity certificate upon entrance to use specific types of services (theaters, gyms, indoor dining, etc.).

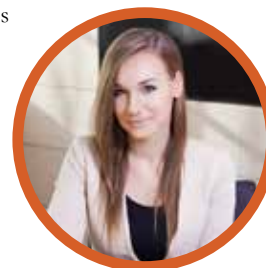
During a press interview in late April, NAIH President Attila Peterfalvi confirmed that the above-mentioned method of verifying immunity does not raise any data protection concerns since data processing by the service provider is limited to checking the existence and validity of the certificate, and does not involve the recording of any personal data. He also emphasized that such data processing is prescribed by law, which provides an adequate legal basis according to the GDPR.

Verifying Immunity Towards Employers

Since the beginning of the pandemic, the NAIH has given high priority to addressing the lawfulness of processing employee health data by employers (e.g., by providing guidance on mandating measurement of employees' body temperature).

In its latest information notice, the NAIH specifically focuses on the ability of employers to process information related to their employees' immunity certificates. The information notice points out that,

as they are responsible for the lawfulness of the data processing, employers must first and foremost be able to identify the purpose and lawful basis of their data processing activities.



As to the lawful basis, the NAIH stresses that the fact of immunity to COVID-19 (either due to vaccination or recovery) shall qualify as data concerning health – one of the special categories of personal data. The NAIH emphasizes that, when unable to verify the lawful basis in accordance with Article 6(1) and 9(2) Points b), h), or i) of the GDPR, the processing of immunity data by employers shall be prohibited.

Nevertheless, according to the Hungarian Labor Code, it is also the employer's responsibility to provide a safe and healthy work environment. In order to achieve this goal, requesting verification of immunity from employees may be a necessary and proportionate measure for specific types of jobs or employee groups, but only when based on an appropriate risk analysis.

From a data protection viewpoint, the risk analysis and the measures introduced by employers based thereon should accord with the principles outlined in Article 5 of the GDPR. For example, the purpose of data processing shall be real (immunity cannot be checked without any reason and the measures must actually be introduced), data processing shall be limited to what is necessary for the given purpose (only the immunity data should be processed), and measures should be proportionate (only the fact and expiry of immunity can be recorded, and copies cannot be made).

In addition, the information notice declares that all other obligations of data controllers set forth by the GDPR must be met by employers when processing employee immunity data.

In conclusion, presentation of the immunity certificate and data processing activities related thereto do not seem to raise any privacy issues if service providers and employers stay within the boundaries set out by law. No significant changes may be expected in relation to this when the Digital Green Passport is introduced by the EU this June.

Nevertheless, as the NAIH also points out in its information notice, the Hungarian legislature still needs to create unambiguous legal provisions regarding the possibility of checking immunity for other types of working hierarchical relationships. ■

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GREECE: PERSONAL DATA PROTECTION IN GREECE

By Marios Bahas, Managing Partner, and Vassilis Keramaris, Senior Associate, Bahas, Gramatidis & Partners



This article sets out the legislative and regulatory framework governing the protection of personal data in Greece.

GDPR

The main legislation regarding the protection of personal data in Greece is the General Data Protection Regulation (Regulation (EU)2016/679), in force from May 25, 2018. According to article 288 of the Treaty on the Functioning of the European Union (TFEU), the GDPR is directly applicable to all Member States, which are required to take necessary steps to adapt their national legislation to it.

General Principles: Data must be processed by the data controller in compliance with seven general principles: lawfulness, fairness, and transparency; purpose limitation; data minimization; accuracy; storage limitation; integrity and confidentiality (security); and accountability.

Lawful Basis for Processing and Security of Processing: Data controllers can only process personal data in the following six circumstances: (1) if the data subject gives his or her explicit consent; (2) to meet contractual obligations entered into by the data subject; (3) to meet a legal obligation under EU or national legislation; (4) to protect the data subject's or of another natural person's vital interests; (5) where processing is necessary for the performance of a task carried out in the public interest under EU or national legislation; or (6) for the purposes of legitimate interests pursued by the data controller.

Rights of the Data Subject: All data subjects have the following rights relating to the processing of their personal data: the Right to Information (data subjects have the right to know how their personal data is being used); the Right of Access (data subjects have the right to request access to the personal data that is being processed); the Right to Rectification (data subjects have the right to request the rectification of incorrect or incomplete data); the Right to Erasure (also known as the "Right to be Forgotten," meaning that data subjects have the right to request the deletion or removal of their personal data permanently); the Right to Restriction of Processing (data subjects have the right to block or suppress the processing of their personal data); the Right to Data Portability (data subjects have the right to move, copy, or transfer their personal data from one data controller to another, in a structured, commonly used and machine-readable

format); the Right to Object to Processing (data subjects have the right to object (in certain circumstances) to the processing of their personal data); the Right to Avoid Automated Decision-Making (data subjects have the right to demand human intervention, rather than having important decisions made solely by algorithm).



The Greek Legal Framework

The key Greek laws regarding personal data protection are: L. 4624/2019 (Government Gazette A137) which lays out the measures for the implementation of the GDPR and incorporates Directive (EU) 2016/680 (which regulates the processing of personal data by competent authorities for the purposes of prevention, investigation, detection, or prosecution of criminal offenses or the execution of criminal penalties) into Greek law; L. 2472/1997, which provides for the protection of individuals with regard to the processing of personal data (L. 2472/1997 has been repealed, except for the provisions referred to expressly in Article 84 of Law 4624/2019); and L. 3471/2006, which incorporates Directive 2002/58/EC (the "E-Privacy Directive"), as amended by Directive 2009/136/EC, and which is complementary and specific to the institutional framework for the protection of personal data in the field of electronic communications.

Also, every regulatory act and direction issued by the Hellenic Data Protection Authority is applicable. The HDPA is a constitutionally-established independent public authority tasked with supervising the application of national laws and other regulations concerning the protection of individuals from improper processing of personal data.

Special laws with crucial provisions relating to the protection of personal data (mainly) include L. 3917/2011, concerning the retention of data produced or processed with regards to the disposal of electronic communications or public networks of communication services and the usage of surveillance systems with sound or image recording in public places; L. 4579/2018, concerning the obligations of airplane operators with regards to passenger files and data, which also transposed Directive (EU) 2016/680; and L. 3783/2009 concerning the identification of owners and users of mobile telephony equipment and services. ■

CZECH REPUBLIC: PRIVACY TRENDS IN THE CZECH REPUBLIC

By Robert Nespurek, Partner, and Richard Otevrel, Counsel, Havel & Partners



Privacy pros are now celebrating the three-year anniversary of the GDPR, even as we are living through the current pandemic. It is, in fact, almost impossible to talk about privacy trends without touching on the COVID-19 crisis.

Seemingly overnight, the world turned digital. What first appeared as novel technology used by geeks became the norm in 2020, bringing forth a plethora of issues for companies to tackle. Although those issues are not new, their volume and severity in the current circumstances are breathtaking. Let us look at some of the most important ones, eventually merging them into a single interconnected topic.

What does it mean to be online? The world as we knew it before the crisis relied heavily on personal contacts – customers could verify that a service provider was real and the provider communicated with known customers (presenting his/her ID, and a real face). Although many businesses used electronic communications to further customer relationships in the past, today many of them do not even see their customers in person at all. This creates extreme pressure on the trustworthiness of modern communication, identification, and authentication tools.

The use of digital IDs in the Czech Republic by citizens has been limited. What could be a game-changing experience is the introduction of the “BankID” – an initiative of Czech banks that provides identification and allows other governmental authorities or certification entities to authenticate and conclude agreements within the eIDAS regulatory framework. (We are glad to say that our law firm advised the banks on the implementation of the BankID system, as well as contributing to the drafting of legislation underpinning it). And who else is in a better position to guarantee the security of the whole process than banks, which are the traditional guardians of secrecy and discretion, with strong internal compliance mechanisms?

On the other hand, banks are just a part of the wider economy, and the use of digital tools has expanded across all sectors during the

pandemic. And here comes the twist – every technology has its weaknesses, and as Murphy’s law puts it, “Anything that can go wrong will go wrong.” Cybersecurity experts will add that it is not a question of “if,” things will go wrong, but “when.” Not one week passes without the world media reporting news about cyber-attacks, whether it’s hackers causing malfunctions in vital infrastructure systems or just ordinary businesses unable to operate for a few days. It’s like a continuous earthquake and rising flood moving around, never stopping. And statistics from the Czech Data Protection Office (DPA), which receives personal data breach notifications, show that this trend is not staying away from the Czech Republic. What is, however, more alarming (and possibly also promising), are the causes of these data breaches. Most of them happened because of human error, technical misconfigurations, and a failure to audit security measures regularly. In other words, those data breaches were probably not inevitable and could have been avoided if an internal level of compliance had been sufficiently maintained.

Another risk of going digital without properly assessing the legal constraints involves direct marketing, which can of course be a very effective method of reaching out to customers – almost the only one if you cannot meet people in brick-and-mortar shops. In 2020, in a groundbreaking case, the DPA imposed the previously inconceivable penalty of CZK 6 million on a company for sending unsolicited commercial communication. The DPA’s message was clear – disobeying the rules will not pay off, and penalties will be set to diminish any profits the sender may have obtained. And the takeaway for any business is that any department, whether responsible for marketing or customer care, must be aware of the risks that even well-intentioned actions can have.

This brings us back to the inter-connecting theme: a workable compliance system with regular audits, preventive checks, systematic training, and independent oversight. Only this will contribute to promoting the security and trust of the online world we have all suddenly learned to live in. Anything else is just sitting and waiting for the next disaster to strike. ■



SERBIA: THE FIRST TWO YEARS OF THE GDPR -ALIGNED DATA PROTECTION LAW'S APPLICATION

By Goran Radosevic, Partner, and Sanja Spasenovic, Special Advisor, Independent Attorneys at Law in Cooperation with Karanovic & Partners



The Serbian Data Protection Law that was adopted in November 2018 to align Serbia's data protection laws with the GDPR has now been in force for almost two years (its application commenced nine months after its date of adoption, in August 2019).

Although the past year and a half has been unusually challenging due to the COVID-19 pandemic, which has certainly affected the development and enforcement of, among other things, rights related to privacy and personal data protection, certain conclusions regarding the current state of affairs can be made.

First, a number of international companies that are not locally registered have appointed their local data protection representatives ("Local Representatives") for the territory of Serbia. This is based on the extraterritorial applicability of Serbia's Data Protection Law, which is substantially the same as the respective rule in the GDPR.

It is explicitly envisaged by the Data Protection Law that its extraterritorial effect exists towards foreign data controllers/processors when, subject to certain exceptions, their processing activities are related to: (1) offering goods or services to a data subject in the territory of Serbia, regardless of whether a payment from the data subject is required; or (2) monitoring that part of the data subject's behavior that takes place in Serbia. In both cases, foreign entities are obliged to appoint Local Representatives.

For now, based on the information published on the website of the Serbian data protection authority – the Commissioner for Information of Public Importance and Protection of Personal Data – the affected companies include Yahoo, Viber, Netflix, Spotify, Upwork Inc., Alibaba, and Booking, among others.

Penalties prescribed for non-compliance with the aforementioned obligation are primarily symbolic, amounting only to RSD 100,000 (approximately USD 1,040). The penal policy envisaged by the Data Protection Law, in general, is also very mild, with non-compliance

with statutory rules potentially leading to liability for misdemeanors and fines in the amount of up to RSD 2 million (approximately USD 20,600) for a legal entity and up to RSD 150,000 (approximately USD 1,550) for a legal entity's representative. Additionally, the Serbian Criminal Code prescribes criminal liability for data processing carried out in contravention to the Data Protection Law, but, in practice, this risk is generally of theoretical importance only.



In our opinion, this penal policy is, along with the still-generally-low level of enforcement, one of the main reasons why the level of compliance with the Data Protection Law in Serbia is still generally low. The fact that this law is primarily a copy of the GDPR, along with the possibility of extraterritorial applicability of the GDPR to local entities as well, has raised the level of the law's implementation compared to the previous data protection law (originating from 2008). However, this is still not enough, and further intensive development should definitely follow.

The Commissioner has a crucial role in the process of this further development – it should continue (or better yet intensify) its work on raising public awareness of personal data protection, monitoring the implementation of the law actively, insisting relentlessly on the enforcement of the statutory rules towards all entities/persons who act contrary to the law, and taking clear and firm positions when it comes to relevant data protection issues which may occur in practice.

It should also be emphasized (as the Commissioner does these days as well) that, regardless of the explicit statutory rule that all Serbian laws containing provisions related to personal data processing should become compliant with the Data Protection Law by the end of 2020, such compliance has not been achieved yet.

Overall compliance should be eagerly pursued in the near future, as only a fully compliant regulatory framework can lead to a fully compliant environment, in which privacy and data processing rights can be duly and effectively protected. ■

CROATIA: DATA BREACHES AND EMPLOYER RESPONSIBILITY

By Marija Zrno Prosic, Partner, and Lucija Vranesevic, Attorney at Law, CMS Zagreb



To comply with the General Data Protection Regulations (GDPR), companies must have technical and organizational measures in place to protect personal data. In light of the recent decision of the Croatian Personal Data Protection Agency (AZOP) against a leading local security company, one measure that requires closer scrutiny is the prevention of data breaches by

employees. What happens if, regardless of various security measures, a careless employee commits a data breach? Will the company be liable for a breach committed by its employee?

AZOP's Decision

AZOP found that the security company committed a breach of personal data even though the breach arose from the actions of one of its employees. The employee recorded video surveillance footage on his/her phone and shared it with a third party; the recording was ultimately made available on social media and in the media. A data subject was thereby exposed to insults and ridicule by the public, and the data controller using the security company's services reported the breach. The AZOP found that the security company as a data processor enabled the breach by not implementing adequate technical measures to safeguard personal data security, which would have eliminated or minimized the risk of such a breach.

Although it is yet to be seen whether the security company will successfully challenge AZOP's decision in court, there are a few takeaways from this case even at this stage. First, this decision is a good reminder to employers that they can be liable for their employees' data breaches. Similar conclusions have been reached in the past both by AZOP (e.g., case UP/I-041-02/18-01/36) and the administrative courts (e.g., case UsI 12/2019-9). This principle also accords with the general civil law rule on the vicarious liability of employers, which stipulates that the employer is liable for damage caused by an employee in the course of or in connection with employment. Second, the decision emphasizes that the employer bears responsibility if the breach occurred due to inadequate preventive measures. In other words, it is up to employers to ensure that work processes are designed to prevent the unauthorized processing of personal data. This principle seems especially relevant in the context of the modern workplace, including remote work, use of personal devices for business purposes, and so on.



What remains unknown is whether the employer would still have been liable for the data breach committed by the employee even if it had applied all the adequate processes and procedures. A literal interpretation of the rule on vicarious liability and the GDPR rules on controllers' and processors' obligations would suggest that the answer is no. However, this matter has not yet been expressly clarified by Croatian authorities (as it has in some other jurisdictions, such as the United Kingdom). Either way, it is in the employers' best interests to apply adequate measures to prevent breaches – both to deter employees from committing them and to demonstrate to the regulators that they “did their part.”

What Measures to Apply?

What is appropriate in one situation may not be in another. Businesses should thus assess whether certain measures are indeed appropriate and sufficient for their specific situations. Evaluation after implementation is important as well.

In the decision described above, AZOP found that the company did not implement appropriate technical measures either before or after the breach. Applying different technical measures is definitely important, but not sufficient to ensure employee compliance. In many cases, the breach is caused by an employee's careless behavior. Organizational measures aimed at building a culture of security awareness are very important in that regard and it is the employer's duty to ensure that employees understand their responsibilities concerning data privacy and that they abide by them.

To this end, it is likely that having internal guidance and policies in place would not, on its own, be sufficient. Companies will likely be in a better position, compliance-wise, if they can demonstrate that they actively make employees aware of data protection rules. A good practice is to set up internal employee training or other compliance programs for all employees dealing with personal data. Likewise, checking whether security measures are really being adhered to and investigating incidents should help companies reach and maintain a necessary level of protection. ■



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KOSOVO: DATA CONTROLLERS AND PROCESSORS NOT SEATED IN KOSOVO

By Kushtrim Palushi, Partner, and Festa Stavileci, Associate, RPHS Law



The right to privacy that is guaranteed by the Constitution of the Republic of Kosovo is embodied in the new Law on Protection of Personal Data, which was approved in January 2019 as an amendment and supplement to the old law, which had been in force since 2010.

With the introduction of the new LPPD, Kosovo has implemented an advanced and comprehensive regulatory and institutional framework for data protection, incorporating the main principles and provisions of the EU General Data Protection Regulation.

The Information and Privacy Agency in Kosovo is the main authority responsible for policymaking and regulating personal data protection in Kosovo. The AIP is an independent institution from the public administration, with a Commissioner elected by Kosovo's Assembly, and its mandate includes supervising the implementation of the LPPD, receiving individual complaints regarding suspected violations of personal data protection rights, and imposing fines for non-compliance with LPPD provisions.

As the pandemic has forced companies to conduct their operations online and provide their services remotely, data privacy requirements have taken on critical importance all over the world. This situation has prompted stakeholders to embed data protection features in each service and product. In Kosovo, one of the main controversies related to this issue is companies seated outside Kosovo using the data of the country's citizens.

The issue is, unsurprisingly, covered by Kosovar law. With a few exceptions, where the processing of data is ordered by data controllers seated outside of Kosovo, the controller or processor is required to designate a representative in Kosovo to carry out activities in cooperation with the AIP and relevant data subjects on all issues pertaining to the processing of personal data.

The provisions of the LPPD also apply to controllers or processors that are not established in Kosovo but make use of automatic tools

or other equipment to process data in Kosovo. In cases like these, the controllers or processors shall designate a representative in accordance with Article 26 of the LPPD, which is almost identical to Article 27 of the GDPR.

Article 26 of the LPPD provides that the representative shall be the contact point for the Information and Privacy Agency which acts as a data protection authority, and for data subjects, on all issues related to the processing of personal data. Controllers or processors shall inform the data subjects about the identity of that representative whenever they are required to notify data subjects about the processing of personal data. Controllers or processors employing more than 250 people, or their representatives, are required to retain records of all data processing activities, and, when requested, must submit them to the IPA for review of compliance with the LPPD.

Based on the LPPD, controllers or processors must also designate a data protection officer, who can be either an employee or service provider and who should be responsible for informing and advising the controller or processor of all obligations arising out of the LPPD concerning the processing of personal data. The data protection officer serves as a contact point with the IPA and may consult with the IPA on any matter.

Additionally, two by-laws concerning data security are expected to be voted on by the Kosovo Assembly during the ongoing legislative session. These laws will help ensure that personal data is protected to the highest standard.

In light of the current trends, the regulatory authorities in Kosovo are embracing an expanded notion of data privacy and data protection, including imposing increased obligations on data controllers and processors not seated in Kosovo. Therefore, companies that process personal data, especially those seated outside of Kosovo, are encouraged to strictly follow the guidelines imposed by the law, and make sure they designate a representative and appoint a data protection officer in Kosovo. ■



SLOVENIA: SLOVENIA WILL SOON NOT BE THE LAST EU MEMBER STATE WITHOUT A GDPR-IMPLEMENTING ACT

By Marko Ketler, Senior Partner, and Kevin Rihtar, Senior Associate, Ketler & Partners, Member of Karanovic



Following the record-long period, since May 25, 2018, during which Slovenia failed to adopt a relevant GDPR-implementing act, the Slovenian Government has sent a new draft of the Slovenian Data Protection Act for public discussion. If the parliamentary process runs uninterrupted, the adoption of the new Act can be expected by the fall of this year.

Adoption of the new Act definitely has important implications not only for the business community but for the public sector as well. Once it is adopted, the Information Commissioner will be authorized to impose fines in accordance with the GDPR (which is currently not possible, as there is no legal basis in national laws), since the administrative fines pursuant to the GDPR will have a national status of a misdemeanor and the Information Commissioner will be the competent body for conducting the misdemeanor procedure. There are several other aspects of the proposed Act that are very relevant as well.

Such new provisions will force both international companies present in Slovenia and local companies to revisit their initial regulatory reviews in relation to data protection in Slovenia, which were conducted in 2018. Even though there are no major deviations from the GDPR, the devil is in the details.

Approach to the New Data Protection Act

Slovenia has a long-standing tradition in data protection, as it is a constitutional category. The first Slovenian Data Protection Act was adopted back in 1990, even prior to Slovenian independence. The law was then revised several times, most importantly following Slovenia's accession to the EU. The idea of having a complete act, covering the field of data protection in one single piece of legislation, is deeply rooted in Slovenian legal culture, and the approach is believed to reaffirm legal certainty. Nevertheless, adoption of the GDPR required a revision of this strategy, and during the last three years several drafts, all with a different technical approach to implementing those GDPR provisions that needed it, were introduced. For the first time, the Slovenian Data Protection Act includes direct references to the GDPR, at least in relation to certain provisions.

The latest draft of the act follows the original from 1990, but it

introduces several new legislative drafting styles, similar to those used in Germany, Austria, and the Slovak Republic. The legislative aim was to follow the GDPR, but at the same time widen certain aspects, especially in relation to the applicable legal principles (legality, fairness, proportionality, *etc.*) and to define some aspects more precisely, as it was believed some areas are intentionally left more general in the GDPR, to allow member states to implement them in a way to foster national peculiarities. The Slovenian legislator thus relied heavily on the opening clauses.

It goes without saying that this approach, at least to a certain degree, reflects the pan-European approach provided in the GDPR. Each country's unique interpretation of the opening clauses affects whether it diminishes the pan-European approach or merely improves legal certainty. Slovenia's current draft walks a thin line in this respect.

What Will be Regulated by the New Data Protection Act

In addition to the Information Commissioner's ability to impose fines in accordance with the GDPR (which are of course much higher than currently applicable Slovenian fines), the draft act, *inter alia*, regulates the requirements for verifying the age of minors using information society services, conditions for processing personal data of deceased persons, conditions for processing genetic, biometric, and health-related data, the mandatory deletion of personal data after a certain amount of time, conditions for Data Protection Officers, and so on.

It is worth noting that the latest draft is an improvement over previous attempts. For example, it seems there will be no mandatory knowledge of the Slovenian language for Data Protection Officers – this will of course facilitate practices by international companies. On the other hand, there are some specifics that are challenging, such as prohibitions against the use of genetic or biometrical personal data for marketing or similar business purposes, even if the services are free of charge.

Considering the above, the draft still has a long road ahead, but at least it will be an interesting one. The act, once adopted, will definitely gain the attention of companies dealing with personal data. ■



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