CEE Legal Matters

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

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EDITORIAL: THE STORIES WE (AND NUMBERS) TELL

By Radu Cotarcea

The *CEE by the Numbers* special issues – like the one we just launched last week – have always been close to my heart. Between our former editor David and I, he was always the writer. Some people just have a way with words. Others – words no have. I always found soothing serenity in numbers instead. But, just like words, numbers can tell a lot of stories. And each time we suffer in front of massive Excel sheets at 2 a.m. putting together the *CEE by the Numbers* reports, I find myself comparing the stories we are told with those that the numbers tell us.

For example, in this very issue, lawyers in Turkiye talk about the increased competition they face in the country, in part driven by the increase in the number of spin-offs in the market. In contrast, the *2023 CEE by the Numbers* report highlighted there are 35 fewer ranked firms in the country today than in 2021. Sure, that is still an increase of 20 compared to 2019 but the trend in the last couple of years seems to be of a decreasing pool of competitors, not an increasing one. Of course, the pure numbers don't automatically invalidate the positions of our market commentators. Spin-offs might take a while to get ranked (sometimes years, as some might frustratingly know) but they do compete for work from the moment they open their doors – many times on price, which was the main pain point for the lawyers we spoke with.

But there are tensions between other stories – in the versions told by firms and the versions numbers tell of those firms – that are less easy to solve. There is a firm – we'll call it "Law Firm X" – that actually has a dedicated menu item on its main homepage menu showcasing its dedication to women in law. The menu item jumped at me since it was from a firm in a market that has traditionally had one of the worst records in terms of female participation in the legal services sector in CEE – and, surely enough, that proved to be the case this year as well. "I can't blame them for their entire market," I thought to myself. "Maybe they're a beacon of progressive efforts in their country to remedy the gap, so let's have a closer look."

Law Firm X's dedicated page states that "around 50% are female lawyers." In reality, it is 37%, down from 41% in 2019. While it admits the next step is to ensure an "increase [in] the proportion of female partners," it places an emphasis on "equal opportunities at all career levels." That is a story hardly backed up by numbers. To begin with, 9.08% of partners being women hardly illustrates equal opportunities. But, even if we are to be generous and say that number is almost double compared to 2019 when it was 4.76%, that only represents one additional female partner – bringing it to a grand total of two. The worst part, contrasting their story to that of their numbers, is that on the same page they also showcase a 2023 women-in-law-focused award. I have a sense their story won in the jurors' eyes.

But because I am more a person of numbers than of words, here are a few numbers I find hope in. Doing a cursory search on our platform, in 2021, "greenwashing" risks were highlighted three times by lawyers in CEE. In 2022, that number jumped to 15. In 2023, we're at 15 at the beginning of October already. I can only hope this increase in awareness will lead to the stories we all tell being better aligned with those told by pure numbers. ■

Impressum:

■ CEE Legal Matters Kft.
■ Szechenyi utca 10, 1054 Budapest, Hungary
■ +36 1 796 5194

The Editors:

■ Radu Cotarcea
radu.cotarcea@ceelm.com
■ Radu Neag
radu.neag@ceelm.com
■ Teona Gelashvili
teona.gelashvili@ceelm.com

Letters to the Editors:

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

GUEST EDITORIAL: ADVANTAGES OF A REGIONAL EXPERIENCE

By Perparim Kalo, Founding Partner, Kalo & Associates

For the followers of the *CEE Legal Matters*, the question of cooperation among local firms in deals that often have a regional nature is central. Such cooperation involves, first and foremost, the acquaintance between the law firms involved in the deal and their members.

As a witness to the birth and growth of *CEE Legal Matters* in the last 10 years, I can appreciate such a platform that keeps the legal profession updated with developments in the legal industry within CEE. I am also equipped with the experience that South-East Europe Legal Group (SEE Legal) has demonstrated in the last 20 years by bringing together 12 of the most prominent firms and lawyers practicing from each jurisdiction within South-East Europe.

Nowadays, EU institutions are talking frequently about the Berlin Process as a platform that aims at the approximation and integration of six countries of the Western Balkans into the EU, but SEE and CEE have not lost their importance, given the geography and history. They are regions where Western Balkan firms have been working and are working in cooperation with other firms following the clients' interests, often knowing no borders. Naturally, CEE offers more opportunities than SEE, as it consists of a large space and of developed economies, thus attracting the interests of big players in various industries. This is associated with a larger presence of international firms, and a strengthening of local firms as the only way to remain competitive. Our relations with international law firms and other firms from across CEE have proven to be beneficial for both sides and, certainly, for our clients. The participation of Kalo & Associates in several CEELM events where we also got trophies for being engaged in major transactions and deals speaks to the paramount importance of communication beyond individual borders.

The experience within SEE Legal is a good asset we can use in any other regional professional structures, as through communication and exchange of views among an army of hundreds of lawyers, whether partners or associates, clients find solutions and more importantly, create a good feeling and confidence that their cases are being handled with similar standards, irrespective of locations. For those who do not know about it, SEE Legal was incepted in 2003, as an agreement of leading law firms practicing in 12 jurisdictions in Southeast Europe and, thanks to the commitment of the Managing Partners of each individual firm and the coordinator and by-rotation-elected Chairpersons, it earned a considerable reputation as an organization, from both institutional and viewpoints, acting as "one region, one firm." As a matter of fact, SEE Legal, through its members, has acted successfully on many business cases in a wider context and jurisdiction – that of CEE.

This was simply possible as each member firm has been able to forge and maintain business relationships with Magic Circle firms and other international firms having a presence in CEE, or even operating from other locations for clients that might have a deal within CEE. I have also increasingly noticed strong domestic or regional firms within CEE contacting our firms on behalf of their clients, which I believe contributes to the continuous development and improvement of the legal market in the CEE region.

One may ask: How can you keep such a long-lasting relationship with large firms? The answer is simple – by showing them you progress as they do (of course taking into consideration differences in market circumstances and factors) and that you keep the same rhythm and spirit, when handling the clients' matters they refer, as if they were originated by yourself. Meeting them in their offices, meeting them at the IBA and other important legal conferences and forums has also proven beneficial. Certainly, such progress is going hand in hand with new developments in the legal industry, such as working remotely, improving the efficiency of people and systems within the firm, dealing with AI and necessary measures to mitigate the risk of being invaded by technology, as well as regulatory landscape developments such as heightening standards in the fight against corruption, money laundering, and bribery, etc.

The challenge ahead of the firms in SEE (as well as in the wider CEE) is to create the conditions to prepare the future generation of partners so that they continue what the founders did during the last three decades (if not more). And, indeed, we are happy to see that most of our lawyers know now many peers in CEE and are in contact for both business-focused and social events.

Other challenges are introducing clear policies on inclusiveness, increasing corporate social responsibility, engaging in initiatives related to environmental protection, and taking necessary actions toward compliance regarding *Sustainable Development Goals*. ■

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ACROSS THE WIRE: DEALS AND CASES

Date Covered	Firms Involved	Deal/Litigation	Value	Country
17-Jul	DLA Piper; Wolf Theiss	Wolf Theiss advised joint lead managers and bookrunners Raiffeisen Bank International and MM Warburg on the subscription and placement of UBM Development's EUR 50 million issuance of 7% green bonds. DLA Piper advised the issuer.	EUR 50 million	Austria
17-Jul	DSC Doralt Seist Csoklich; Schoenherr	Schoenherr advised Tello Holding on the acquisition of a majority stake in VA Intertrading Aktiengesellschaft by taking over Kairos Industrie Holding from Hanno Baestlein. DSC Doralt Seist Csoklich reportedly advised the seller.	N/A	Austria
20-Jul	Cerha Hempel; DLA Piper	DLA Piper advised Erste Group Bank on S Immo's EUR 75 million green bond issuance under its EUR 300 million issuance program. Cerha Hempel advised S Immo.	EUR 75 million	Austria
25-Jul	Wolf Theiss	Wolf Theiss advised Convera on the acquisition of parts of the Austrian business of Western Union.	N/A	Austria
28-Jul	Schima Mayer Starlinger	Schima Mayer Starlinger is advising Wien Energie on its joint project with Rhein Energie, Siemens Energy, and Verbund to mix hydrogen into the natural gas powering the steam turbine system of Vienna's Donaustadt power plant.	N/A	Austria
31-Jul	Cerha Hempel	Cerha Hempel advised SES on obtaining regulatory clearance for expanding the Europark shopping center in Salzburg.	N/A	Austria
3-Aug	Hule Bachmayr-Heyda Nordberg	Hule Bachmayr-Heyda Nordberg advised the Wintersteiger Group on its restructuring where the company's sports, woodtech, seedmech, and operations divisions were spun off into four subsidiaries, with the parent company being renamed as Wintersteiger Holding AG.	N/A	Austria
4-Aug	Hule Bachmayr-Heyda Nordberg	Hule Bachmayr-Heyda Nordberg advised the shareholders of IBB Adaptive Solutions and Adaptive Gmbh on the sale of their shares to ProLogistik.	N/A	Austria
7-Aug	Cerha Hempel; Schramm Oehler	Cerha Hempel advised Stadler Bussnang on OBB's tender procedure for up to 120 Cityjet battery-powered trains. Schramm Oehler reportedly advised OBB.	N/A	Austria
18-Aug	Brandl Talos; Fladgate	Brandl Talos, working with Fladgate, advised Ring International Holding on TDR Capital's investment in Popeyes UK.	EUR 58 million	Austria
18-Aug	Arendt & Medernach; Eisenberger & Herzog; Freshfields; Gleiss Lutz; Linklaters; Loyens & Loeff; Simpson Thacher & Bartlett	E+H, working with Simpson Thacher & Bartlett, Gleiss Lutz, Loyens Loeff, and Linklaters, advised the Takko Fashion group on its financial restructuring and refinancing transactions that saw its bondholders acquiring a majority stake in the group. Freshfields Bruckhaus Deringer, working with Arendt & Medernach, advised the ad hoc group of noteholders.	EUR 830 million	Austria
18-Aug	Suppan Spiegl Zeller; Wolf Theiss	Wolf Theiss advised the JP Hospitality Investors Club on a hotel lease agreement with Treasurests Hospitality. Suppan Spiegl Zeller reportedly advised Treasurests Hospitality.	N/A	Austria
30-Aug	Cerha Hempel	Cerha Hempel advised Austria's Strabag on the acquisition of the Sitec Verkehrstechnik and Wieser Verkehrssicherheit road safety companies. The Thaler family were advised by solo practitioner Klaus Plaetzer on the sale.	N/A	Austria
31-Aug	Cerha Hempel; DSC Doralt Seist Csoklich	DSC Doralt Seist Csoklich advised Geno EuropaFonds on its sale of the Saturn Tower office building in Vienna to the Wlaschek Foundation's Amisola Immobilien AG. Cerha Hempel advised Amisola.	N/A	Austria
01-Sep	PHH Rechtsanwalte; Wolf Theiss	Wolf Theiss advised UniCredit Bank Austria, CaixaBank, La Banque Postale, and Bondholders SL on a EUR 113 million syndicated financing for RML Infrastruktur for the roll-out, operation, and maintenance of an open-access fiber-to-the-home network in Austria's Liezen district. PHH reportedly advised Meridiam.	EUR 113 million	Austria
01-Sep	Herbst Kinsky	Herbst Kinsky advised Statkraft Ventures and Junction Growth Investors on their investment in EET-Efficient Energy Technology during its EUR 6.5 million series A financing round.	EUR 6.5 million	Austria

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08-Sep	Herbst Kinsky	Herbst Kinsky advised the Montreal-based Valsoft Corporation on its acquisition of the assets of Vienna-based Seekda.	N/A	Austria
12-Sep	Baker Mckenzie; Schoenherr	Schoenherr advised Aldiana Management on its purchase of the Aldiana Club Ampflwang resort in Upper Austria. Baker McKenzie reportedly advised the sellers.	N/A	Austria
14-Sep	BPV Huegel; Schoenherr	Schoenherr advised Process Sensing Technologies on its acquisition of Austria's Sensore Electronic. BPV Huegel advised the founders of Sensore Electronic on the sale.	N/A	Austria
19-Jul	DLA Piper; Jones Day; Kinstellar; Schoenherr	Schoenherr, working alongside Jones Day, advised GfK SE on the EUR 315 million sale of its European Consumer Panel business to YouGov. DLA Piper and Kinstellar advised YouGov.	EUR 315 million	Austria; Bulgaria; Croatia; Czech Republic; Hungary; Poland; Romania; Serbia; Slovakia; Ukraine
9-Aug	Karanovic & Partners; Schoenherr; Sullivan & Cromwell; White & Case	Schoenherr, working with Sullivan & Cromwell, advised the Emirates Telecommunications Group Company – operating as E& – on its acquisition of a 50%-plus-one-share stake in PPF Telecom Group's assets in Bulgaria, Hungary, Serbia, and Slovakia. White & Case and Karanovic & Partners advised the PPF Group on the up to EUR 2.5 billion sale and the setup of a joint venture with E&.	EUR 2.15 billion	Austria; Bulgaria; Czech Republic; Hungary; Serbia; Slovakia
15-Aug	Schoenherr; Wolf Theiss	Schoenherr advised Greiner Group member Neveon Holding on the sale of its automotive division consisting of Greiner Perfoam and its subsidiaries to Treves. Wolf Theiss advised Treves.	N/A	Austria; Czech Republic
7-Aug	CMS; Dentons; PHH Rechtsanwalte	PHH and Dentons advised Kommunalkredit on a EUR 37.5 million financing for the 63-megawatt Senyo photovoltaic plant in Hungary. CMS advised the project's commissioners, Green Source and Core Value Capital.	EUR 37.5 million	Austria; Hungary
8-Aug	Binder Groesswang; Klawitter Neben Plath Zintler; Latham & Watkins; Willkie Farr & Gallagher; Wolf Theiss	Binder Groesswang, working with Willkie Farr & Gallagher, advised French investment company Wendel and other shareholders on their sale of Constantia Flexibles to One Rock Capital Partners. Wolf Theiss, working with Latham & Watkins, advised One Rock. Hamburg's Klawitter Neben Plath Zintler reportedly advised Wendel as well.	N/A	Austria; Poland
17-Jul	Tsvetkova Bebov & Partners	Tsvetkova Bebov & Partners (member of Eversheds Sutherland) advised on Allianz Bank Bulgaria's issue of senior preferred MREL bonds.	EUR 39.5 million	Bulgaria
17-Jul	Schoenherr; Stanev & Partners	Schoenherr advised Bulstrad Life Vienna Insurance Group Bulgaria on the acquisition of AmeriMed medical center. Reportedly, Stanev & Partners advised the sellers.	N/A	Bulgaria
26-Jul	Eversheds Sutherland; Tsvetkova Bebov & Partners	Eversheds Sutherland Bulgarian member firm Tsvetkova Bebov & Partners advised the TBI Bank on the public placement of its EUR 10 million first tranche of senior non-preferred MREL bonds due 2026.	EUR 10 million	Bulgaria
27-Jul	Djingov, Gouginski, Kyutchukov & Velichkov	Djingov, Gouginski, Kyutchukov & Velichkov advised ALC Clover Ireland Limited on the lease of a new aircraft to Fly Lease and its subsequent sublease to Bulgaria Air.	N/A	Bulgaria
28-Jul	Boyanov&Co; Clifford Chance; CMS	CMS advised YGY Industries on the sale of the 229-megawatt St. George greenfield solar plant in Bulgaria's Silistra municipality to Rezolv Energy. Boyanov & Co and Clifford Chance advised Rezolv Energy.	N/A	Bulgaria
1-Aug	CMS; Spasov & Bratanov; Varadinov & Co	CMS advised Global Financial Consulting on the sale of the 25-megawatt greenfield Chernogor photovoltaic project to US investor Bulgaria Solar. Spasov & Bratanov advised Bulgaria Solar. Varadinov & Co reportedly advised the other sellers, Totally Green and Ki Energy.	N/A	Bulgaria
3-Aug	Baker Mckenzie; Ballard Spahr; Boyanov&Co	Boyanov & Co, working with the Stockholm and Washington offices of Baker McKenzie, advised Finland's Tietoevry on the acquisition of US-based digital engineering company MentorMate. Ballard Spahr advised the Taylor Corporation on the sale.	N/A	Bulgaria

Date Covered	Firms Involved	Deal/Litigation	Value	Country
16-Aug	Djingov, Gouginski, Kyutchukov & Velichkov	Djingov Gouginski Kyutchukov & Velichkov advised BGC on the structuring – including private equity financing and a project finance facility – to support the expansion of a green-field convenience store chain in Bulgaria.	N/A	Bulgaria
16-Aug	Djingov, Gouginski, Kyutchukov & Velichkov; KPMG Legal	Djingov Gouginski Kyutchukov & Velichkov advised Come Forth Capital on the sale of Synergyc to Italy's Kirey. KPMG advised Kirey.	N/A	Bulgaria
18-Aug	Djingov, Gouginski, Kyutchukov & Velichkov; Stephenson Harwood	Djingov Gouginski Kyutchukov & Velichkov advised ICBC International Finance Limited on a USD 66.22 million ship financing extended to the Navibulgar group. Stephenson Harwood reportedly advised Navibulgar.	USD 66.22 million	Bulgaria
18-Aug	CMS	CMS advised the Czech consortium of Skoda Transportation and Skoda Vagonka on their successful participation in Metropoliten Sofia's BGN 134 million public procurement procedure for eight metro trains.	BGN 134 million	Bulgaria
01-Sep	Arsov Natchev Ganeva	Arsov Natchev Ganeva successfully represented Sofia water and wastewater system operator Sofiyska Voda before Bulgaria's Supreme Administrative Court in a dispute with the Commission for Energy and Water Regulation on determining the rate of return for Sofiyska Voda in the 2022-2026 regulatory period.	N/A	Bulgaria
08-Sep	Djingov, Gouginski, Kyutchukov & Velichkov	Djingov Gouginski Kyutchukov & Velichkov successfully represented the Bulgarian Employers Association for Innovative Technologies before the country's Supreme Administrative Court in a dispute for its recognition as a nationally representative employers' organization against the Bulgarian government.	N/A	Bulgaria
14-Sep	CMS	CMS advised Hellenic Petroleum Group subsidiary EKO Bulgaria in the EUR 51 million public procurement process organized by the Bulgarian Ministry of Finance for the delivery of fuel needed by the administration entities under its executive purview.	EUR 51 million	Bulgaria
28-Jul	Kinstellar; Watson Farley & Williams	Kinstellar, working with Watson Farley & Williams, advised South Korea's Yanolja Cloud on its acquisition of Go Global Travel from the AMI Opportunities Fund.	N/A	Bulgaria; Croatia; Czech Republic; Hungary; Romania; Slovakia; Turkiye
2-Aug	Allen Overy Shearman Sterling; Alston & Bird; BLC Law Office; Business Legal Bureau; Clifford Chance; Clifford Chance (Ciftci Attorney Partnership); Spasov & Bratanov; Tsvetkova Bebov & Partners; White & Case; White & Case (GKC Partners)	White & Case and Eversheds Sutherland member Tsvetkova Bebov and Partners advised Energo-Pro on its EUR 300 million issuance of senior unsecured notes due 2035. Spasov & Bratanov and Clifford Chance and its Turkish affiliate Ciftci Attorney Partnership advised initial purchaser Goldman Sachs & Co and guarantor DFC. White & Case Turkish affiliate GKC Partners and Georgia's BLC Law Office reportedly also advised the issuer. Georgia's Business Legal Bureau reportedly advised the initial purchaser as well. Alston & Bird reportedly advised the trustee.	EUR 300 million	Bulgaria; Czech Republic; Turkiye
17-Jul	BDV Legal; Karanovic & Partners (Ilej & Partners)	Ilej & Partners in cooperation with Karanovic & Partners advised the Media Development Investment Fund and Pluralis on their acquisition of a minority stake in Croatia's Telegram Media Grupa. Batarelo Dvojkovic Vuchetich advised Telegram Media Grupa.	N/A	Croatia
18-Jul	Lovric Novokmet & Partners; Mamic Peric Reberski Rimac; Miskovic & Miskovic	Miskovic & Miskovic advised joint agents Erste & Steiermaerkische Bank, Privredna Banka Zagreb, and Zagrebacka Banka on the Zagrebacki Holding's EUR 305 million sustainability-linked bond issuance. Mamic, Peric, Reberski, Rimac advised Zagrebacki Holding.	EUR 305 million	Croatia
16-Aug	BDV Legal	BDV advised private equity fund Provectus Capital Partners – the majority stakeholder of the Adria Dental Group – on the acquisition of Dragas Dental Design. Sole practitioner Tomislav Svetina advised Zoran Dragas and Matea Penavic Dragas on the sale.	N/A	Croatia
05-Sep	Ostermann & Partners	Ostermann & Partners advised Croatia's Osijek-Koteks on the acquisition of river and sand mining company Romic-Promet.	N/A	Croatia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
15-Sep	Mamic Peric Reberski Rimac; Miskovic & Miskovic	Miskovic & Miskovic advised Infinum on a EUR 10.8 million loan from the EBRD. Mamic, Peric, Reberski, Rimac reportedly advised the EBRD.	EUR 10.8 million	Croatia
18-Jul	DRV Legal; JSK	DRV Legal advised Jet Investment on its sale of Benvig Heat Transfer to the shareholders of Montaze Prerov and other investors. JSK advised the buyers on the deal.	N/A	Czech Republic
20-Jul	PRK Partners	PRK Partners advised lead co-managers Ceska Sporitelna, Komercni Banka, J&T Banka, and UniCredit Bank Czech Republic and Slovakia on Czechoslovak Group's CZK 4.5 billion bond issuance, which contains an option of an increase up to CZK 5 billion.	CZK 4.5 billion	Czech Republic
24-Jul	Clifford Chance	Clifford Chance advised Ceskoslovenska Obchodni Banka on the partial refinancing of the purchase price for Emma Alpha Holding's acquisition of a controlling ownership interest in FAVI Online.	N/A	Czech Republic
26-Jul	Allen Overy Shearman Sterling	Allen & Overy advised manager Wood & Company Financial Services on the establishment of a ten-year secured bond program for City Home Finance III with a value of up to CZK 1 billion and on the first bond issuance with a total expected nominal value of up to CZK 400 million.	CZK 400 million	Czech Republic
27-Jul	Kocian Solc Balastik	Kocian Solc Balastik advised the Prazska Plynarenska group on its intra-group restructuring and the creation of a new holding structure.	N/A	Czech Republic
3-Aug	Kocian Solc Balastik	Kocian Solc Balastik advised REMA System in obtaining an authorization from the Ministry of the Environment to operate a collection system for all groups of electrical equipment, including solar panels.	N/A	Czech Republic
11-Aug	Weinhold Legal	Weinhold Legal advised Eureking on the acquisition of SCT Cell Manufacturing from PPF Biotech.	N/A	Czech Republic
14-Aug	Havel & Partners	Havel & Partners successfully represented Ceska Sporitelna in a dispute with the Financial Administration of the Czech Republic regarding the tax deductibility of a donation to an education foundation.	N/A	Czech Republic
16-Aug	Havel & Partners	Havel & Partners successfully represented GoDaddy in a case that saw the company sued by a businessman with connections to Russia who sought the removal of investigative internet articles as well as financial compensation.	N/A	Czech Republic
16-Aug	Havel & Partners	Havel & Partners successfully defended the Czech Republic-based OSA music professionals' association against abuse of dominance claims and a CZK 10.7 million fine imposed by the Czech Office for Competition Protection.	CZK 10.7 million	Czech Republic
30-Aug	PRK Partners	PRK Partners advised the shareholders of Czech ticketing portal GoOut on its sale to the Piletilevi Group.	N/A	Czech Republic
01-Sep	Andric Law Office; Boyanov&Co; Clifford Chance; Dentons; Polenak Law Firm	Clifford Chance advised KKCG Group's Technology pillar on the complete refinancing of its existing bank indebtedness and the further recapitalization of its members, including those in Bulgaria, North Macedonia, Poland, and Serbia. Dentons advised the lenders in the Czech Republic, Poland, and Slovakia, including CSOB and Ceska Sporitelna. Boyanov & Co., the Andric Law Office, and the Polenak Law Firm reportedly advised the lenders as well.	N/A	Czech Republic
01-Sep	Kocian Solc Balastik	Kocian Solc Balastik advised founders Ivana Stefkova, Barbora Dvorakova, and Marketa Trubacova on the establishment and incorporation of the Tisina Endowment Fund.	N/A	Czech Republic
07-Sep	BBH	BBH advised the Kaprain Group on its acquisition of Mafra Publishing and Synthesia from Agrofert Holding in a package deal.	N/A	Czech Republic
13-Sep	Clifford Chance; Havel & Partners	Clifford Chance advised Ceska Sporitelna and UniCredit Bank Czech Republic and Slovakia on their financing for the Oriens holding's Moravia Containers in relation to the acquisition of Steelmart. Havel & Partners advised the borrower.	N/A	Czech Republic
18-Aug	Deloitte Legal	Deloitte Legal advised Italian logistics company Savino Del Bene on its acquisition of stakes in two Czech and one Slovak logistics companies operating under the Advanced brand, and its entry into the Czech market.	N/A	Czech Republic; Slovakia
18-Aug	Clifford Chance; White & Case	Clifford Chance advised CTP on the financing for its industrial parks in Slovakia from a banking club including Erste Group Bank and Slovenska Sporitelna. White & Case reportedly advised the lenders.	N/A	Czech Republic; Slovakia
05-Sep	Kocian Solc Balastik	Kocian Solc Balastik advised web hosting company Webglobe on the acquisition of its eBola Czech competitor operating under the eBola.cz brand name.	N/A	Czech Republic; Slovakia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
14-Sep	Allen & Overy; Clifford Chance	Clifford Chance advised Vseobecna Uverova Banka on its EUR 500 million issuance of covered bonds that were subsequently listed on the Luxembourg Stock Exchange. Allen & Overy reportedly advised the managers handling the issuance.	EUR 500 million	Czech Republic; Slovakia
19-Jul	Cobalt	Cobalt advised the European Bank for Reconstruction and Development on an equity investment in Sunly.	EUR 30 million	Estonia
21-Jul	Cobalt	Cobalt successfully represented TREV-2 Group in a lawsuit involving a former employee sending several sensitive employer materials to their personal e-mail address shortly before the termination of his employment.	N/A	Estonia
21-Jul	Cobalt	Cobalt advised Change Ventures on leading a EUR 2 million investment round in Formaloo. Other investors included Hyde Park Venture Partners, Mana Ventures, and Startup Wise Guys.	EUR 2 million	Estonia
14-Aug	Cobalt	Cobalt advised the shareholder of the Adfactory Group on selling part of their shares in the company to German signage and advertising technology specialist Marahrens, with the two companies entering a strategic partnership.	N/A	Estonia
30-Aug	Nove	Nove advised Estonian renewable energy company Sunly on the construction agreements for a 45-megawatt solar park in Estonia with contractors Smartecon and Connecto.	N/A	Estonia
15-Sep	Cobalt	Cobalt advised Karma Ventures on its additional investment in its portfolio company and traffic ecosystem solution provider Commsignia, part of the company's USD 15 million Series B round led by PortfoLion Capital Partners, Inventure, Day One Capital, and Inference Partners, together with Partech, and Credo Ventures.	USD 15 million	Estonia
17-Jul	Bernitsas	Bernitsas Law advised Piraeus Bank on its EUR 500 million issuance of senior preferred 2028 bonds and their listing on the Euro MTF market of the Luxembourg Stock Exchange.	EUR 500 million	Greece
17-Jul	Bernitsas	Bernitsas Law advised the majority shareholders of Ydrogios Insurance on the sale of 80% of their share capital to Reale Group.	N/A	Greece
17-Jul	Kyriakides Georgopoulos	Kyriakides Georgopoulos advised the shareholders of Coropoulis Packaging on its sale to Berlin Packaging.	N/A	Greece
26-Jul	CMS; Koutalidis	Koutalidis, working with CMS, advised the Olympia Group on the acquisition of the remaining stake in Triathlon Holding, via its subsidiary Sunlight Group.	N/A	Greece
28-Jul	Tassos Papadopoulos and Associates; Zepos & Yannopoulos	Zepos & Yannopoulos, working with Cyprus' Tassos Papadopoulos and Associates, advised the Nabtesco Corporation on its acquisition of maritime technology start-up DeepSea Technologies.	N/A	Greece
1-Aug	KLC	The KLC law firm advised the Hellenic Republic Asset Development Fund on the Court of Auditors' pre-contractual review of the tender and contract for the sub-concession of a multi-purpose terminal within the Philippos II port.	N/A	Greece
2-Aug	Koutalidis	Koutalidis advised Everty on its acquisition of two logistics centers with a total gross leasable area of approximately 33,000 square meters located in the Aspropyrgos area.	N/A	Greece
4-Aug	Koutalidis	The Koutalidis law firm advised sponsors Aktor Concessions and Intrakat on the PPP project financing for the construction, operation, and maintenance of the West Peloponnese Kalamata-Rizomylos-Pylos-Methoni road.	N/A	Greece
9-Aug	Papapolitis & Papapolitis	Papapolitis & Papapolitis advised Intracom Holdings and Intracom Technologies on their sale of a 90.91% stake in Intracom Defense to Israel Aerospace Industries.	N/A	Greece
18-Aug	BaGramatidis & Partners; Gianni & Origoni; Jones Day; Koutalidis	BaGramatidis & Partners, working with Gianni & Origoni, advised Enel SpA on the sale of a 50% stake in its wholly-owned subsidiary Enel Green Power Hellas to Macquarie Asset Management for approximately EUR 345 million. The Koutalidis law firm, working with Jones Day, advised MAM's Green Investment Group on the acquisition.	EUR 345 million	Greece
01-Sep	Papapolitis & Papapolitis	Papapolitis & Papapolitis advised Taconic Capital Advisors and Cedar Capital Partners on their joint venture with CBE Capital and Golden Land Goutos for the development of a Six Senses Resort in the area of Porto Heli, Greece.	N/A	Greece
08-Sep	Kyriakides Georgopoulos; Zepos & Yannopoulos	Kyriakides Georgopoulos advised Lightsource BP on its agreement with Helleniq Renewables for the sale of a 180-megawatt PV portfolio in the region of Kozani. Zepos & Yannopoulos advised Helleniq Renewables.	N/A	Greece

Date Covered	Firms Involved	Deal/Litigation	Value	Country
9-Aug	CMS; EY Law; Reed Smith; Volciuc Ionescu	Reed Smith and CMS advised Helleniq Renewables on its acquisition of a 211-megawatt solar portfolio in Romania from Mytilineos Group's Metka EGN. Volciuc-Ionescu, working with the UK offices of EY Law, advised Metka EGN.	N/A	Greece; Romania
24-Jul	Baker Mckenzie; Hengeler Mueller; Lakatos, Koves & Partners; Novalex; Pestalozzi Attorneys at Law	Hengeler Mueller and Lakatos, Koves & Partners advised Muhr und Bender on the acquisition of RUAG International Holding's aerostructures activities in Oberpfaffenhofen and Eger. Baker McKenzie and, reportedly, Pestalozzi advised RUAG International Holding. Novalex reportedly advised Muhr und Bender as well.	N/A	Hungary
28-Jul	Pontes	Pontes Budapest advised BayWa AG on the sale of its Aufwind Schmack Elso Biogaz Szolgaltato subsidiary operating the Szarvas biogas power plant to Hungary's MOL Group.	N/A	Hungary
31-Jul	Cytowski & Partners; Diamond Law	Cytowski and Partners advised Axoflow on its USD 2.5 million seed round co-led by Credo Ventures, 500 Emerging Europe, and Notion Capital, including several CEE angel investors. Diamond Law reportedly advised 500 Emerging Europe.	USD 2.5 million	Hungary
4-Aug	Deloitte Legal; Noerr	Noerr advised the Rubix Group on its acquisition of Hungarian tool, machine, and general maintenance product distributor Tar Csavar-Csapagy. Deloitte Legal reportedly advised the sellers.	N/A	Hungary
16-Aug	Kapolyi; Lendvai and Partners; Moore Legal	Kapolyi and Lendvai and Partners advised AutoWallis on the acquisition of ShareNow Hungary. Kapolyi also advised the buyer's major shareholder, Wallis Asset Management. Moore Legal advised Wallis Automegoszto's shareholder Szechenyi Tokealap-Kezelo.	N/A	Hungary
08-Sep	Oppenheim	Oppenheim advised Colliers on the lease agreement for its new Budapest headquarters in the Bem Center building located in the city's first district.	N/A	Hungary
15-Sep	Lakatos, Koves & Partners	Lakatos Koves and Partners advised ConvergenCE on the lease agreement with its new tenant, the Arago Group, which will be moving into the Academia office building in Budapest.	N/A	Hungary
3-Aug	Lakatos, Koves & Partners; Peremiczki and Turi	Lakatos Koves & Partners advised Polish listed company Selena Group on a strategic collaboration with Hungary's Masterplast to establish a glass wool factory in Szerencs. Peremiczki & Turi reportedly advised Masterplast.	N/A	Hungary; Poland
18-Aug	Act Legal; Act Legal (Ban & Karika); Act Legal (BSWW); Cornet Vincent; Maynard Nexsen	Act Legal advised Nimbus on the sale of the RAMPF Group to an undisclosed German investment company. Maynard Nexsen and Cornet Vincent Segurel reportedly advised Nimbus as well.	N/A	Hungary; Poland
21-Jul	RPHS Law	RPHS Law advised Puratos NV on its partnership with Korabi Corporation.	N/A	Kosovo
28-Jul	Pallaska & Associates; RPHS Law	RPHS Law advised Shkolla Finlandeze on the full sale of Kosovo-based plagiarism and AI content detection company Crossplag to Norway's Inspera. Pallaska & Associates advised Inspera.	N/A	Kosovo
17-Jul	ODI Law; Zeqiri	ODI Law advised the owner of Macedonian supermarket chain Kit-Go on its sale to Kosovo-based company Viva Fresh. The Zeqiri Law Office reportedly advised Viva Fresh.	N/A	Kosovo; North Macedonia
14-Aug	Cobalt; Lextal (RER Lextal)	Cobalt advised the BaltCap Private Equity Fund III and investment company Draugiem Capital on their acquisition of a majority stake in Latvia-based multi-sector production company Pepi Rer. RER Lextal reportedly advised Pepi Rer.	N/A	Latvia
15-Aug	Njord	Njord advised Latvia's University College of Economics and Culture on the topic of intellectual property protection issues related to student works created within the "Innovation grants for students in interdisciplinary fields of art, culture, economics, and IT (MaKE IT)" European Regional Development Fund project.	N/A	Latvia
18-Aug	Cobalt	Cobalt advised Change Ventures on leading a EUR 3.6 million investment round into Latvian advertising experience platform Monetizr, with the participation of Techstars and Ludus Ventures.	EUR 3.6 million	Latvia
30-Aug	Cobalt	Cobalt advised the Astor Group on its EUR 25 million loan from Rietumu Banka to support the development and operation of its hotel properties in Riga.	EUR 25 million	Latvia
15-Sep	Cobalt	Cobalt successfully represented Germany's Bauer Spezialtiefbau before the Administrative District Court in a dispute related to a VAT refund for the company against the State Revenue Service of Latvia.	EUR 300,000	Latvia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
19-Jul	Ellex (Valiunas)	Ellex advised Payhawk Financial Services on obtaining an electronic money institution license from The Bank of Lithuania.	N/A	Lithuania
21-Jul	Cobalt	Cobalt advised Highland Europe on its investment in PVcase, together with Elephant and Energize.	N/A	Lithuania
7-Aug	Cobalt	Cobalt successfully represented Lithuanian poultry farm Gireles Paukstynas before the Supreme Court of Lithuania in a dispute with insurer Lietuvos Draudimas regarding the insurer's refusal to recognize the state-mandated slaughter of sick birds as an insured event.	N/A	Lithuania
11-Aug	TGS Baltic	TGS Baltic advised Vilnius-based policy research and consultancy company PPMI on its sale to Kantar Public.	N/A	Lithuania
17-Aug	TGS Baltic	TGS Baltic advised private equity fund manager BaltCap on its acquisition of logistics company Xpediator.	N/A	Lithuania
29-Aug	Ellex (Valiunas)	Ellex advised Integre Trans on its EUR 4 million bond issuance on the Nasdaq Baltic First North Market.	EUR 4 million	Lithuania
7-Aug	BDK Advokati	BDK Advokati advised NLB Slovenia and NLB Montenegro on their EUR 24 million loan agreement with Israeli BIG CEE.	EUR 24 million	Montenegro
17-Jul	Clifford Chance; Norton Rose Fulbright	Norton Rose Fulbright advised a consortium of lenders consisting of Powszechna Kasa Oszczednosci Bank Polski, ING Bank Slaski, Siemens Bank, Bank Polska Kasa Opieki, ABN AMRO, Societe Generale, Erste Group Bank, La Banque Postale, and Bank Ochrony Srodowiska on a PLN 1.5 billion (EUR 338 million) sustainability-linked financing for Cargounit. Clifford Chance advised Cargounit.	PLN 1.5 billion	Poland
17-Jul	CMS; Domanski Zakrzewski Palinka	DZP advised Qair Polska on a 15-year corporate power purchase agreement with Zabka Polska. CMS advised Zabka Polska.	N/A	Poland
17-Jul	CMS; DWF	DWF advised ONDE on the acquisition of two photovoltaic projects with a total capacity of 23 megawatts, located in Lower Silesia. CMS reportedly advised the sellers.	N/A	Poland
17-Jul	Balicki Czekanski Gryglewski Lewczuk; Gessel	BCGL advised Bank Pekao on the refinancing of a portfolio of ten retail parks acquired by BHM Group. Reportedly, Gessel advised BHM Group.	N/A	Poland
17-Jul	Moskwa Jarmul Haladyj i Wspolnicy	MJH Moskwa, Jarmul, Haladyj i Partnerzy advised TEP Capital on its acquisition of Domczar Group.	N/A	Poland
17-Jul	Dentons; SSW Pragmatic Solutions	Dentons advised AP Pension on the financing of Better Energy's portfolio of five solar parks across Poland with a combined annual production capacity of 237 megawatts. SSW Pragmatic Solutions advised Better Energy Impact International.	EUR 65 million	Poland
17-Jul	Gessel	Gessel advised Lux Med Group on investment in the Orthos hospital and clinic.	N/A	Poland
17-Jul	BNT Attorneys	BSJP | BNT advised Ericsson on its acquisition of two public contracts from PGE for the LTE450 power network.	N/A	Poland
17-Jul	Baker Mckenzie; Oziemska Gruner & Partners; Wolf Theiss	Wolf Theiss and Oziemska Gruner i Wspolnicy advised Polish IT developer Touk on the transaction that led to approximately 65 of its engineers joining Snowflake's developer team in Warsaw. Baker McKenzie advised Snowflake.	N/A	Poland
17-Jul	Bredin Prat; Clifford Chance; Herbert Smith Freehills; Soltysinski Kawecki & Szlezak	Clifford Chance, working with the Paris office of Herbert Smith Freehills, advised Cellnex Telecom on its acquisition of the remaining 30% stake in Polish telecommunications infrastructure company OnTower from Iliad. Soltysinski Kawecki & Szlezak, working with Bredin Prat, reportedly advised the seller.	EUR 510 million	Poland
19-Jul	Gessel	Gessel advised Kredyt Inkaso on a public offering of N1-series bonds worth PLN 18 million.	PLN 18 million	Poland
20-Jul	Clifford Chance; White & Case	White & Case advised Orlen on the issuance of seven-year series-B registered eurobonds with a total nominal value of EUR 500 million. Clifford Chance advised the banks involved.	EUR 500 million	Poland
21-Jul	WKB Wiercinski Kwiecinski Baehr	WKB advised Afcon Renewable Energy and EuroEnergy on the EPC contract of the Boguszyn I and Boguszyn II solar farms to be built in the Wielkopolskie province.	N/A	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
21-Jul	Clifford Chance; Dentons; Linklaters; Stibbe; Wardynski & Partners	Linklaters advised Cornerstone Investment Management on its and Kartesia's acquisition of Ecowipes. Clifford Chance advised Ecowipes. Dentons advised CIM on the acquisition financing agreement with Kartesia. Wardynski & Partners, working with Stibbe, advised Kartesia.	N/A	Poland
25-Jul	Norton Rose Fulbright; SSW Pragmatic Solutions	SSW Pragmatic Solutions advised PV Energy Projects on receiving financing from Bank Pekao for the construction of 36 photovoltaic farms. Norton Rose Fulbright advised Bank Pekao.	N/A	Poland
26-Jul	Greenberg Traurig; Walker Morris	Greenberg Traurig advised the InPost Group on its acquisition of a 30% equity stake in Menzies Distribution Group Limited for GBP 49.3 million. Walker Morris reportedly advised Menzies Distribution.	GBP 49.3 million	Poland
26-Jul	Moskwa Jarmul Haladyj i Wspolnicy	MJH Moskwa, Jarmul, Haladyj i Partnerzy advised Penta Investments on the sale of a 50% stake in Iglotex to the Wlodarczyk family, the founders of the Iglotex group.	N/A	Poland
27-Jul	Clifford Chance; Norton Rose Fulbright	Norton Rose Fulbright advised Eko-Okna on a PLN 1.6 billion financing made available by a consortium of Polish banks for the expansion of its activities and the development of its manufacturing plants. Clifford Chance advised the lenders.	PLN 1.6 billion	Poland
2-Aug	DWF	DWF advised Augusta Energy on the finalization of its sale of two wind farms with a total capacity of 50 megawatts to Iberdrola.	N/A	Poland
2-Aug	Clifford Chance; White & Case	White & Case advised a consortium of financial institutions on their up to PLN 1.57 billion financing – including a term loan, an investment loan, and a revolving credit facility – granted to Emitel. Clifford Chance advised Emitel.	PLN 1.57 billion	Poland
2-Aug	JDP; Milbank	JDP Drapala & Partners, working with Milbank, advised the EQT Mid Market Europe and EQT Mid Market Asia III funds on the sale of BBS Automation to the MDAX-listed Duerr Group.	N/A	Poland
3-Aug	B2RLaw	B2RLaw advised the minority shareholders of Audioteka on the sale of their stakes representing approximately 40% of the company's share capital to Wirtualna Polska.	N/A	Poland
3-Aug	Bird & Bird; Grant Thornton; WKB Wiercinski Kwiecinski Baehr	WKB Lawyers advised GreenVolt Power on a preliminary agreement for the sale of shares in companies developing the Sompolno and Opalenica renewable energy projects to Energa Wytwarzanie. Bird & Bird and Grant Thorton reportedly advised Energa Wytwarzanie.	EUR 107 million	Poland
4-Aug	Dentons; Linklaters	Linklaters advised Czech retail investment fund Investika Realitni Fond on its acquisition of the Royal Trakt Offices in Warsaw from real estate investor Patrizia SE. Dentons advised Patrizia.	N/A	Poland
9-Aug	Norton Rose Fulbright; Rymarz Zdort Maruta	Norton Rose Fulbright advised Polski Fundusz Rozwoju on its PLN 128 million construction financing for 26 photovoltaic farms in Poland with a total capacity of 43 megawatts, sponsored by Projekt Solartechnik. Rymarz Zdort Maruta advised Projekt Solartechnik and its subsidiaries.	PLN 128 million	Poland
9-Aug	Czabanski & Galuszynski; Dentons	Czabanski & Galuszynski advised HiProMine on a EUR 32 million financing for the construction of a new production plant and insect genetics center from Bank Gospodarstwa Krajowego. Dentons advised BGK and the KUKE state export credit agency.	EUR 32 million	Poland
9-Aug	Linklaters; Sobczynscy i Partnerzy	Sobczynscy i Partnerzy advised Polish specialized printing company Emerson on its sale of investment land in Piotrkow Trybunalski to a company belonging to Reino Capital and IO Asset Management. Linklaters reportedly advised the buyers.	N/A	Poland
9-Aug	MKZ Partners	MKZ Partners advised the sellers on the sale of the naEkranie.pl website and the 4Fun, 4Fun Kids, and 4Fun Dance TV channels to the Polsat Plus Group.	N/A	Poland
9-Aug	Balicki Czekanski Gryglewski Lewczuk; CMS; Deloitte Legal	BCGL advised Bank Pekao on the financing for RiO Family Office's acquisition PartyDeco. CMS advised PartyDeco and its founders Mikolaj Gabryel and Agnieszka Gabryel. Deloitte Legal advised the RiO Family Office on both the acquisition and the financing.	N/A	Poland
10-Aug	DLA Piper; Radzikowski, Szubielska i Wspolnicy	Radzikowski Szubielska i Wspolnicy advised Orlen Wind 3 on the full acquisition of three operating wind farms with a total capacity of 142 megawatts from EDP Renewables Polska. DLA Piper advised EDP.	N/A	Poland
11-Aug	B2RLaw; Domanski Zakrzewski Palinka	B2RLaw advised the Vinci HiTech ASI fund on its nearly PLN 14 million investment into Polish medical technology start-up Oasis Diagnostics. Domanski Zakrzewski Palinka advised Oasis Diagnostics.	PLN 14 million	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
11-Aug	Gide Loyrette Nouel	Gide advised temperature-controlled logistics provider Goodspeed on its acquisition of Caterings.	N/A	Poland
11-Aug	Dentons; Stibbe; Wardynski & Partners	Dentons advised Cornerstone Investment Management on its financing agreement with Kartesia for the acquisition of biodegradable hygiene product manufacturer Ecowipes Group, including its French affiliate Hydra Beauty & Clean. Wardynski & Partners, working with Stibbe, advised Kartesia.	N/A	Poland
14-Aug	Norton Rose Fulbright; Wardynski & Partners	Norton Rose Fulbright advised Bank Pekao on the EUR 40 million financing for AB Tewox's acquisition of a five-retail-park portfolio in Poland. Wardynski & Partners advised Tewox on both the acquisition and the financing.	EUR 40 million	Poland
15-Aug	Dentons; SSW Pragmatic Solutions	Dentons advised Cornerstone Investment Management and its joint venture partner on the financing for their acquisition of the Warta Tower office building in Warsaw and related capital expenditure. SSW Pragmatic Solutions advised lenders Santander Bank Polska and Erste Group Bank AG.	EUR 63 million	Poland
16-Aug	SSK&W	SSK&W advised VC fund Medi Ventures on its investment in clinical trial platform Virtual Monitor.	N/A	Poland
16-Aug	SSK&W; Tau Nowacki	SSK&W advised Medi Ventures on its investment in speech therapy start-up Pogaduszki. Tau Nowacki advised Pogaduszki.	N/A	Poland
16-Aug	Hogan Lovells	Hogan Lovells advised Oriens on the acquisition of Transsystem from Tar Heel Capital and other sellers. Sole practitioner Andrzej Chrzanowski advised Tar Heel Capital.	N/A	Poland
16-Aug	Kancelaria Kurek Wojcik; Kinstellar; Linklaters; Rymarz Zdort Maruta	Linklaters advised NREP on its acquisition of an 80% stake in Polish logistics developer 7R, with the buyer aiming to invest approximately EUR 200 million into the company. Rymarz Zdort Maruta advised 7R. Kinstellar reportedly advised NREP. Kancelaria Kurek Wojcik i Partnerzy reportedly advised 7R.	N/A	Poland
18-Aug	Allen Overy Shearman Sterling; Clifford Chance; Lexence; Ponikowski Rzepka	Clifford Chance, working with Lexence, advised Waterland on the acquisition of CodiLime from its founders in a transaction that included reinvestment of the former shareholders. Allen & Overy advised Bank Pekao on providing acquisition financing. Ponikowski Rzepka reportedly advised the sellers.	N/A	Poland
18-Aug	Kochanski & Partners	Kochanski & Partners advised Polska Wytwornia Papierow Wartosciowych on the acquisition of a greenfield site of more than 17 hectares in Warsaw from Polfa Tarchomin for PLN 143 million.	PLN 143 million	Poland
28-Aug	Baker Mckenzie; CMS	Baker McKenzie advised Innova Capital on the facilities agreement with mBank and BNP Paribas Bank Polska to support the fund's investment in R-GOL. CMS reportedly advised the banks.	N/A	Poland
29-Aug	DWF; Kycia	DWF advised Enter Air Group on a EUR 25 million financing from a consortium including facility agent Bank Pekao and security agent mBank. Kycia Legal advised the banks.	EUR 25 million	Poland
30-Aug	Baker Mckenzie; Gide Loyrette Nouel	Gide advised the Enterprise Investors Fund IX on its minority investment in Polish precision radar and anti-drone systems company Advanced Protection Systems Inc. Baker McKenzie advised APS and its shareholders.	N/A	Poland
30-Aug	Greenberg Traurig	Greenberg Traurig advised the PCF Group on its public offering of new shares addressed to Polish and international investors.	PLN 100 million	Poland
31-Aug	JDP	JDP Drapala & Partners advised Trei Real Estate Poland on its EUR 73.5 million loan from Deutsche Pfandbriefbank to finance its current activities and day-to-day operations.	EUR 73.5 million	Poland
31-Aug	Gide Loyrette Nouel	Gide advised Investindustrial portfolio company Farmaceutici Procemsa on its acquisition of a majority stake in Poland's Master Pharm.	N/A	Poland
01-Sep	Clifford Chance; Dentons; Rymarz Zdort Maruta	Clifford Chance advised AHP Investments on the sale of a majority stake in the American Heart of Poland medical network to Gruppo San Donato in partnership with GKSD. Dentons advised the target. Rymarz Zdort Maruta advised the buyers.	N/A	Poland
04-Sep	White & Case	White & Case advised arranger and dealer mBank on Archicom's M7/2023 series bond issuance under the real estate developer's up to PLN 350 million bond issuance program.	N/A	Poland
08-Sep	Allen & Overy	Allen & Overy represented the Stock Spirits Group in merger control proceedings before the Polish Competition Authority for the acquisition of Polmos Bielsko-Niala.	N/A	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
08-Sep	Allen & Overy; Norton Rose Fulbright	Allen & Overy advised MS Galleon on its EUR 440 million investment loan facility from Bank Gospodarstwa Krajowego and the related Barlinek company on a EUR 100 million general loan facility provided by BGK, Bank Pekao, and PKO Bank Polski. Norton Rose Fulbright reportedly advised the banks.	EUR 540 million	Poland
13-Sep	Goodwin Procter; Wardynski & Partners	Wardynski & Partners, working with Goodwin Procter, advised TA Associates and Warburg Pincus on their acquisition of a majority stake in the Epassi Group from Bregal Milestone. Vinge and Krogerus advised TA Associates on Swedish and Finnish matters, respectively.	N/A	Poland
15-Sep	SSW Pragmatic Solutions	SSW Pragmatic Solutions advised Polish video game developer Starward Industries on the prospectus for the transfer of its shares from the alternative trading system NewConnect to the main market of the Warsaw Stock Exchange. The prospectus was approved by the Polish Financial Supervision Authority.	N/A	Poland
15-Sep	DLA Piper	DLA Piper advised the EBRD on its financing for the expansion of Resi4Rent's subscription housing portfolio in Poland.	EUR 75 million	Poland
17-Jul	Bondoc & Asociatii	Bondoc si Asociatii advised RetuRO Sistem Garantie Returnare on a RON 426 million (approximately EUR 85.7 million) green financing from ING Bank N.V. Amsterdam – Bucharest Branch.	RON 426 Million	Romania
17-Jul	Popovici Nitu Stoica & Asociatii	Popovici, Nitu, Stoica & Asociatii advised Banque Banorient France Romania Branch on a EUR 22 million financing granted to an undisclosed real estate developer.	EUR 22 million	Romania
17-Jul	Schoenherr	Schoenherr advised AkzoNobel on the sale of its extruded polystyrene insulation material production activities in Romania to HIRSCH Porozell.	N/A	Romania
18-Jul	Schoenherr	Schoenherr advised SpeedValue on its acquisition of Code Agile, operating under the Codegile brand.	N/A	Romania
19-Jul	RTPR	RTPR successfully represented the interests of Sumiriko AVS Romania before the High Court of Romania.	N/A	Romania
21-Jul	Filip & Company	Filip & Company advised Banca Transilvania on its second bond issue under a program launched in April, which attracted EUR 200 million from the international markets.	EUR 200 million	Romania
27-Jul	Zamfirescu Racoti Vasile & Partners	Zamfirescu Racoti Vasile & Partners advised Transport Trade Services on the EUR 21.8 million acquisition of a 99.9% stake in Constanta port operator Decirom.	EUR 21.8 million	Romania
28-Jul	Filip & Company; Tuca Zbarcea & Asociatii	Tuca Zbarcea & Asociatii advised arranger and financier Banca Transilvania and financier OTP Bank Romania on credit facilities worth RON 30.5 million and EUR 26.7 million for the Holde Agri Invest group. Filip & Company advised Holde Agri Invest.	RON 30.5 million; EUR 26.7 million	Romania
31-Jul	CMS	CMS advised mandated lead arrangers Banca Comerciala Romana and Erste Group Bank AG on their EUR 100 million revolving credit facility for Romania's Cerealcom.	EUR 100 million	Romania
31-Jul	Deloitte Legal (Reff & Associates); Nestor Nestor Diculescu Kingston Petersen; PwC Legal (D&B David and Baias)	PwC Legal Romanian affiliate D&B David si Baias advised Complexul Energetic Oltenia on selecting the investor-partners for its 1.2-gigawatt decarbonization strategy. Nestor Nestor Diculescu Kingston Petersen advised OMV Petrom on the joint-venture agreements for four PV projects. Deloitte Legal affiliate Reff & Associates reportedly advised Tinmar Energy on the partnership for a new gas-fired power plant and four PV parks.	N/A	Romania
3-Aug	Kinstellar; Popovici Nitu Stoica & Asociatii	Kinstellar advised SFC Solutions Automotive Romania on the sale-and-leaseback transaction for a 20,000-square-meter industrial facility with logistics property developer WDP Romania. Popovici Nitu Stoica & Asociatii advised WDP.	N/A	Romania
3-Aug	Dentons; Schoenherr	Dentons advised Ursus Breweries on its virtual power purchase agreement with Enery. **Schoenherr advised Enery.**	N/A	Romania
7-Aug	Nestor Nestor Diculescu Kingston Petersen; Popovici Nitu Stoica & Asociatii	Popovici Nitu Stoica & Asociatii advised the Ameropa Group on the full refinancing of its main revolving credit facility in Romania to the tune of EUR 542 million. Nestor Nestor Diculescu Kingston Petersen advised the banking syndicate.	EUR 542 million	Romania
9-Aug	Filip & Company	Filip & Company advised residential developer Alesonor on its partnership with the Verita International School & Kindergarten to develop the second Verita campus in Romania in Alesonor's Amber Forest suburb.	N/A	Romania
10-Aug	Clifford Chance	Clifford Chance Badea advised Enel Green Power Romania on the acquisition of the Lumina 63-megawatt photovoltaic park in Calugareni, Giurgiu county, from the Mytilineos group.	N/A	Romania

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10-Aug	Popovici Nitu Stoica & Asociatii; RTPR; Schoenherr	RTPR advised Romcim on its acquisition of Bauelemente. Schoenherr advised Romcim on the merger and FDI clearance for the acquisition. Popovici Nitu Stoica si Asociatii reportedly advised the sellers.	N/A	Romania
11-Aug	CMS	CMS advised PPC Renewables on the acquisition of an 84-megawatt operational wind farm from the Lukoil Group.	N/A	Romania
29-Aug	Filip & Company; RTPR	RTPR advised the Orange group's Orange Money Romania on the transfer of its retail business to Alpha Bank Romania. Filip & Company advised Alpha Bank.	N/A	Romania
31-Aug	Filip & Company; RTPR	Filip & Company advised growth investment fund Agista on its minority investment in Romania's Centrokinetic medical clinic network. RTPR advised Founder Andrei Bogdan and Centrokinetic on the deal.	N/A	Romania
31-Aug	CMS; Dentons	CMS advised the Bitdefender cybersecurity company on its acquisition of Singapore-based Horangi Cyber Security. Singapore's Dentons Rodyk & Davidson reportedly advised the unidentified sellers.	N/A	Romania
01-Sep	Vlasceanu & Partners	Vlasceanu & Partners advised Vintruvian Estates on its acquisition of Dragasani-based Crama Mennini and that of a majority stake in Dobrogea's Crama Histria. Sole practitioner Anca Negoita reportedly advised Crama Mennini's sellers.	N/A	Romania
07-Sep	Vlasceanu & Partners	Vlasceanu & Partners advised marine renewable energy engineering consultants Innosea on identifying the most suitable location for its planned floating photovoltaic project in Romania.	N/A	Romania
08-Sep	CEE Attorneys	CEE Attorneys Boanta Gidei si Asociatii advised Fagura on the setup and launch of the Fagura.ro loan-based participatory finance provider platform.	N/A	Romania
08-Sep	CMS	CMS advised Integral Venture Partners on the agreement to acquire a majority stake in Romania's O'Fresh Vending Solutions.	N/A	Romania
12-Sep	Firon Bar-Nir	Firon Bar-Nir advised Brown Hotels on the EUR 14.5 million sale of a 25% stake in five hotels located in Greece to Tel Aviv-headquartered airline Israir.	EUR 14.5 million	Romania
28-Jul	Freshfields; Musat & Asociatii	Musat & Asociatii, working with **Jones Day,** advised the Geely Holding Group and Geely Automobile Holdings on their binding 50/50 joint venture agreement with the Renault Group to launch a new powertrain technology company. Freshfields Bruckhaus Deringer advised Renault on the JV and the carve-out of its internal combustion and hybrid engines business.	N/A	Romania; Turkiye
18-Jul	JPM & Partners	JPM & Partners successfully represented the interests of Colas Rail in an arbitration proceeding against a subcontractor and its bank.	N/A	Serbia
21-Jul	Karanovic & Partners; Schoenherr	Moravcevic, Vojnovic, and Partners in cooperation with Schoenherr advised OTP Group members OTP Bank Plc Hungary and OTP Bank Serbia on project financing for Pannonia Bio. Karanovic and Partners advised Pannonia Bio.	N/A	Serbia
27-Jul	Zivkovic Samardzic	Zivkovic Samardzic advised Slovenia's Samsic Holding on its acquisition of the remaining 45% stake in Belgrade-based facility management, construction, and installation services provider Samsic STM from the two founding shareholders. Sole practitioner Jelena Rasovic advised the minority shareholders.	N/A	Serbia
31-Jul	NKO Partners	NKO Partners advised CTP on its fifth acquisition of land in and around Novi Sad – and its second in the Kac industrial zone – intended for the further development of the company's industrial property.	N/A	Serbia
4-Aug	Karanovic & Partners	Karanovic & Partners advised DS Smith on its acquisition of Serbian offset cardboard packaging and blister packaging company Bosis.	N/A	Serbia
30-Aug	NKO Partners	NKO Partners advised the Belgrade-based PGM Live TV production and distribution company on its acquisition of the remaining 50% stake in VPK Balkan from Slovenian production company VPK PRO, thus gaining full ownership of the target. Sole practitioner Nenad Davidovic advised the seller.	N/A	Serbia
15-Sep	Zivkovic Samardzic	Zivkovic Samardzic successfully represented the B92 media company before the European Court of Human Rights in a dispute against Serbia.	N/A	Serbia
27-Jul	Karanovic & Partners	Karanovic & Partners advised the OTP Group on its acquisition of the Ilirika Fund Management Company in Serbia.	N/A	Serbia; Slovenia
01-Sep	Andric Law Office; JPM & Partners; Karanovic & Partners (Ketler & Partners)	JPM & Partners advised Slovenia's Big Bang on its acquisition of Serbian online retailer BC Group. Ketler & Partners, a member of Karanovic, advised Big Bang and its Bidigital shareholder on Slovenian aspects of the acquisition. The Andric Law Office reportedly advised the sellers.	N/A	Serbia; Slovenia
26-Jul	Majernik & Mihalikova; Sparring	Majernik & Mihalikova advised DealMachine on its seed round investment from Vision Ventures. Sparring advised Vision Ventures.	N/A	Slovakia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
28-Jul	Brezovec; Fatur Menard	Fatur Menard advised the Trigal RE Fund on its acquisition of the Situla commercial building in Ljubljana from Centauro Holdings. The Brezovec law firm advised Centauro Holdings.	N/A	Slovenia
17-Jul	Clifford Chance (Ciftci Attorney Partnership); Egemenoglu	Egemenoglu advised the shareholders of Tunay Gida on its sale to International Beer Breweries. The Ciftci Attorney Partnership in association with Clifford Chance reportedly advised IBB.	N/A	Turkiye
28-Jul	Dentons (BASEAK); HS Attorney Partnership	Dentons Turkish affiliate Balcioglu Selcuk Ardiyok Keki advised Ekmob Sales Force Automation on its pre-series A bridge funding round that included TechOne VC, Finberg, Yildiz Tekno GSYO, and Koray Gultekin Bahar. The HS Attorney Partnership advised TechOne.	N/A	Turkiye
28-Jul	Dentons (BASEAK); Turunc	Turunc advised the Arya Women Investment Platform on its investment in Turkish electronics rental company Kiralarsin. Dentons Turkish affiliate Balcioglu Selcuk Ardiyok Keki reportedly advised Kiralarsin.	N/A	Turkiye
28-Jul	CMS (Yalcin Babalioglu Kemahli); Paksoy	Paksoy and CMS affiliate Yalcin Babalioglu Kemahli advised Turkish tile manufacturer Kaleseramik on its IPO and Borsa Istanbul listing.	TRY 2.73 billion	Turkiye
28-Jul	Clifford Chance; Clifford Chance (Ciftci Attorney Partnership)	Clifford Chance and its Turkish affiliate Ciftci Attorney Partnership advised JP Morgan Chase, BNP Paribas, and ING European Financial Services on their EUR 781 million UKEF-covered financing for the Republic of Turkiye's Mersin-Adana-Osmaniye-Gaziantep high-speed rail project.	EUR 781 million	Turkiye
3-Aug	Baker Mckenzie (Esin Attorney Partnership); Paksoy	Paksoy advised the Stellantis Group on the full sale of its Stellantis Otomotiv Pazarlama automobile distributor subsidiary to Tofas Turk Otomobil Fabrikasi. Baker McKenzie Turkish affiliate Esin Attorney Partnership advised Tofas.	N/A	Turkiye
9-Aug	KECO Legal	Kumkumoglu Ergun Cin Ozdogan advised Istanbul-based climate technology start-up Erguvan on its seed investment round with Emirates NBD and DenizBank's Deniz Ventures over a USD 7.33 million valuation.	N/A	Turkiye
9-Aug	Baker Mckenzie (Esin Attorney Partnership); Verdi Law Firm	Baker McKenzie Turkish affiliate Esin Attorney Partnership advised TeamSystem on its acquisition of a 53% stake in the Mikro Group from Dash Software, Izzet Murat Sakarya, Alpaslan Tomus, Kadir Keskin, Xiang Yu, and Andac Turkmen through a bid process. Verdi advised the sellers.	N/A	Turkiye
9-Aug	Kirbiyik; Turunc	Turunc advised Bogazici Ventures on its investment in Arvis Games. The Kirbiyik Law Firm advised Arvis Games.	N/A	Turkiye
11-Aug	Turunc	Turunc advised BV Dijital on its cooperation agreement with Waves Tech including the formation of a new entity focused on blockchain technologies.	N/A	Turkiye
11-Aug	Allen & Overy (Gedik Eraksoy); Paksoy	Paksoy advised investors IFC and the Asian Infrastructure Investment Bank on Akbank's USD 150 million issuance of sustainable tier-2 notes and the DFC on Akbank's USD 150 million issuance of gender tier-2 bonds. Allen & Overy reportedly advised Akbank.	USD 300 million	Turkiye
14-Aug	Caliskan Okkan Toker; Turunc	Turunc advised the Arya Women Investment Platform on its investment in Vispera. Caliskan Okkan Toker advised Vispera.	N/A	Turkiye
14-Aug	Dentons (BASEAK)	Dentons Turkish affiliate Balcioglu Selcuk Ardiyok Keki Attorney Partnership advised Koc Medical on its acquisition of Bicakcilar Global Tibbi Urunler and its fully owned subsidiary Bicakcilar Tibbi Cihazlar.	N/A	Turkiye
16-Aug	Paksoy	Paksoy advised high-pressure steel pipe manufacturer Erciyas Celik Boru on its TRY 300 million inaugural issuance of Islamic bond certificates.	TRY 300 million	Turkiye
18-Aug	Baker Mckenzie (Esin Attorney Partnership); White & Case (GKC Partners)	White & Case Turkish affiliate GKC Partners advised TotalEnergies Renewables on its acquisition of a 50% stake in hydroelectric power company Ronesans Enerji. Baker McKenzie Turkish affiliate Esin Attorney Partnership advised Ronesans Holding's Ronesans Yenilenebilir Enerji on the sale.	N/A	Turkiye
18-Aug	Ataergin Tanriverdi; Turunc	Turunc advised Bogazici Ventures on its investment in Hungri Games. Ataergin Tanriverdi reportedly advised Hungri Games.	N/A	Turkiye
31-Aug	Aksan	The Aksan law firm advised APY Ventures on its investment in the Ankara-based MaviKanatlar drone technology and software company in the course of an investment round.	N/A	Turkiye
01-Sep	Baker Mckenzie (Esin Attorney Partnership); Clifford Chance; Clifford Chance (Ciftci Attorney Partnership)	Clifford Chance and its Turkish affiliate Ciftci Attorney Partnership advised Citibank on arranging two facilities totaling approximately USD 611 million – covered by international export credit agencies – to Turkiye Petrolleri in relation to Phase 1 of the Sakarya Offshore Gas Field Development Project. Baker McKenzie Turkish affiliate Esin Attorney Partnership advised Turkiye Petrolleri.	USD 611 million	Turkiye

Date Covered	Firms Involved	Deal/Litigation	Value	Country
07-Sep	Dentons (BASEAK); Turunc	Turunc advised the Future Impact Fund on its investment in app and game developer and publisher Mega Fortuna, in a USD 2.3 million seed funding round that included APY Ventures. Dentons Turkish affiliate Balcioglu Selcuk Ardiyok Keki reportedly advised APY Ventures.	USD 2.3 million	Turkiye
13-Sep	Aksan	The Aksan Law Firm advised Simya VC on successfully concluding an investment round in Turkish start-up Juphy.	N/A	Turkiye
18-Jul	Sayenko Kharenko	Sayenko Kharenko successfully represented Societe BIC in a dispute with the Ukrainian IP office regarding a three-dimensional mark.	N/A	Ukraine
26-Jul	Asters	Asters advised the Agrosem Group on a EUR 9.6 million financing from the European Bank for Reconstruction and Development to develop a grain transshipment complex.	EUR 9.6 million	Ukraine
28-Jul	Sayenko Kharenko	Sayenko Kharenko, working with the London office of Herbert Smith Freehills, advised the IFC on two EUR 20 million risk-sharing facilities for OTP Bank and OTP Leasing in Ukraine.	EUR 40 million	Ukraine
3-Aug	Clifford Chance; Integrites; Redcliffe Partners	Integrites advised the Kovalska Group on a EUR 27 million long-term secured loan from Dutch Invest International to finance the construction of a new aerated concrete production plant in Rozvadiv, Ukraine. Redcliffe Partners, working with the Amsterdam office of Clifford Chance, advised the lender.	EUR 27 million	Ukraine
9-Aug	Freshfields; Hogan Lovells	Hogan Lovells advised an ad-hoc group of Naftogaz' 2026 note holders on the amendment and extension of its USD 500 million 7.625% 2026 eurobonds. Freshfields reportedly advised Naftogaz.	USD 500 million	Ukraine
17-Aug	Paul Hastings; Sayenko Kharenko; Sidley Austin	Sayenko Kharenko, working with Paul Hastings, advised STG on the acquisition of Avid Technology. Sidley Austin reportedly advised the sellers.	USD 1.4 billion	Ukraine
18-Aug	Sayenko Kharenko	Sayenko Kharenko advised the EBRD on its EUR 50 million loan to Ukrainian state-owned Ukreximbank, under the Resilience and Livelihoods Framework, to support companies and municipalities affected by Russia's war on Ukraine.	EUR 50 million	Ukraine
18-Aug	Sayenko Kharenko	Sayenko Kharenko advised the European Bank for Reconstruction and Development on its EUR 25 million loan to the city of Dnipro under the _Resilience and Livelihoods Framework_.	EUR 25 million	Ukraine
30-Aug	Sayenko Kharenko	Sayenko Kharenko successfully defended the interests of Starlink in a dispute over the early termination of its Ukrainian trademark certificate.	N/A	Ukraine
30-Aug	Arzinger	Arzinger successfully secured the release from custody of Oleksandr Dorohan – Director of the Together We Power! charitable organization – in criminal proceedings related to his activity.	N/A	Ukraine
01-Sep	Ilyashev & Partners	The Ilyashev & Partners law firm assisted Italian non-governmental organization _Fondazione Terre des Hommes Italia ONLUS_ in setting up its local branch in Ukraine, advising on corporate, tax, and employment matters.	N/A	Ukraine
07-Sep	Sayenko Kharenko	Sayenko Kharenko successfully represented Philip Morris in a criminal case regarding the illegal use of its trademark by a group organizing the wholesale production and sale of counterfeit Bond Street cigarettes.	UAH 1.4 million	Ukraine
07-Sep	Sayenko Kharenko	Sayenko Kharenko advised the EBRD on its USD 30 million secured financing to Ukrainian agro-industrial holding Astarta.	USD 30 million	Ukraine
08-Sep	Sayenko Kharenko	Sayenko Kharenko successfully represented the interests of Oschadbank in a dispute over the unlawful usage of its trademark by the former Sberbank, in a case where Oschadbank was awarded EUR 10 million in damages.	EUR 10 million	Ukraine

Deals and Cases:

■ Full information available at:
www.ceelegalmatters.com
■ Period Covered:
July 16, 2023 - September 15, 2023

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

Turkiye: Sezin Elcin Cengiz Launches CORE Competition Boutique in Turkiye

By Radu Neag (August 4, 2023)

Former White & Case Senior Competition Director Sezin Elcin Cengiz established her new competition law consulting firm in Istanbul: CORE – Competition & Regulation.

CORE describes itself as a competition law and regulation consulting firm in Turkiye. Its founder has been working on competition law matters for over 20 years. Before leaving to establish her own firm, Cengiz spent 12 years with White & Case, the first ten as a Senior Advisor and the final two as a Senior Director - Competition, leading the firm's Competition practice group. Before that, she spent ten years with the Turkish Competition Authority as an Antitrust Expert and Case Handler, between 2001 and 2011.

"This step wouldn't have been possible without the unwavering support of my exceptional colleagues at White & Case and the trust of our valued clients, to whom I am deeply grateful," Cengiz commented. "Moving forward, I will continue to provide top-tier expertise in the field of competition law, and I am committed to delivering the same level of excellence and dedication that you have come to expect from me." ■

Ukraine: SDM Partners Opens New Lviv Office

By Andrija Djonovic (August 11, 2023)

SDM Partners openened a representative office in Lviv, focusing on Western Ukraine. Partner Andrii Kozhushko, who recently joined the firm from FM Logistic Ukraine, will lead the new office.

SDM Partners reported noticing a considerable business revival in Western Ukraine. "That greatly resulted from the Ukrainian businesses relocating from the Eastern parts of our country because of war risks. On top, foreign investors entering the Ukrainian market despite the military risk often prefer the Western Region as a safer harbor. We also firmly believe that following Ukraine's victory, Western Ukraine, with Lviv as its center, will experience significant growth and development, as will the other regions of the country."

In addition to corporate, real estate, commercial, and tax matters, the new office will also focus on international trade issues, with an emphasis on industries like construction, development, IT, logistics, and infrastructure projects, the firm announced. ■

CEE: 12 CEE Law Firms Band Together To Launch the Three Seas Legal Alliance

By Andrija Djonovic (September 7, 2023)

During the Three Seas Initiative annual general meeting in Bucharest in September 2023, Austria's Dorda, Bulgaria's Boyanov & Co., Croatia's Divjak Topic Bahtijarevic & Krka, the Czech Republic's Kocian Solc Balastik, Estonia's Ellex Raidla, Hungary's Lakatos Koves & Partners, Latvia's Ellex Klavins, Lithuania's Ellex Valiunas, Poland's Wardynski and Partners, Romania's Nestor Nestor Diculescu Kingston Petersen, Slovakia's Barger Prekop, and Slovenia's Selih & Partnerji announced they formed the Three Seas Legal Alliance, in recognition of the progress made by the Three Seas Initiative.

The Three Seas Initiative describes itself as a politically inspired, commercially driven platform for improving connectivity between twelve EU member states located between the Baltic, Adriatic, and Black seas. The initiative was born out of a shared interest in developing transport, energy, and digital infrastructure connections on the EU's north-south axis.

Several members of the new Three Seas Legal Alliance – Boyanov & Co., Divjak Topic Bahtijarevic & Krka, Nestor Nestor Diculescu Kingston Petersen, Selih & Partnerji – were working together within SEE Legal, which will continue to run in parallel. ■

PARTNER APPOINTMENTS

Date	Name	Practice(s)	Firm	Country
7-Sep	Alexander Reich-Rohrwig	Corporate/M&A	Cerha Hempel	Austria
17-Jul	Katerina Slavikova	Life Sciences	Havel & Partners	Czech Republic
17-Jul	Jaroslav Baier	Corporate/M&A; Private Equity	Havel & Partners	Czech Republic
17-Jul	Ondrej Curilla	Infrastructure/PPP/Public Procurement	Havel & Partners	Czech Republic
17-Jul	Petr Oplustil	Real Estate; Infrastructure/PPP/Public Procurement	Havel & Partners	Czech Republic
17-Jul	Miroslav Vozab	Corporate/M&A	Havel & Partners	Czech Republic
27-Jul	Eirini Stappa	Corporate/M&A; Banking/Finance	Apostolos Georgiades & Associates	Greece
8-Sep	Inga Neniske	Corporate/M&A	Ilaw Lextal	Lithuania
8-Sep	Egle Visinskiene	Real Estate; Litigation/Disputes	Ilaw Lextal	Lithuania
8-Sep	Ramune Saikuviene	Labor	Ilaw Lextal	Lithuania
8-Sep	Neringa Gylyte	Corporate/M&A; Litigation/Disputes	Ilaw Lextal	Lithuania
4-Aug	Madalina Mitan	Real Estate	Schoenherr	Romania
18-Aug	Matej Crnilec	Corporate/M&A; Banking/Finance	Schoenherr Slovenia	Slovenia
16-Aug	Nigar Gokmen	Energy/Natural Resources; Real Estate; Infrastructure/PPP/Public Procurement	Esin Attorney Partnership	Turkiye

PARTNER MOVES

Date	Name	Practice(s)	Moving From	Moving To	Country
7-Aug	Raphael Valenta	Corporate/M&A	CMS	KWR Karasek Wietrzyk Rechtsanwaelte	Austria
2-Aug	Petra Mysakova	Banking/Finance	Allen & Overy	CMS	Czech Republic
16-Aug	Petr Syrovatko	Litigation/Disputes	Deloitte Legal	PwC Legal	Czech Republic
7-Sep	Pavla Kreckova	Banking/Finance; Real Estate	CMS	KPMG Legal	Czech Republic
20-Jul	Tadas Varapnickas	Litigation/Disputes	TGS Baltic	Ellex	Lithuania
3-Aug	Tomasz Korczynski	Infrastructure/PPP/Public Procurement	Dentons	Greenberg Traurig	Poland
28-Aug	Arkadiusz Krasnodebski	Energy/Natural Resources	Dentons	N/A	Poland
31-Aug	Dan Cocker	Energy/Natural Resources; Infrastructure/PPP/Public Procurement	Allen & Overy	N/A	Poland
7-Sep	Tomasz Hatylak	Corporate/M&A	Path Law Hatylak Kielian i Wspolnicy	Baker Tilly Legal Poland	Poland
7-Sep	Sergiusz Kielian	Corporate/M&A; Private Equity	Path Law Hatylak Kielian i Wspolnicy	Baker Tilly Legal Poland	Poland
7-Sep	Dominika Mizielinska	Corporate/M&A; Banking/Finance	Path Law Hatylak Kielian i Wspolnicy	Baker Tilly Legal Poland	Poland
7-Sep	Piotr Orczykowski	Banking/Finance	Alto	DZP Domanski Zakrzewski Palinka	Poland
4-Aug	Alexandru Teodorescu	Corporate/M&A; Litigation/Disputes	Grecu & Asociatii	Teodorescu Partners	Romania
4-Aug	Sezin Elcin Cengiz	Competition	White & Case	CORE – Competition & Regulation	Turkey

IN-HOUSE MOVES AND APPOINTMENTS

Date	Name	Moving From	Company/Firm	Country
2-Aug	Nada Matusikova	RWS Language Services	RWS Group	Czech Republic
17-Jul	David Kozma	CIG Pannonia	CIG Pannonia	Hungary
25-Jul	Magdolna Csomor	Vodafone Hungary	4iG	Hungary
7-Sep	Dora Zombori	Ministry of Foreign Affairs and Trade of Hungary	Dentons	Hungary
30-Aug	Sarunas Keserauskas	Lithuanian Competition Council	Ellex Valiunas	Lithuania
28-Jul	Ewa Dziuban	Julius Baer	Swiss Life Global Solutions	Poland
31-Jul	Joanna Czaplicka	Strategyzer	Strategyzer	Poland
7-Aug	Rafal Burda	Clifford Chance	Orlen Synthos Green Energy	Poland
7-Sep	Marcin Bisikiewicz	Mostostal Warszawa	DWF	Poland
27-Jul	Gabriela Popescu	Microsoft	Microsoft	Romania
18-Jul	Zora Ilic	British American Tobacco	British American Tobacco	Serbia
2-Aug	Aleksandra Hercl	Nasa AIK Banka	Mindful Finance	Serbia
19-Jul	Pinar Ozercan	Ford Otosan	Jaguar Land Rover	Turkey
21-Jul	Ozlem Barut	Finance in Motion	International Finance Corporation	Turkey
3-Aug	Meltem Azbazdar	Mey Diageo	Diageo	Turkey
15-Sep	Ibrahim Onur Baysal	Karsan Automotive	Erdem & Erdem	Turkiye
11-Aug	Andrii Kozhushko	FM Logistic Ukraine	SDM Partners	Ukraine

OTHER APPOINTMENTS

Date	Name	Firm	Appointed To	Country
17-Jul	Ondrej Florian	Havel & Partners	Equity Partner	Czech Republic
8-Sep	Jan Exner	Briza & Trubac	Head of Sports Law	Czech Republic
2-Aug	Adam Boross	Jalsovszky	Head of the Banking and Finance	Hungary
8-Sep	Pawel Mruk-Zawirski	Allen & Overy	Head of Financial Regulatory	Poland
8-Sep	Lukasz Walczyna	Allen & Overy	Head of Debt Capital Markets	Poland
18-Aug	Gokhan Bozkurt	Bozkurt Bozkurt	Head of Washington Office	Turkiye
4-Aug	Mykola Stetsenko	Ukrainian Bar Association	President	Ukraine
3-Jul	Milica Pesteric	Bojovic, Draskovic, Popovic & Partners	Head of ESG Department	Serbia

On The Move:

- Full information available at:
www.ceelegalmatters.com
- Period Covered:
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THE BUZZ

In The Buzz we check in on experts on the legal industry across CEE for updates about 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.

Bulgaria's Proactive Stance: A Buzz Interview with Nina Tsifudina of Kinstellar

By Andrija Djonovic (August 16, 2023)

Bulgaria's economic landscape appears to be evolving rapidly, driven by a proactive government and a series of long-overdue legislative reforms, according to Kinstellar Partner Nina Tsifudina. From changes in the available company forms to alignment with EU regulations and the anticipation of eurozone integration – all these keep the country's markets buzzing, with movements in the banking and telecommunication sectors leading the charge.

"The recently-elected government's proactive stance has translated into significant legislative updates, which are pivotal for Bulgaria's economic advancement," Tsifudina begins. "With an eye on the European Union's Resilience and Recovery Plan, many reforms are well underway or have already gained parliamentary approval."

Notably, Tsifudina mentions the Commercial Act that "underwent changes in early August, generating buzz in legal circles. One particularly notable change is the creation of a new company type – the variable capital company – designed to enhance start-up operations. This structure offers greater flexibility to founders and reduces administrative burdens associated with capital changes," she explains.

Moreover, Tsifudina shares that Bulgaria has enacted reforms in insolvency proceedings, aligning with an EU-wide regulatory shift. "A novel concept has been introduced – entrepreneurs' insolvency. For the first time, overindebted entrepreneurs will have the opportunity to discharge their debts while continuing their business operations." She also reports that the country is looking at introducing a new FDI screening mechanism. "We must be one of the rare EU member states that are yet to introduce one."

Delving even deeper into EU-related updates, Tsifudina reports that the country might soon get a date for entering the eurozone. "The recently adopted national budget aligns with the Maastricht criteria, a precondition for eurozone entry," she says. "The government's commitment to bring down the inflation rate and secure a date is clear, with plans to announce it later this year, aiming for January 1, 2025, at the latest." According to her, businesses in Bulgaria are eagerly anticipating this, seeing as how "entering the eurozone will benefit export and facilitate investments."

Turning to the M&A trends in the country, Tsifudina shares that "Bulgaria has witnessed a healthy level of M&A transactions despite some slowdown due to the country's persistently high inflation. Specifically, the prospect of continuing the banking and financial services sector consolidation is on the horizon," she says, mentioning the recent acquisition of Raiffeisen Bank Bulgaria by KBC and its subsequent merger with UBB, and Post Bank's acquisition of BNP Paribas' personal finance branch.

Finally, Tsifudina shares that the IT and software services sector has also displayed "remarkable resilience amid economic challenges and geopolitical shifts. Strong developments in the telecommunications sector have been primarily driven by the largest-ever Saudi Arabian investment in Bulgaria, TAWAL's acquisition of the telecom towers infrastructure assets of United Group, as well as the recently-announced intention of UAE-based Etisalat to acquire a controlling stake in the telecom assets of PPF in Bulgaria, Hungary, Slovakia, and Serbia," she says. "The TMT sector remains an area of significant activity and growth, with its adaptability positioning it as a cornerstone of Bulgaria's business environment," Tsifudina concludes. ■

Moldova's Concerted Efforts: A Buzz Interview with Sabina Cerbu of Stratulat Albulescu

By Andrija Djonovic (September 11, 2023)

Moldova's legislative landscape is undergoing a period of significant transformation driven by the government's efforts to align with EU acquis, with key developments including amendments to limited liability company laws, the introduction of contactless business legislation, data protection changes, and comprehensive judicial reforms, according to Stratulat Albulescu Partner Sabina Cerbu.

"Moldova's legislative process has been intense, as of late, with the government making concerted efforts to align its regulations with EU standards," Cerbu begins. "The recent regional conflicts have heightened the urgency to make our market appealing to investors. To that end, we are implementing measures to streamline business processes, encouraging digital and contactless business operations," she explains.

One of the significant legislative changes Cerbu mentions relates to limited liability companies and could change the way these do business in a major fashion. "The amendments to the LLC law, set to take effect in 2024, introduce several key changes. First and foremost, they grant greater flexibility in profit distribution among founders, a welcomed development for the business community," she stresses. "Minority shareholders, those with less than 50% ownership, can now withdraw without the consent of other associates, while the new law allows for disproportionate distribution, which would facilitate attracting investments without giving up voting rights." Additionally, Cerbu points out that, for the first time, the Moldovan legislative landscape "now regulates shareholders' agreements, providing more freedom to founders in managing their businesses. The introduction of 'phantom stock agreements' is also notable, providing innovative tools to incentivize loyal employees."

Moreover, Cerbu reports that a new "contactless business" legislation, enacted in the summer, "primarily addresses KYC procedures. There have been substantial discussions, particularly concerning its implementation in the banking sector, to ensure customer access to this instrument," she reports. Also this summer, Cerbu says they had the chance to witness how the recent changes related to "data protection and the transfer of personal data abroad" are enforced in practice. "These changes have simplified the procedure for data transfer, aligning with international standards. However, awareness of these changes remains a challenge, and there is a need for education and compliance efforts," she explains.

All of these changes, according to Cerbu, play alongside the wider idea of comprehensive judicial reform in the country. This "judicial reform package encompasses civil and criminal proceedings, aligning Moldova with EU standards and anti-corruption policies. Compliance with these reforms is essential as Moldova works toward EU accession."

Finally, Cerbu reports that the renewable energy market is a hot topic in Moldova. "Investors are eager to understand the conditions and facilities offered by the government, as well as the regulatory framework governing this sector. The legal landscape is evolving, and it's an exciting time for those looking to invest in renewable energy in Moldova," she concludes. ■

The recent regional conflicts have heightened the urgency to make our market appealing to investors. To that end, we are implementing measures to streamline business processes, encouraging digital and contactless business operations.

Austria Is Thinking About the Future: A Buzz Interview with Andreas Hable of Binder Groesswang

By Teona Gelashvili (September 13, 2023)

Austria is witnessing a slowdown of its economy and increased reorganization and restructuring activities – impacting various sectors – while legislative changes introduce a new corporate entity and consider remote court hearings, according to Binder Groesswang Managing Partner Andreas Hable.

A new law is on the horizon, which has the potential to revolutionize the way legal proceedings take place, both in civil law courts and administrative procedures. While this law is not yet in force, it is an idea proposed by lawmakers. It envisions the use of videoconferencing systems to conduct court hearings before civil law courts and administrative bodies, which would eliminate the requirement for physical presence.

"In the past, we experienced a period when there were very few bankruptcy cases in Austria, and insolvency law did not play a significant role," Hable says. "However, the situation is evolving, and while it would be inaccurate to suggest that there is now a wave of bankruptcies and insolvencies, there is still a noticeable increase in the speed at which these cases are occurring, along with a growing number of bankruptcy cases. Additionally, there is a substantial amount of activity related to reorganization, restructuring, and refinancing that has emerged." According to him, these dynamics had not been observed in the past few years, which makes for an interesting trend.

"The impact of these developments is being felt across various sectors, including the M&A business, private equity, and venture capital transactions, which have all experienced a slowdown," Hable continues. "This trend became evident in the latter half of 2022, and it continues into the current year. Notably, this slowdown is not unique to our jurisdiction, as many other countries in the region are facing similar challenges." He highlights that the broader economy is also experiencing a slowdown, partially attributed to higher interest rates. "Additionally, the development of real estate projects has slowed down, due to the high cost of refinancing, mirroring the trends observed in private equity and venture capital," he notes.

From a legal perspective, Hable mentions that recent changes in Austrian legislation have introduced two significant initiatives. "Firstly, a new corporate entity known as the 'flexible company' has been established, offering enhanced flexibility in areas like shares and share capital to facilitate the formation of start-ups," he says. "Secondly, a law has been enacted to allow virtual shareholder meetings, providing a permanent solution beyond the temporary measures adopted during the pandemic. Moreover, Austria has aligned with an EU directive to enable the cross-border transfer of corporate seats, promoting mobility and flexibility for companies within the EU, including spinoff possibilities across member states."

According to Hable, an additional initiative has been released by lawmakers, "focusing on the introduction of dedicated venture capital legislation, aiming to strengthen the venture capital landscape in Austria by enabling an Austrian stock corporation to transition into a dedicated venture capital fund," he says, adding that this legislation conveys both corporate and regulatory rules.

Finally, Hable draws attention to a noteworthy development in the field of legal proceedings. "A new law is on the horizon, which has the potential to revolutionize the way legal proceedings take place, both in civil law courts and administrative procedures," he says. "While this law is not yet in force, it is an idea proposed by lawmakers. It envisions the use of videoconferencing systems to conduct court hearings before civil law courts and administrative bodies, which would eliminate the requirement for physical presence. With the introduction of these new techniques, the legal proceedings landscape will undergo significant changes and modernization." ■

Significant Shift in Bosnia & Herzegovina's Governance: A Buzz Interview with Mia Civic of ODI Law

By Teona Gelashvili (September 15, 2023)

Bosnia & Herzegovina has experienced a major government change leading to a focus on aligning with the EU, while a significant human rights ruling challenges the country's ethnic-based voting system – potentially triggering constitutional reform and reshaping its political landscape – according to ODI Law Partner Mia Civic.

"A change in government has taken place following the latest elections," Civic begins. "A new coalition has assumed power, and their initial focus has been on adopting laws to align with the EU stabilization agreement. This marks a crucial milestone, especially considering that progress in this regard has stagnated for the past years."

According to Civic, this encompasses a series of new laws. "One such law is the Freedom of Access to Information Act, which holds immense importance as Bosnia & Herzegovina was previously criticized for its limited transparency. With this legislation, citizens now enjoy unrestricted access to information held within national institutions. While this Act existed before, it has now been harmonized with international and European standards."

Additionally, Civic highlights the new law on aliens, which addresses migration issues and holds relevance for EU compliance. "Amendments have also been introduced to the law on the Ombudsman for human rights, expanding their powers," she notes. "Furthermore, there have been efforts to enhance the operations of the High Judicial and Prosecutor's Council of Bosnia & Herzegovina. These developments collectively make for a significant shift in the country's governance and legislative landscape."

"At the national level, Bosnia & Herzegovina has also taken steps to improve its business environment, which involves raising the threshold for VAT payers from BAM 50,000 to 100,000," Civic continues. "Businesses often reached the lower threshold quickly, so this change is beneficial and results in reduced administrative burden and costs. However, it's worth noting that the suggestion to allow businesses to pay VAT at the end of the month was not accepted, meaning they are still required to remit VAT regardless of whether they have received payment for their invoices. There was an opportunity to rectify this situation, but it was sadly not pursued, due to potential stability of the state concerns from the Republika Srpska side."

"Additionally, a landmark human rights decision came from the European Court of Human Rights in the case of Kovacevic v. Bosnia and Herzegovina," Civic says. "The court ruled that there had been a violation of Article 1 of Protocol 12 of the ECHR, which pertains to the general prohibition of discrimination. Consequently, the decision deemed our general voting system, which is based on ethnic factors, to be discriminatory."

At the national level, Bosnia & Herzegovina has also taken steps to improve its business environment, which involves raising the threshold for VAT payers from BAM 50,000 to 100,000. Businesses often reached the lower threshold quickly, so this change is beneficial and results in reduced administrative burden and costs.

"At present, the voting system operates along ethnic lines, with Republika Srpska citizens voting for Republika Srpska delegates and the same in the Federation. Implementing this verdict would necessitate seismic changes, including constitutional reform," Civic explains. Furthermore, garnering support for these changes is crucial, she says, "since the Dayton Peace Agreement has become one of the basic obstacles in the functioning of modern Bosnia & Herzegovina and its way towards Euro-Atlantic integration. This development may bolster the efforts of those advocating for establishing an actual constitution, and numerous aspects of the current system could undergo transformation."

"Bosnia & Herzegovina's ongoing legal reforms and commitment to aligning with EU directives demonstrate the country's overall dedication to promoting transparency, economic growth, and human rights," Civic concludes. ■

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Serbia's Improved FDI and Energy Prospects: A Buzz Interview with Hristina Kosec of Gecic Law

By Teona Gelashvili (September 20, 2023)

Serbia is experiencing positive economic growth driven by strong foreign direct investments, while developing a growing focus on energy security and the transition to renewable energy sources, according to Gecic Law Partner Hristina Kosec.

"In the second quarter, GDP has shown a positive growth of 1.7% compared to the previous year, and it is projected to increase further to 2.3%," Kosec begins. "Estimates suggest that 2023 may end showing improved economic conditions, although this outcome is uncertain due to factors such as inflation, the situation in the EU due to Ukraine, and increased prices of electricity and heating."

According to Kosec, a key development is that "from October 1, the transitional period for the EU's new CBAM regulation begins and extends until 2026. This will affect EU exports in several industry sectors, especially iron and steel, constituting approximately 1% of our GDP. Consequently, important decisions regarding this and other affected sectors must be promptly addressed."

Kosec emphasizes that FDIs "have had a significant impact, with an impressive EUR 4.1 billion in investments last year, and we expect a similar figure this year due to factors like skilled labor, incentives, and land availability. Serbia has become an attractive destination for investors due to its favorable incentive schemes, including tax benefits and employment-related advantages. We've also recently streamlined procedures with changes in immigration laws to encourage the migration of qualified workers, offering simplified permits and easier entry conditions for specific groups like students and researchers. These changes enhance our labor market and economic competitiveness." According to Kosec, the Open Balkan Initiative will also likely enhance the flexible movement of goods and labor within the region.

Other noteworthy updates, according to Kosec, include adjustments to those incentives that impact FDI. "The thresholds for these incentives in the manufacturing sector have been slightly raised, from EUR 300,000 to 500,000," she says. "Additionally, there is a concerted effort to promote investments in regions beyond Belgrade, specifically underdeveloped areas, particularly in southern Serbia. These incentives can potentially reach up to EUR 5,000 per employee or job created, primarily fostering job growth and industrial development in these regions."

> *FDIs have had a significant impact, with an impressive EUR 4.1 billion in investments last year, and we expect a similar figure this year due to factors like skilled labor, incentives, and land availability. Serbia has become an attractive destination for investors due to its favorable incentive schemes, including tax benefits and employment-related advantages.*

"Previously, real estate regulations also posed challenges for foreign investors due to complicated land acquisition and building permission processes," Kosec adds. "However, with recent changes came a simplified procedure – having a use permit easily translates to ownership, reducing risks and speeding up transactions."

Regarding energy, Kosec notes that the production is stable, although the country still relies heavily on coal. "In line with the EU goals, the target is to achieve more than 40% renewable energy by 2040," she says. "To work toward this goal, we introduced a package of energy acts in 2021 and, this year, a new one aimed at addressing grid balancing issues."

"One of the challenges facing the energy sector is insufficient storage capacity, which can be quite expensive to develop," Kosec further notes. "Consequently, the government is actively seeking strategic partners for the construction of five new solar plants, with a total capacity of 1,000 megawatts AC and dedicated storage facilities. This underscores the increasing complexity of energy projects and the growing interest from foreign investors. Additionally, to enhance energy security, we are engaged in natural gas storage agreements with Hungary, with the hope that the improved autumn weather will enhance our preparations for the winter." ■

Kosovo Changing for the Better: A Buzz Interview with Korab Sejdiu of Sejdiu & Qerkini

By Teona Gelashvili (September 22, 2023)

The recent establishment and practice of its Commercial Court – along with other legal developments and the government's push on energy – signify a shift towards impartiality, transparency, and investor-friendly policies in Kosovo, according to Sejdiu & Qerkini Managing Partner Korab Sejdiu.

"One of the most noteworthy recent developments in Kosovo is the establishment of the Commercial Court, comprising both first and second instances of decision making," Sejdiu begins. "This is particularly important because, in addition to handling commercial, competition, and bankruptcy matters, the court also addresses administrative challenges brought by businesses against public bodies," he explains.

The Commercial Court seems to have changed the prior practice of the courts – favoring the public institutions in their decision-making – and is addressing administrative matters more justly, Sejdiu continues. According to him, this also means "ensuring impartiality and preventing undue influence." Moreover, this change significantly "benefits businesses and investors by providing a more impartial and just legal environment. It ensures that administrative decisions are scrutinized more objectively, fostering a fair business environment and promoting investor confidence in Kosovo."

Additionally, Sejdiu reports that "the Business Registration Agency in Kosovo recently made a decision that requires all documents related to changing shareholders in companies and appointing managing directors to be notarized in Kosovo, even for online transactions." This decision has caused some concerns, Sejdiu explains, especially for "foreign investors who now face an additional administrative hurdle." According to him, the legality of this requirement is questionable. "The agency is reportedly considering allowing these documents to be notarized in other countries, which would ease the process for foreign investors," he says.

Moreover, in addition to these major developments, Sejdiu reports that Kosovo has seen the passage of various laws, including the law on cybersecurity, the law on judicial experts, a new anti-doping law, and a plethora of international agreements to finance the energy sector and the country's infrastructure. "The legal landscape is constantly evolving," he stresses.

And indeed, the government is focusing, in addition to daily matters, on the energy situation in the country. "The government has made the energy sector a top priority, especially given the challenges posed in the last few years by the rising energy prices and frequent blackouts," Sejdiu explains. "In response to these issues, the government has substantially invested in renewable energy sources and provided subsidies for both the energy sector and homeowners. These initiatives aim to enhance energy production, reduce dependence on conventional sources, and make energy more affordable for citizens," he highlights in conclusion. ■

The Business Registration Agency in Kosovo recently made a decision that requires all documents related to changing shareholders in companies and appointing managing directors to be notarized in Kosovo, even for online transactions.

Lithuania's Dynamic Financial Landscape: A Buzz Interview with Marius Matiukas of Adon Legal

By Radu Neag (September 25, 2023)

From the implementation of a bank windfall tax to a surge in crowdfunding and factoring and banks' newfound appetite for real estate loans, the legal, financial, and regulatory landscape of Lithuania is constantly evolving, according to Adon Legal Partner Marius Matiukas.

"Bank windfall legislation, adopted in May, introduced a tax on the banks' increased net revenue from interest, based on the difference between interest (loan) incomes and interest (deposit) expenses," Matiukas begins. "This has been a hotly debated topic, with banks expressing a reluctance to pay. However, it has led to a positive outcome as well, in terms of increased deposit interest rates and volumes." Lithuania now ranks fourth in the EU for retail deposit interest rates, he explains, "which has resulted in a surge in deposits. This tax is expected to generate approximately EUR 400 million for the government by 2024."

And banks have also reconsidered their strategies toward real estate investments, Matiukas notes. "Initially, there was a period of reluctance among banks to provide loans for real estate. However, there has been a shift, with banks not only restructuring existing loans but also showing an appetite for new loans." Costs of financing did change considerably. Thus, to make financing possible they occasionally agree with longer amortization schedules, he adds. "By extending the principal amortization period, i.e., having smaller monthly repayments with higher repayment at the end of the term, it's possible to issue higher credit with the same debt service coverage ratio. Although financing for real estate saw a slowdown for three or four months, banks are now again providing loans to established market players."

Lithuania has also seen significant growth in crowdfunding and the issuance of new licenses under the EU Crowdfunding Regulation, Matiukas says. "Even established crowdfunding platforms from outside Lithuania are choosing the country as their business hub due to the established regulatory framework and practice. Over the first six months of this year, funding for projects has reached EUR 118 million, compared to EUR 72 million during the same period of the previous year." The switch to the EU regime will further expand the market, enabling EU-wide operations, he points out, but the regulator is also increasingly strict: "the Bank of Lithuania is adopting a more conservative approach in issuing new licenses, as well as in supervision of the existing financial sector participants. And it's also sophisticated enough to make its own decisions and interpretations regardless of what's happening in other jurisdictions."

Initially, there was a period of reluctance among banks to provide loans for real estate. However, there has been a shift, with banks not only restructuring existing loans but also showing an appetite for new loans.

The factoring industry in Lithuania is booming as well, with several new companies operating in the sector. "Some historically only factoring companies have obtained banking licenses as well," Matiukas points out, "while liberal regulations in Lithuania allow for the provision of factoring services without needing a specific license." This openness has attracted foreign companies to enter the market, he notes, "seeking opportunities in this thriving sector. We've also witnessed investments and Series A rounds in factoring companies, indicating strong interest in this form of alternative financing."

According to Matiukas, Lithuania's appeal to foreign players in the financial market can be attributed to several factors. "First, the country has a well-established regulatory framework. The experience and clear positions of the regulatory bodies provide stability and predictability," he says. "Additionally, Lithuania has a history of attracting and nurturing financial companies, evident in the growth of e-money firms in the past. The country's technology, finance, and legal talent pool and expertise further enhance its attractiveness for new entrants." Finally, the regulator is also proactive and forward-thinking: "The Bank of Lithuania's strategic focus has recently expanded to improving the capital markets, which hopefully will further solidify the country's position in the global financial landscape," Matiukas highlights. ■

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Ukraine's Working Towards a Brighter Future: A Buzz Interview with Kostiantyn Likarchuk of Avellum

By Andrija Djonovic (September 26, 2023)

Amidst the tumultuous backdrop of a war-torn Ukraine, the legal market in the country finds itself navigating a complex landscape marked by uncertainty, according to Avellum Senior Partner Kostiantyn Likarchuk who talks about Ukraine's quest for investment, the status of its judicial reforms, and the pivotal role of antitrust legislation in this challenging environment.

"While the past 19 months have been fairly kind to our firm compared to the rest of the market, we do see many hurdles ahead," Likarchuk begins. "New projects are not opening much and the horizon seems a bit bleak, which is concerning – the uncertainty stemming from the ongoing war has deterred potential investors and governments from committing to Ukraine." However, according to Likarchuk, "the truth is, Ukraine needs investments and assistance now, as we cannot predict when and how the war will end. The economic challenges we face ripple across various sectors, making immediate investments crucial for recovery."

Focusing on the markets themselves, Likarchuk shares that "over the past three months, the M&A market has experienced limited activity. Transactional work across the board has significantly decreased. Unless there is a strong push on the side of investors to make the call to invest in Ukraine – not just by Ukrainian entities but also international ones – the transactional practices in our market are at risk of further decline," he says.

Looking at ongoing legislative reforms, Likarchuk mentions efforts to improve the country's judicial system. "Ukraine has recently formed the Higher Judges Qualification Commission, marking a significant step forward in our ongoing judicial reform efforts." According to Likarchuk, this is particularly crucial for Ukraine's aspirations to join the EU. "The process had been halted since 2019 when the previous commission was dismissed," he explains. "We expect this development to pave the way for more comprehensive judicial reform and legislative updates as we move forward, with accession negotiations expected to kick off by the end of 2023."

New projects are not opening much and the horizon seems a bit bleak, which is concerning – the uncertainty stemming from the ongoing war has deterred potential investors and governments from committing to Ukraine. The truth is, Ukraine needs investments and assistance now, as we cannot predict when and how the war will end.

In addition, Likarchuk mentions another critical legislative change in the realm of antitrust legislation. "The Antimonopoly Committee of Ukraine is set to gain broader powers, including the ability to conduct dawn raids and undertake quasi-policing activities," he reports. "With the recent change in leadership at the Antimonopoly Committee, we anticipate a more robust push in the fight against oligarchs, making this a significant development in our legal landscape," Likarchuk posits.

He concludes on a positive note by stressing that "Ukraine's legal community remains resilient, adapting to the ever-evolving landscape and working towards a brighter future." ■

THE DEBRIEF: OCTOBER 2023

In The Debrief, our Practice Leaders across CEE share updates on recent and upcoming legislation, consider the impact of recent court decisions, showcase landmark projects, and keep our readers apprised of the latest developments impacting their respective practice areas.

This House – Implemented Legislation

In Romania, a new mobility directive has been transposed into law. "On July 23, 2023, *Law No. 222/2023* came into force," Musat & Asociatii Senior Associate Gabriel Oprea says, highlighting that the law introduces a series of amendments to the law on companies, the law on the trade registry, and certain trade registry registration procedures. Oprea adds that *Law No. 222/2023* transposes the *EU Mobility Directive* "by systematically integrating provisions related to these operations within the national general regulatory framework for corporate matters. Through these regulatory changes, Romania aligns itself with the new consolidated framework introduced at the EU level for cross-border corporate operations with measures ensuring the protection of employees, creditors, and minority shareholders on the domestic market."

In Poland, "the Council of Ministers has adopted a Regulation on the amount of the minimum wage and the amount of the minimum hourly rate in 2024," Wolf Theiss Associate Sonia Kurpiel notes, adding that similar to 2023, "the amount of the minimum wage will increase twice next year." According to Kurpiel, "as of January 1, 2024, the minimum wage under the employment agreement will increase to PLN 4242 (about EUR 915), and as of July 1, 2024, to PLN 4300 (about EUR 927). The respective hourly rate will increase as well, to PLN 27.70 (approximately EUR 6) and from the second half of the year to PLN 28.10 (approximately EUR 6). The minimum hourly rate is applicable to contracts of mandate and service contracts."

Forgo, Damjanovic & Partners Partner Zsofia Fuzi also notes that "the Hungarian government recently announced some rather important changes regarding solar energy production by household solar power plants. According to the new rules introduced by governmental decree, the Hungarian government lifts the feed-in stop in the case of household solar power plants by extending the possibility of feed-in into the grid the produced but not used electricity." Fuzi also stresses that "the electricity fed into the grid will be settled under a yearly balance settlement basis, i.e., based on the balance of production and consumption. Those who wish to install new solar panels or extend existing ones can opt for a yearly balance settlement system if they submit their request by September 7, 2023, and finish installing/expanding their panel until January 1, 2026." She adds that "for those who cannot take advantage of the yearly balance settlement system, the government announced that they can feed electricity into the grid for a competitive market price, however, the detailed rules have yet to be adopted."

The Verdict

Musat & Asociatii Partner Iuliana Iacob highlights that the recent decision of Romania's High Court of Cassation and Justice sheds light on the application and interpretation of the choice of court clauses. One of the questions posed to the court was whether the need for choice of court clauses to be "expressly accepted, in writing, by the other party" requires that such clauses be enshrined in a separate written agreement. "In a nutshell, the absence of such separate written agreements gave rise to a debate regarding the validity of the choice of court clauses, triggering an objection to jurisdiction," Iacob notes.

"The Court held that consent to choice of court clauses need not be contained in a separate written agreement, but that, in assessing choice of court clauses, domestic courts are required to examine whether the parties have clearly and explicitly expressed their consent," Iacob points out. "The judgment has a significant practical impact in jurisdictional-related matters and is expected to clarify the formal requirements related to the conclusion of choice of court clauses as well as eliminate any controversy as to the impact of the lack of a separate agreement."

In the Works

CMS Sofia Managing Partner Kostadin Sirleshtov highlights that "the Bulgarian parliament adopted a decision assigning the Minister of Energy to investigate the terms and conditions under which the Bulgarian Energy Holding – a consolidating state-owned parent company in the energy sector – could acquire up to 20% of the interest in the exploration agreement of oil and natural gas in the Khan Asparuh block

Ana-Maria Abrudan, Managing Associate, Musat & Asociatii

Gabriel Oprea, Senior Associate, Musat & Asociatii

Iuliana Iacob, Partner, Musat & Asociatii

Kostadin Sirleshtov, Managing Partner, CMS Sofia

Sonia Kurpiel, Associate, Wolf Theiss

Zsofia Fuzi, Partner, Forgo, Damjanovic & Partners

in the Black Sea." Currently, Sirleshtov notes, "the holders of the permit are OMV Petrom and Total. The aim of this step is to allow the Bulgarian state to add equity in its own offshore natural gas resources given the recent discoveries in Turkiye and Romania."

In addition, Sirleshtov emphasizes that "the Bulgarian government started the fourth tender for the Khan Tervel block for prospecting and exploration of oil and gas offshore." Meanwhile, on the renewables market, "the Actis-owned Rezolv acquired the rights to develop and implement Bulgaria's largest solar project named 'St. George' with a capacity of 229 megawatts," he says.

Sirleshtov adds that there are updates with respect to the nuclear sector as well. "The parliament assigned the Minister of Energy to enter into negotiations with the Minister of Energy of Ukraine for the potential sale of two Russian VVER third generation 1,000-megawatt nuclear reactors intended for the unrealized Belene NPP project. Such a potential sale is viewed as the last step in detaching the Bulgarian nuclear sector from Russia," he says. "Moreover, the Bulgarian Nuclear Safety Agency started the procedure for licensing of Westinghouse's nuclear fuel since the first supplies of nuclear fuel are envisaged to happen in April 2024."

Regulators Weigh In

In Romania, there have been updates regarding the public procurement procedure. "The new *Order No. 1554/2023*, adopted by the National Agency for Public Procurement and published in the Romanian Official Gazette on September 6, 2023, serves as a noteworthy advancement in the standardization of the Romanian tenders," Musat & Asociatii Managing Associate Ana-Maria Abrudan says. "By elaborating on the standard documentation necessary for public and sectoral public procurement contracts of products, this order aims to construct a transparent and consistent operational environment for all parties involved."

According to her, "the order brings clarity by segmenting the process into six main areas, ranging from bidder instructions and product specifications to contract types and document templates." Abrudan believes that "the new order's focus on uniform requirements is a double-edged sword. On one hand, it streamlines the process for contracting authorities/entities and bidders, reducing the likelihood of ambiguities. On the other hand, its stringent guidelines could limit the actual flexibility, making it more difficult for public authorities to consider certain proposals that diverge from the set templates but might offer innovative or tailored solutions, depending on the particularities of each tender, on a case-by-case basis."

The Broader Picture

Sirleshtov says that, in the context of the sanctions, the Bulgarian parliament decided to cancel Lukoil's concession for the operation of the Rosenets oil terminal in Bulgaria as the Bulgarian state will become the operator. ■

ROOM TO GROW: DEVELOPING CAPITAL MARKET LANDSCAPES IN CEE

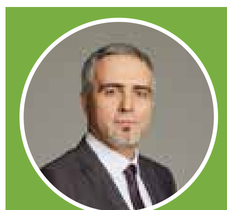
By Teona Gelashvili

ACI Partners Legal Manager Carolina Parcalab, Avellum Senior Partner Glib Bondar, Gecic Law Counsel Miodrag Jevtic, Vujacic Law Office Partner Sasha Vujacic, and Schoenherr Bulgaria Local Partner Tsvetan Krumov discuss the current status of capital markets in CEE.

Capital Markets: Not Great, Not Terrible

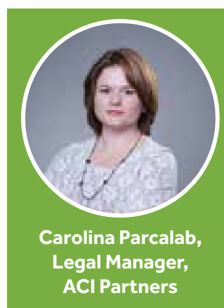
Sasha Vujacic, Partner, Vujacic Law Office

When discussing the status of capital markets overall, Vujacic has a rather positive view: "After the crisis year of 2020, significantly better results were achieved in the capital market of Montenegro, especially in terms of turnover on the Montenegro Stock Exchange and growth of new capital investment through corporate activities." This, Vujacic says, can be attributed to "a significant influx of domestic and especially foreign investments in its capital markets," as "Montenegro, with its location being at the crossroads between most significant parts of Europe, as well as its mild climate and enchanting landscapes, has always been more than inviting for foreigners and investors."


Miodrag Jevtic, Counsel, Gecic Law

In Bulgaria, Serbia, and Moldova, capital markets seem to be relatively less active in comparison. "Serbia is traditionally more oriented towards bank financing," Jevtic notes. "Stock markets have experienced a slight downward tendency, with listed companies leaving the market, primarily due to shareholdings being consolidated with a small number of shareholders but also due to the costs of trading." Jevtic further points out that "in 2021, the Belgrade Stock Exchange (BELEX) linked up with the Athens Stock Exchange to boost capital market activity," however, "the 2022 reports have shown the total turnover on the regulated and MTP markets was approximately 7.21% lower compared to the same period in 2021."

Krumov adds that in Bulgaria, "the number of public offerings on the Bulgarian Stock Exchange (BSE), which is the only domestic regulated market, is small, with less than 40 issuers having securities actively traded. According to the BSE's statistics for the last three years, the number of IPOs was 6 in 2022, 21 in 2021, and 19 (in 2020)."


Carolina Parcalab, Legal Manager, ACI Partners

As for Moldova, Parcalab reports that "many local and international experts have noted on various occasions the insufficiently developed level of the Moldovan capital market," adding that some voices even consider it to be non-existent. "These statements are partly true," she continues. "Unlike developed countries, where capital markets emerged naturally as a response to market processes, the Moldovan capital market was created by regulatory reforms in the context of mass privatization in the early 90s."

Bondar reports that in Ukraine, capital markets have experienced significant shifts in the past couple of years. "In July 2021, the Ukrainian Parliament introduced a new framework for issuing securities in Ukraine by implementing several key EU directives and regulations," he says. "The new framework was widely expected to invigorate the Ukrainian local bonds market. However, capital markets in Ukraine were largely stifled in 2022 due to the Russian invasion, which had a profound impact on the economy and investor confidence." According to Bondar, "throughout 2022, the issuance of new securities dwindled by nearly half in comparison to 2021," and "a staggering 79% drop occurred in the corporate bond issuance." Still, he says, "the first half of 2023 witnessed a gradual market revival: the number of securities issued almost tripled year-on-year reaching UAH 43 billion."

Commonly Traded Instruments

Tsvetan Krumov, Local Partner, Schoenherr Bulgaria

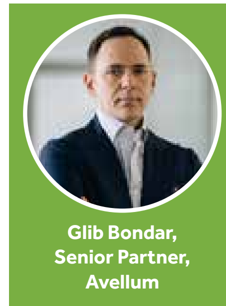
Among these, the most common instruments traded in the capital market, are local corporate and governmental bonds in Bulgaria, Serbia, and Ukraine. "The most commonly traded instruments are shares in local corporate and governmental bonds," Krumov says, with Jevtic adding that "BELEX's trading includes shares and bonds of the Republic of Serbia." Bondar also stresses that "domestic government bonds have historically dominated the capital markets in Ukraine, constituting 91.3% of trade in 2023. The market also includes sovereign and corporate bonds, municipal bonds issued by Ukraine's largest cities of Kyiv, Kharkiv, and Lviv, and investment certificates."

Parcalab reports that equity securities issued by Moldovan banks continue to be the most traded instruments. "The corporate bonds market was non-existent until 2023 when Moldova Agroindbank – one of the largest Moldovan banks – successfully issued corporate bonds that were admitted for trade on the Stock Exchange," she says. "The total amount of the bonds offered is MDL 400 million, with a circulation term of three years and a floating interest rate, and represents an important step for the Moldovan capital market development."

There are also some emerging trends in the local capital market. "There has been a surge in emerging financial products such as crop receipts and credit notes (credit-linked notes)," Bondar says. "There is intention for the development of the FinTech industry in Montenegro, including cryptocurrencies and blockchain, but that process is in its early phase," Vujacic adds.

ESG Aspirations

Even though the capital markets are still in development in many CEE countries, ESG still has a notable influence. In Serbia, "although ESG factors have been around for decades, in recent years there has been a growing recognition among investors, corporations, and regulatory bodies," Jevtic says adding that "they have become an integral part of investment strategies." According to him, "in 2021, the Republic of Serbia issued EUR 1.0 billion worth of green eurobonds, for the first time," while "investor demand during the auction exceeded EUR 3 billion – indicating significant investor interest in these bonds."



Glib Bondar, Senior Partner, Avellum

"The integration of ESG considerations into the capital markets is an evolving theme in Ukraine," Bondar reports. "While the ESG legal framework remains underdeveloped, certain steps have been taken. The introduction of green bonds in 2021 marked a pivotal moment, however, no local green bond issuances have materialized under this framework to date." Nevertheless, he says, "notable instances of ESG-related financing included the issuance of green eurobonds by DTEK Renewables Finance B.V. (EUR 325 million) to expand DTEK's projects in Ukraine, and by Ukrenergo (USD 825 million) to settle its debts to renewable energy producers."

> *The introduction of green bonds in 2021 marked a pivotal moment, however, no local green bond issuances have materialized under this framework to date.*

"At this point, the concept of green bonds is not developed in Bulgaria with there being no special capital regulatory treatment for investments in such instruments and no preferential tax on revenues from interest arising from green bonds," Krumov explains. "Nevertheless, regarding solar parks financings which have been plenty in recent years we have seen a number of them being structured as privately offered bonds."

Parcalab highlights Moldova's aspirations to develop ESG in capital markets. "It is early to assess the ESG impact on investment decisions as ESG awareness is at an incipient stage in Moldova," she notes. Still, "local businesses, in particular those that are members of international groups, have already started to implement ESG on a voluntary basis."

And the "EU factor" is expected to drive developments in this area. In Montenegro, "we are obliged by our *Agreement of Accession to the EU* to follow the latest standards, so we have two levels: to educate market participants and after a certain period it is expected to gain some benefits regarding those standards," Vujacic notes. Similarly, "considering Moldova's status as an EU candidate," Parcalab expects "that the interest in ESG implementation will increase." ■

CEE M&A OUTLOOK: STEADY AS SHE GOES

By Andrija Djonovic

With CMS's recently published European M&A Outlook report taking the temperature of the M&A activity across the continent, CMS Romania Managing Partner Horea Popescu and CMS Vienna Partner Alexander Rakosi share their insights on M&A trends in the CEE region.

CEELM: Looking at the M&A trends, can you provide us with your perspective on the last 12 months?

Rakosi: In general, we've witnessed relatively robust activity levels over the past year. Several sectors have remained quite active, though not quite at the levels seen in early 2021 or 2022. Nonetheless, compared to the pre-pandemic period, the situation has been quite favorable. Due to various geopolitical developments, financing has become more challenging, leading to a decline in large-cap deals. However, mid-market and smaller deals have continued to see strong activity levels. Corporates have remained quite active, and there have been interesting targets available across the board, with lower competition levels. Overall, pricing has become somewhat trickier, making it more difficult for clients to continue to rely on rising EBITDA multiples. Predicting the direction of the market has also become less certain than in the past – thus, there's a greater focus on operational improvements in the context of pricing assessments.

Popescu: I believe we can divide this period into two segments, starting with February 24, 2022. The first six months were exceptionally hectic, with individuals and assets seeking refuge from conflict zones. This led to increased interest in CEE assets. In 2023, the first half of the year presented some challenging conditions, resulting in a slight downturn in M&A activity, partly due to the ongoing conflict.

When we examine the region as a whole, the overall picture is neither particularly gloomy nor exciting. However, when we delve into individual countries, this perspective changes.

CEELM: What then can you tell us about individual markets in the region?

Popescu: The picture varies significantly. In terms of economic growth, the region has managed to avoid recessions and sluggish growth. Some countries have remained consistently on track, such as Romania, which is experiencing the highest regional growth. Deal activity tends to follow economic trends, and when deal volume is decreasing, it often corresponds to little or no economic growth.

We've observed an uptick in Romania, both in mid-cap and large-cap deals, with several transactions taking place this year. The Czech Republic and Hungary experienced some slowdowns, and Poland, despite a few fantastic years in the past, also saw a relative slowdown. Interestingly, one might have expected Poland to host the largest deal, but the largest transaction occurred in Romania – Enel's acquisition by PPC. This could potentially indicate some softness in other markets.

Rakosi: In the Balkans, it was a rather moderate 2022. There were some unique factors at play, with Serbia dealing with its own situation related to the Russia-Ukraine conflict. Some Russian businesses moved to Serbia, which had a positive impact on the Serbian market, however, if we exclude this effect, the overall activity levels in Slovenia and Croatia were relatively higher. Croatia's entry into the eurozone and the Schengen zone has increased investor confidence, and Slovenia still has a good share of smaller and medium-sized export-oriented companies, which contributes to its activity. In general, the results have been decent, with no major market-shifting developments.

CEELM: Looking ahead to the next 12 to 18 months, what can we anticipate?

Popescu: I believe technology will continue to be among the top three sectors in terms of M&A activity. Furthermore, I expect the energy sector to experience significant growth. There have been intriguing deals, and there is substantial interest in investing in renewables and alternative energy sources, including gas, offshore ventures, nuclear energy, and similar areas.

Rakosi: In addition to that, software services, data analytics, and business services are all crucial components that corporates are considering when modernizing their logistics systems for the coming period. Furthermore, certain areas within the industrial sector, such as packaging and recycling, continue to offer compelling opportunities for M&A activity.

CEELM: How do you foresee the increased cost of financing will affect the next 12 months?

Alexander Rakosi, Partner, CMS Austria

Horea Popescu, Managing Partner, CMS Romania

Rakosi: The pressure to secure financing will likely persist. This could make it somewhat more challenging to finance large deals but could also create opportunities for cash-rich corporations. Many corporate balance sheets currently hold significant cash reserves that facilitate mid-market transactions. Moreover, in jurisdictions like Poland, there are initiatives such as private debt and private credit that offer alternative financing options. This could open up new avenues for funding and potentially lead to an interesting landscape for deals in the future.

CEELM: What about private equity in particular – what's its current situation?

Popescu: Private equity and high-interest rates don't usually align well; it doesn't make much economic sense to finance acquisitions primarily through debt in such an environment.

However, private equity investors are still holding a substantial amount of assets – PE funds are now keeping their assets for more extended periods than we've typically seen in the past. I believe we may still witness some surprises by the end of the year, potentially in Romania or Poland, with interesting deals or significant PE exits. Regarding prices and transaction volumes, it remains to be seen, but there will likely be sales. While private equity firms have the financial resources, their approach will need to be re-evaluated to determine the right valuation in light of current interest rates.

Rakosi: Private equity does have a significant amount of uninvested capital, and despite a slowdown in fundraising, PE funds don't seem dissatisfied. Exits, in general, have decreased, but that doesn't mean they won't happen. As for new investments, most of the deals happening now are add-ons, which is a strategy for reinforcing existing PE investments until exit or new investment opportunities arise. Regional funds, in particular, appear to be content with their development, based on our observations. And, PE funds specializing in turnarounds and distressed deals are finding a number of interesting opportunities for progress.

Regarding deal features, we've noticed an increase in the use of earnouts. Our PE study published earlier in 2023 highlighted an interesting shift from the previous year, with earnouts being a prevalent feature in current deals (with the aim to bridge different pricing expectations between sellers and buyers).

CEELM: Looking ahead, which markets would you be inclined to bet on, and what uncertainties remain?

Popescu: While we anticipate interest rates decreasing, GDP growth increasing, and an improved geopolitical situation, these factors are, really, beyond the control of regional players. So, we must remain cautious and wait to see how things unfold. I do believe that M&A activity will see an uptick in the next 12 months, although CEE may not be the fastest-growing region in this regard – Western Europe and the UK are likely to outpace CEE in terms of growth. Nevertheless, we expect continuous investment in the region because the fundamentals here remain strong. Furthermore, there are additional developments on the horizon, with more countries unlocking access to EU funds. Ultimately, we maintain confidence in Poland and Romania. Romania has not experienced a recession since the early 2000s, which gives us great optimism for the years ahead.

Rakosi: There is indeed more skepticism across CEE than in previous years. However, when we delve deeper into the underlying data of our recent report, there is a notable difference in sentiment between non-CEE players, who tend to be more pessimistic about the region, and CEE players. I believe that the uncertainty related to Ukraine and Russia, and the associated pessimism, is part of the broader geopolitical context in the region. While there are certainly threats, there are also opportunities. I anticipate there will be more regional investments in the region compared to international investments. There are examples of untapped markets, such as North Macedonia. If regulatory stability could be achieved there, it could lead to noticeable growth. Additionally, we hope that Slovenia and Croatia may have a brighter outlook if they capitalize on consumer market/retail capabilities. ■

THE CORNER OFFICE: BALANCING THE BOOKS – OVERDUE BILLS AND UNPAID INVOICES

In The Corner Office, we ask Managing Partners at law firms across Central and Eastern Europe about their backgrounds, strategies, and responsibilities. Shifting our focus to the financial aspects of legal work, we asked: What percentage of your issued bills end up being overdue, what percentage end up never paid, and what is your firm's/office's standard methodology to handle both cases?

Kostadin Sirleshtov, Managing Partner, CMS Sofia: Indeed, there are several stages before the bill is paid. The first step is the WIP (work in progress) – it shows the hours on the clock as recorded by the fee earners. The WIP gets turned into bills (billing process) and during this process law firms incur the first losses, i.e., write-offs (the time that is actually lost/written off and never billed to clients). Naturally, every law firm is trying to minimize the write-offs, but nevertheless, they stand at about 5-15%.

Once the WIP is turned into bills, there are two scenarios: the bill gets paid within a reasonable period (i.e., 60 days) or it is not paid. There are also situations where the payment of the bill is significantly delayed, which affects the profitability and the results of the firm.

These days clients very often ask for the verification of the WIP before it is converted into bills and therefore, we experience a small percentage of bills that are not paid. These less-than-5% situations get escalated to the Client Relationship Partner for the client and addressed at the highest possible level.

We seldom litigate clients, but – especially with clients who are testing our nerves – this is a possibility. So, the standard methodology is: i) try to avoid situations where the bills are not paid; ii) escalate; iii) decide whether to sue the client; iv) sue and collect.

Nenad Cvjeticanin, Managing Partner, Cvjeticanin & Partners: The percentage of overdue bills can vary widely depending on the types of clients, and their billing practices. Our law firm generally has a low percentage of overdue invoices (around 14%). Essentially, we maintain proper billing and accounting procedures to minimize overdue bills.

The percentage of bills that end up never being paid also varies. While most clients intend to pay their bills promptly, some may face financial difficulties or dispute the charges. The percentage of invoices getting unpaid is also low, reaching 2.5% of gross income. In general, we aim to minimize the number of unpaid bills through clear communication, ethical billing practices, and effective collection strategies.

These procedures for handling overdue bills are i) reminder notices: sending polite reminder notices to clients with overdue bills, often in the form of letters or emails, to request payment and provide details of the outstanding balance, ii) phone calls: if reminders do not yield results, we may follow up with phone calls to discuss the overdue payment and address any issues or concerns the client may have, iii) negotiation: in some cases, we engage in negotiating payment plans or discounts for clients facing financial difficulties to facilitate the settlement of overdue bills.

Still, when bills remain unpaid, we may take additional steps, such as i) dispute resolution: in cases where the client disputes the charges, we may engage in mediation to resolve the issue, ii) debt collection: as a last resort, we may initiate legal action to collect outstanding debts. This is considered when internal efforts have been exhausted.

Istvan Szatmary, Managing Partner, Oppenheim: Oppenheim closely monitors the life-cycle of its invoices. The work begins even before the signing of an engagement letter: from publicly available sources we put together a kind of SWOT analysis of the future client relationship from all perspectives, including financials. The pre-engagement standard process includes not only considering the client's ability to pay the invoices but also the projection of the expected sales revenues and the mapping of the potential invoicing periods.

Once we come to invoicing, our dedicated debt collection team takes over the management of the invoice and makes sure that we prevent situations where our receivables do not get paid. The team works along the lines of standard processes, however, we put much emphasis on individual treatment of the various situations. One of the fundamental principles of debt collection is the involvement of the Client Relationship Partner, who is in regular contact with the client anyway. Since the legal services industry is a trust-based business, we always listen to the words of the Partner in charge, particularly in a potentially sensitive situation like non-payment. By combining the standard processes and the individual approach we are quite successful in minimizing the amounts that become overdue or non-paid.

Mojmir Ostermann, Managing Partner, Ostermann & Partners: We are fortunate enough to experience almost no problems collecting on issued invoices. The core of our business is servicing long-term corporate clients, Croatian and international ones. We have had splendid cooperation with all of them – with some from the establishment of our or their business. We also work with international law firms and their clients. All in all, these are established and respected businesses that care about doing business the right way.

We do have some overdue invoices from time to time (around 30% of all invoices), but this is usually not a cause of great concern for us since these invoices end up being paid. Our gentle yet persistent accounting department is probably to be thanked for this. We don't really mind waiting a bit, sometimes it's a matter of a complex invoice approval procedure with the client company that is causing the delay, other times maybe something else, but it is never really too long before the invoices are actually paid.

Bernhard Hager, Managing Partner, Eversheds Sutherland Slovakia: The percentage of your issued bills that end up being overdue is 15.8%. In our firm, we always try to resolve the debt recovery process by mutual agreement with the client. There are very few situations when our invoices end up as a write-off in the accounting system. Percentage-wise, we are below 2%.

Our firm checks payments every day. The reporting of outstanding receivables is carried out by our billing department, which sends to the project managers at the beginning of each month an updated list of outstanding receivables to their projects, classifying the receivables by number of days overdue. The billing department then prepares a reminder to the client as instructed by the project manager.

Borivoj Libal, Co-Managing Partner, Eversheds Sutherland Czech Republic: The standard due term is 30 days. Approximately 15% of our bills are overdue but only 1.5% of them have been never paid. We are using both standardized and personal reminders on a regular basis. If we have a new client, we often use retainers.

Radan Kubr, Managing Partner, PRK Partners: The vast majority of our clients are good payers and we do not experience any significant difficulties in getting paid.

LOOKING IN: INTERVIEW WITH REED SMITH PARTNER KEVIN-PAUL DEVEAU

By Teona Gelashvili

In our Looking In series, we talk to Partners from outside CEE who are keeping an eye on the region (and often pop up in our deal lists) to learn how they perceive CEE markets and their evolution. For this issue, we sat down with Reed Smith Partner Kevin-Paul Deveau.

CEELM: What was your first interaction with the CEE region?

Deveau: I first touched upon CEE matters in London in 2010, while working at Clifford Chance, which was a relatively dominant law firm in the region at the time. It happened almost by accident, but I think resulted from my willingness to go off the beaten path. In January 2010 I went on secondment to Bucharest and ended up staying for almost three and a half years. Upon my return to London, I continued collaborating with my CEE clients and working on new deals in the region.

From a banking perspective, a lot of work originated from the Austrian banks, which were actively involved in deals across CEE. Deals were coordinated from Vienna under English law. After the eurozone crisis and the monetary crisis in Greece, many banks pulled back from the region, including the Austrian banks (who started doing deals under local law, coordinated by their local branches). This trend was also visible with the Hungarian and Greek banks. But the deal flow from development institutions in the region kept going.

CEELM: What about the current pipeline? What has been keeping you busy in the last 12 months?

Deveau: A lot of focus has been on institutions like the EBRD. There has also been a fair bit of activity in the technology and start-up sectors. The region has become relevant in these areas due to its expertise, technical specialization, and comparative cost base. Also, companies have been innovating, whilst also mimicking best practices from the US, the UK, and other developed markets (producing quick efficiencies and gains).

A lot of developments are more country-specific. While some countries are making headway, Poland stands out for having made the most progress. Private equity managers and alternative credit providers from London and the US are no longer looking at Poland as a developing market, and whilst a lot of private equity and credit used to pass on Polish transactions, that is less frequently the case now. The Czech Republic, Slovakia, and Slovenia are doing well too. Romania and Bulgaria are humming along, although with few blockbuster deals. Greece has managed to stabilize as tourism makes a comeback and there is a significant influx of money into the country. On the opposite side of the spectrum, Turkiye is lagging behind, with significant uncertainty as to whether a new finance minister and central bank governor can lure investors back after tumultuous elections and years of unorthodox monetary and fiscal policies (although the bond markets are showing some signs of life). It will be interesting to see what will happen with Turkiye – it is a big market, and if it can manage a revival, it will have a significant impact on the region.

Overall, the region is doing okay, but it's not causing a big splash right now.

CEELM: How has London's role in CEE evolved over time and what is it now?

Deveau: We had Brexit and the financial crisis. Both had an impact on London, generally. In CEE, London played a bigger role prior to those events, and it used to be absolutely indispensable to banking and legal services for the region, alongside secondary cities such as Paris, Frankfurt, and Vienna. That has changed to a degree, but London is still important for the region – not least because of the amount of private equity money managed by the City – but more and more is happening locally in terms of decision-making. Some deals are done under English law, and others are done locally. It's natural for these sorts of markets, especially given how much local legal and banking markets have matured over the last fifteen years.

That said, there are some deals and some complex products that will likely never be done efficiently in the region. This is in no way an insult to local lawyers – there are excellent practitioners who do astoundingly good transactions and help governments write innovative and complex legislation. They take very complex products and implement them locally. However, there is a collocation efficiency – in London, you still have a lot of specialized teams in one place. There are more bespoke and esoteric deals, and those deals tend to be done under English law. And that expertise will stay in London; it doesn't need to be located in every jurisdiction.

Look at it this way, international law firms don't need to be in every jurisdiction. And, for example, Bulgarian law firms don't need to be the best in some of the highly specialized (and sometimes rare) financial products that are generated in London and other financial centers. I think that the need for specialization in and for referrals to London will continue.

CEELM: What is your perspective on internationals in CEE – how will their presence evolve?

Deveau: I believe it's incredibly unlikely that we will see an international firm not already present in the region making a bet on CEE this year. We all know there is an M&A slowdown, there is a lot of pressure in the context of the associated wage wars in the US and the UK – now subsiding, but which have put pressure on budgets – to safeguard profitability. And to be cautious. In that context, going into a new jurisdiction is a tough – even brave – decision.

Also, look at it this way. European and Asian legal markets are less lucrative compared to the massive and hugely profitable US market. And CEE is less profitable – on average – than Western Europe. And if you are a US- or London-based law firm and trying to reach into the region, it's very difficult to make it work without diluting the equity or squeezing the ability of the local lawyers to apply different profitability metrics, absent a booming economy and blockbuster deals (which we don't have now).

But this isn't necessarily a bad thing. I've seen the negative consequences of the overgrowth of international law firms in CEE. If you have an office of 20 lawyers in CEE, it is likely generating enough profit for one equity partner – usually the founder who managed to bag a merger with an international law firm years ago – who stays around for 20 years. That leaves little room for development within that office for the younger generation. Not everyone will agree with that view, but I have seen it too many times to not mention it.

I do think some international firms have done well in the region, but it requires a specific mentality and flexibility to accept different levels of profits. That is part of the reason why I don't think anyone new is rushing into the region. Of course, you will see some international law firms (already present in the region) making moves and growing. But those are the exceptions to the rule, and you see a lot of local law firms making inroads, including with regional associations and mergers.

CEELM: What's your outlook on the situation in Ukraine?

Deveau: We all hope for peace and stability. It has been awful for the region, the country, and all the people affected. Speaking regionally, and looking at its effect on legal markets, the war in Ukraine has caused a lot of disruption. There are still deals happening in Ukraine despite the circumstances, but challenges abound. There is hope that Ukraine will come through and the country will come back to (and exceed) where it was in terms of deal flow and development. But the practical reality is that it has been more than 18 months now, and the war still rages on. I hope we can start hearing some more positive stories from Ukraine before long.

CEELM: Finally, where do you see the most activity in the next 12 months?

Deveau: Poland is approaching an upcoming election, which will likely dampen the appetite for big transactions. So, I don't expect any significant deal flow at this time, particularly as Poland's economy and the regional economy soften a bit in line with the slowing European economy. Romania and Bulgaria, as well as the Baltic countries, seem to be making steady progress. Turkiye has seen some life in the bond markets, but deal flow remains very low compared to its healthier years. Turkiye needs the currency to calm down and inflation to come down for a continuous period before investors start placing big bets again. Even then they might hesitate given the tumult in recent years. Some people got burned badly on bets in Turkiye.

The most probable contender for the next 12 months appears to be Greece. The country has experienced a positive year, and it has a relatively stable government that has managed to secure re-election. Despite facing challenges in terms of managing its maturing debt – the cheap money made available during the crisis will need to be refinanced – signs of improvement are visible. The tourism industry has rebounded, and there is a strong focus on and appetite for real estate and tourism investments. I expect it will be a good year for Greece. ■

MARKET SPOTLIGHT: POLAND

ACTIVITY OVERVIEW: POLAND

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

293

215

205

169

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Partners with the most client matters reported by **CEE Legal Matters**.

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Marcin Studniarek

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BUSY WITH A COUPLE OF DISCLAIMERS: A LOOK AT POLAND'S LEGAL SERVICES MARKET

By Andrija Djonovic

Domanski Zakrzewski Palinka Managing Partner Krzysztof Zakrzewski, DWF Poland Managing Partner Michal Pawlowski, and MFW Fialek Managing Partner Miroslaw Fialek look at the current state of the Polish legal market and some of the challenges it faces despite increased volumes of work.

Looking at the Numbers

Fialek reports an uptick in activity for their law firm in 2022. "Throughout 2022, our law firm witnessed a remarkable surge in transactional activity, evidenced by a notable increase in the number of ongoing projects – exceeding 50 in total," he says, highlighting an influx of international clientele interested in investments in Poland and nearby regions. Still, despite this success, Fialek acknowledges challenges in maintaining steady client growth. "Our primary challenge has been to consistently expand our client base within the boundaries of the Polish market," he says.

Pawlowski also shares a positive outlook, noting an increase in the volume of work over the past year. "The volume increased and we expect to see another year of continued

growth," he notes. Pawlowski attributes this growth to investments in organic expansion and activity in renewable energy M&A. However, he acknowledges that challenges persist, including the macroeconomic situation and market trends.

But the volume of work alone might not paint the full picture. "Our volume of work is overall more or less the same but revenue growth is only 2-3%," Zakrzewski reports. "Obviously, it varies across practice areas." He highlights the turbulence in Poland's economic and political situation, noting that disputes with the EU resulted in the withholding of European funds and a freeze in activity on capital markets. He also emphasizes the potential for Poland to attract international business in the future, depending on the results of the upcoming election in October.

Still a Very Interesting Place to Invest In

The lawyers agree that Poland, despite existing hurdles, is still quite appealing to investors. "Generally, it is still comparable, but we have to take into consideration the loss of our good reputation as a country – inflation, unstable political and economic situation, relations with the EU, etc.," warns Zakrzewski. However, issues notwithstanding, Zakrzewski highlights Poland's attractive features, particularly the availability of a well-educated, committed, and cost-effective workforce.

Krzysztof Zakrzewski, Managing Partner, Domanski Zakrzewski Palinka

Michal Pawlowski, Managing Partner, DWF Poland

Miroslaw Fialek, Managing Partner, MFW Fialek

Fialek, on the other hand, adopts a more optimistic stance, stating, that "the allure of investing in a particular country is shaped by a multitude of factors, encompassing elements such as currency stability, governmental policies, business potential, geographical advantage, and more." He acknowledges Poland's challenges, including inflation and geopolitical tensions, but highlights the nation's well-educated workforce, much like Zakrzewski, as well as competitive labor costs, and strategic geographical location as compelling reasons for investment. Also, he underlines the robustness of Poland's economic infrastructure and its ability to weather regulatory complexity introduced by recent legal changes.

> *Price competition on the Polish legal market is certainly the toughest in the region.*

"Despite some challenges," Pawlowski believes that "Poland is still a very interesting place to invest. That is largely driven by macroeconomic trends in Poland and relatively faster growth perspectives." He points out that Poland's membership in the European Union offers a regulatory framework "that is a safeguard for foreign investors that the laws shall remain stable and reliable."

A Unique Trend

Speaking about the contest between law firms in Poland, Zakrzewski emphasizes that, "price competition on the Polish legal market is certainly the toughest in the region." He points out that rates in Poland have been decreasing over the years, which is a unique trend compared to other countries. Zakrzewski attributes this phenomenon to the presence of numerous international law firms in the Polish market and the emergence of smaller, cost-effective firms formed by experienced lawyers.

Fialek chimes in, adding that price competition is "heavily contingent on several pivotal factors, including whether a firm is part of a network, its size, and the geographical location it operates in. This diversity has generated a pronounced range in pricing structures, giving rise to a multifaceted competitive scenario among law firms." Ultimately, Fialek reports that firms compete "not solely on the basis of pricing" and clients "evaluate their choices based on more comprehensive criteria." ■

POLAND: RETHINKING DEFENSE

By Andrija Djonovic

In the wake of Russia's invasion of Ukraine in February 2022, Poland has found itself at the forefront of NATO's eastern flank, sharing a border with a country embroiled in a full-scale war. DLA Piper Partner Marta Frackowiak and Dentons Partner Jaroslaw Witek talk about how this geopolitical reality has prompted a significant shift in Poland's defense strategy.

Armed to the Teeth

Due to Poland being in the "direct neighborhood of Russia – the Kaliningrad Oblast", Witek begins, the country is "implementing a number of countermeasures to strengthen its military capabilities in order to mitigate the potential threat of expanding the conflict to include Poland by re-evaluating its defense policy and implementing a faster increase of defense spending to rebuild its military potential." One of the most significant changes has been the substantial increase in Poland's defense budget.

As Frackowiak, points out, "Poland's defense budget for 2023 is one of the highest in NATO, amounting to 3% of the country's GDP. Taking into account some recent additional acquisitions, it might even be closer to 4%." The scope of Poland's military modernization efforts is impressive. "The list of equipment that the Polish government is in the process of acquiring includes various missile defense systems, new generation fighter planes, training planes, tanks, multiple rocket launchers, and helicopters," Frackowiak notes.

Frackowiak continues by highlighting that Poland's primary focus has been on replacing outdated equipment and acquiring new, essential systems. This includes "mid- and short-range missile defense systems, tanks, rocket launchers, and helicopters. Unmanned aerial vehicles, which have proved so important in Ukraine, are also top of the list of Polish priorities and are one of the few examples of Polish products that compete successfully on the international market," she explains. "Unfortunately, beyond UAVs, the support of the Ministry of Defense (MoD) for R&D activity, which in the long term could lead to the creation of homegrown defense equipment and systems, has been marginal." As a result, Frackowiak notes that this may result in continued reliance on international purchases, with licensed production in Poland being the most feasible option.

On the other hand, Witek stresses the comprehensive nature of Poland's modernization efforts, following an overarching goal to deter potential aggressors and ensure Poland's readiness to defend its borders. "Like many other countries, Poland is investing in ammunition capabilities and intends to dramatically increase its production capabilities in this field. In addition to participating in EU initiatives to this end, the Polish government has established a national PLN 2 billion (EUR 427 million) program to encourage state and private enterprises to invest in ammunition production in response to growing demand, both to support Ukrainian efforts and to re-

Marta Frackowiak, Partner, DLA Piper

Jaroslaw Witek, Partner, Dentons

plenish its own stocks," he explains. Witek further highlights Poland's acquisitions from the United States, which include tanks, fighter jets, air defense systems, rocket launchers, and helicopters.

Fueling the Arsenal – A Missed Opportunity?

However, even with such an increase in the defense sector's bandwidth, governmental activity does not seem to be following suit closely. "Unfortunately, despite multiple defense procurement procedures available under Polish law, the government is almost exclusively choosing direct acquisitions of equipment, and in many cases, the delivery timeline is the key criterion," Frackowiak says. "The Polish public has a positive perception of defense procurements; however, there are certain doubts around the transparency of the acquisition process," she adds. Additionally, "there are claims that despite the great level of expenditure, the Polish defense sector is not benefiting as much as it could, since most of the purchases are from foreign suppliers, with equipment which is acquired 'off-the-shelf' without any significant involvement of Polish companies," she explains.

"No one denies the need for defense acquisitions," Frackowiak continues, "but they seem to be chaotic and rather unpredictable. Moreover, as the vast majority of equipment will be imported, it will be a burden on the Polish economy – rather than the boost that could be achieved by investing in the local defense sector, and in particular in R&D activity. Such investments could be achieved through consistent procurement planning and the long-term involvement of Polish producers in the supply chain of defense equipment," she explains. "Moreover, military analysts claim that the Polish army is not well prepared to integrate and use the new equipment and that significant and costly organizational changes and additional investments will be needed."

Witek agrees, stressing that "the lion's share of defense spending is being implemented through government-to-government arrangements with the exclusion of open tender procedures," on account of time constraints and the need to increase military capabilities in a relatively short period of time. He expects the government-to-government trend to ultimately slow down, "in particular upon stabilization of the situation in Ukraine, and even if it does not, a certain portion of projects will still have to be, and currently are, implemented in open tenders," he explains. And even if not, "the government-to-government path applies to the procurement portion, leaving the industrial participation as still primarily a business-to-business domain," Witek says.

Scoping the Horizon

"We do not foresee significant legislative changes in the near future, as last year, in response to the Russian invasion of Ukraine, Poland introduced the *Homeland Defence Act* that comprehensively regulates security and defense issues," Witek says. "The *Homeland Defence Act* has consolidated and amended 79 other laws and regulations and repealed 14 others. This act raises the defense budget to at least 3% of GDP from 2023, sets a target of doubling the size of active armed forces from 150,000 to 300,000 personnel, specifies Armed Forces' technical modernization planning and financing rules, including introducing the possibility of financing from non-budgetary funds, and introduces voluntary basic military service," he outlines. "It also provides for the possibility of leasing the military equipment and granting advance payments by the MoD."

On the other hand, Frackowiak remains somewhat more open to the possibility of changes happening. "Parliamentary elections are scheduled for October 15, 2023," she says, ultimately. "If a new governing party is elected, some changes in the defense procurement strategy may be expected (hopefully introducing consistency and long-term planning). However, should the current government remain in power, I would not expect any significant changes in defense procurement strategy," Frackowiak concludes. ■

SETTLING IN: WOLF THEISS'S EXPANDED CORPORATE/M&A TEAM IN POLAND

By Teona Gelashvili

On July 7, 2023, CEE Legal Matters reported that Wolf Theiss expanded its Polish Corporate/M&A practice with the addition of seven Partners, at the core of a 27-strong team, from Wardynski & Partners. Wolf Theiss Poland Co-Managing Partner Tomasz Stasiak and Wolf Theiss Poland Partner and Co-Head of Corporate M&A team Izabela Zielinska-Barlozek share details about the transition and their plans going forward.

CEELM: Let's start with the beginning. How did this move come about?

Stasiak: There are two sides to the story. Wolf Theiss is a regional firm with the largest office in Vienna. However, a couple of years ago, Wolf Theiss made a strategic decision to prioritize the Polish market due to its significant opportunities. Initially, we focused on the real estate and banking & finance practices, which led to the robust growth to a team of 46 lawyers. Over time, it became apparent that the corporate/M&A market held even more promise.

Zielinska-Barlozek: From our perspective, I can say on behalf of Anna Dabrowska, Krzysztof Libiszewski, and myself [the former Wardynski & Partners Equity Partners], that we did not actively seek a change. While our work in the firm brought satisfaction for many years, as human beings, we always look at our actions, re-evaluate our goals, and seek avenues for improvement. After spending many years with a single firm, we started wondering whether our workplace still gave us satisfaction, inspiration, and space for future professional growth. The pandemic also prompted us to reconsider our environment, and when Wolf Theiss approached us with a proposal, we began to seriously contemplate the possibility of change. We thoroughly examined the firm and, from our point of view, it appeared to offer potential for further career development.

CEELM: What was the selling point – what drew the team towards Wolf Theiss specifically?

Stasiak: We are a leading law firm operating in the CEE/SEE region and offering distinctive opportunities. On one hand, we are not a national firm, which allows us access to a considerably broader spectrum of clients but, not being a global, we are less frequently faced with conflicts of interest. On the other hand, by not being limited solely to Polish clientele, Wolf Theiss provides its own Partners with a constant chance to engage in cross-border matters. It does not come as a great surprise that Izabela, Anna, and Krzysztof decided to join Wolf Theiss, as such a decision is paramount to natural progress in their careers.

Zielinska-Barlozek: As I mentioned, a regional firm with an international footprint approaching us was the main criterion. Wolf Theiss, operating internationally with a larger client base and more resources, seemed like a chance for us to break from our established routine. Naturally, the presence of Wolf Theiss in various offices across CEE and SEE gave us strong regional exposure, a more varied client base, and valuable relationships with foreign law firms. Their focus on emerging technologies, knowledge sharing, and promoting cross-jurisdictional collaboration also greatly resonated with our professional ethos.

CEELM: What synergies did you find with the existing Corporate M&A team and what were some of the elements that required ironing out?

Zielinska-Barlozek: There are many synergies with the firm's Corporate M&A practice group. Of course, there was already an existing team in Poland and as the whole transition has just happened, we can only talk about it as a work in progress. The synergies shouldn't come as a surprise, especially for M&A lawyers engaged in international projects. While there are common industry practices and a consistent level of quality, we've observed certain differences in the legal technology tools used and the procedures in place. As a regional law firm, Wolf Theiss operates somewhat differently compared to a local one, so adapting to new procedures and gaining a wider perspective is an enriching part of the process. Naturally, there's also a desire to become more familiar with each other on a personal level, which we're looking forward to.

CEELM: What were the team's clients' reactions and to what extent have they followed the team onto the new platform?

Zielinska-Barlozek: On a personal note, I was genuinely surprised by the positive response and the words of encouragement. However, it's essential to highlight that, as M&A practitioners, our work revolves around specific projects, requiring us to continually explore new sources of business and broaden our horizons. Rather than concentrating on cultivating relationships with long-standing clients, we have a remarkable opportunity to extend our focus to acquiring new clients and strengthening connections with foreign and international firms.

Izabela Zielinska-Barlozek, Partner and Co-Head of Corporate M&A Team, Wolf Theiss Poland

Tomasz Stasiak, Co-Managing Partner, Wolf Theiss Poland

Wolf Theiss' robust regional framework provides us with the exciting prospect of actively pursuing new clients and challenging projects. Looking ahead, we can offer local businesses in Poland an avenue to expand their reach to a broader spectrum of legal services, as well as access an international platform and a more extensive network.

Stasiak: We did not intend to rely on the team to bring business from their previous firm. Our intention was to enhance our capabilities and expertise to better serve our existing clients, who were already looking to us to handle larger and more intricate deals in the future. We've noticed that our clients are increasingly expecting us to have larger teams in all offices in CEE, which means a wider variety of experts across various Corporate M&A teams.

CEELM: What were the short-term plans post-move, and what can we expect from the team in the mid-/long-term?

Zielinska-Barlozek: Integration is undoubtedly our main priority at the moment, and it's a process that comes naturally to us with our background as M&A practitioners. It's merely a matter of time – a short-term plan – but as I mentioned, it involves adapting to new roles, procedures, and a broader organizational ethos.

Stasiak: Integration at Wolf Theiss encompasses both internal and external dimensions. We planned for an "integration day" that mirrors the essence of Wolf Theiss – it's about the kind of people we are and ensuring a harmonious working environment. This will entail a break from work, offering a range of training sessions on diverse topics unrelated to law, serving as a straightforward yet vital component of our integration process. Additionally, we acknowledge the need to address more complex challenges, such as assessing the flow of work and reinforcing other practice areas to adequately support this expanded team, considering that our previous Polish structures were designed for a smaller firm. As we prepare for our integration day, we do not lose sight of the significant facet which is the active involvement of our new Partners in business development initiatives. Their participation in the IBA conference in Paris marks a crucial initial step in our efforts to strengthen these initiatives.

As for the long-term strategy, we aim to strengthen our presence in Poland even further. In addition to our continued focus on M&A, we are placing considerable emphasis on our capabilities in the energy and infrastructure practice areas. Certainly, as Wolf Theiss stands among the top firms in the region, our overarching objective is to swiftly establish ourselves as one of the leading firms in Poland as well. ■

INSIDE INSIGHT: INTERVIEW WITH KAMILA DUTKOWSKA-WAWRZAK OF PANATTONI

By Teona Gelashvili

Panattoni Legal Director Kamila Dutkowska-Wawrzak talks about her background and in-house transition, building up the in-house legal team, and their current workload.

CEELM: Tell us a bit about yourself and your career path leading up to your current role.

Dutkowska-Wawrzak: I knew I wanted to be a lawyer around the age of 10, inspired by *Ally McBeal* and my passion for connecting with people. After studying law at Warsaw University, I briefly explored a career in diplomacy through around five months spent at the Polish embassy in the US and one month in Dublin. Following my return to Poland, an encounter with my future boss at Deloitte changed my career trajectory – I was offered an internship in their real estate department. I was in my final year of study, and the hands-on experience convinced me to continue with real estate law after graduation.

I transitioned through law firms like Hogan Lovells and worked for Blackstone. The in-house work appealed to me more as it offered a closer link to business operations, allowing me to engage across various legal domains and collaborate with non-lawyers. This holistic approach to law fascinated me and I was drawn toward it in my career path. I finally joined the Panattoni team five years ago.

CEELM: What was the biggest shock when transitioning to the in-house world?

Dutkowska-Wawrzak: What I found the most shocking was that when someone asked a question, I had to provide answers within a minute, as multiple departments were waiting for a response. In a law firm, you either have the time or you at least have other sets of eyes to look over your question and even your answer. In business, things move much faster and there is an urgency to the answer which does not allow you to become a bottleneck. As the first lawyer in Panattoni, I received 200-300 emails daily, all seeking guidance.

CEELM: On the flip side, what was the most pleasant surprise?

Dutkowska-Wawrzak: As for the most pleasant surprise – despite the fast-paced business environment, cooperation among departments was seamless and amicable. Working with great people was definitely the most enjoyable part from the start.

CEELM: You mentioned you were the first lawyer in the Panattoni in-house team. How large is your in-house team currently and how is it structured?

Dutkowska-Wawrzak: Initially, I focused solely on assisting the project management team – that was the case for approximately two years. We later added another lawyer, and another after, bringing our team to three experienced professionals. While still dedicated to project management, we now also collaborate with other company departments. Our primary focus within project management involves addressing various legal issues, particularly in administrative law. We aid in decision-making, securing permits, handling environmental concerns, and managing administrative processes. I specialize in negotiating with general contractors due to our extensive construction contracts.

CEELM: How do you decide if you are outsourcing a project or using internal resources?

Dutkowska-Wawrzak: We have expertise in various areas of law. As I mentioned, my specialization lies in negotiations, particularly in handling significant contracts with general contractors. Our team members concentrate on other areas such as corporate affairs and lease agreements. Identifying team members equipped with the relevant expertise in the specific field of law is crucial. For matters beyond our scope, we engage external legal experts, especially for complex M&A transactions.

CEELM: And what criteria do you use when picking which external counsel you'll be using in a specific matter?

Dutkowska-Wawrzak: Being able to *feel* our company is the most important. We know many law firms but not so many *feel* the dynamic of our work. Our process is very fast and we

need lawyers who know that. Honestly, it simply boils down to good communication. We go for firms that can keep up the pace and are quick to respond, plus genuinely understand our business' vibe. It's a gut feeling in a way. When I talk to someone, I just get a sense of things. When I sense that we're on the same wavelength, I'm confident our teamwork will rock. That's why I guess I'm drawn to diplomacy too – it's all about staying connected to people and diving into projects with real passion. If I have a short chat with an external lawyer for 15 minutes, I can usually tell if we share the same passion and rhythm.

CEELM: What has been keeping you and your in-house team busy over the last 12 months?

Dutkowska-Wawrzak: It's been really tough in Poland due to the economic and political situation. After a challenging pandemic, we're now struggling with the impact of the war in Ukraine. The past year taught us a lot about managing political challenges that affect the economy. Now, we're feeling more stable and hopeful, despite the ongoing slowdown. The hardest time was the pandemic, and just as things calmed, the Ukrainian crisis hit.

I hope that, in the next 12 months, we'll continue to grow as we did during the pandemic, that our political position will stabilize, and that we will build as much as we did in 2021. I think everybody is waiting for better times and for the economy to get past the current slowdown. Investors remain cautious but they are asking us about construction projects and the timings of new projects, which is a good sign for us and I hope we'll be able to kick off a few new projects.

CEELM: What do you foresee to be the main challenges for GCs in Poland in the near/mid future?

Dutkowska-Wawrzak: Regarding Poland's in-house lawyers in general, there's an anticipation for the war to end, which holds significant implications for both our political landscape and economy. Skyrocketing inflation is the biggest challenge not only in Europe but also globally. The aspiration is for this inflation rate, currently at around 20%, to regress to around 7%. The current setting is challenging for all lawyers, as both the business sector and individuals without legal backgrounds ask for many solutions.

Zooming into real estate, my hope is that no new legislation is on the horizon, although you may never know. We hope that the status quo remains in place as we feel our current processes function well. ■

MARKET SNAPSHOT: POLAND

POLISH COMPETITION AUTHORITY PUNISHES NON-COMPLIANT INFLUENCERS AND LOOKS FOR GREENWASHING

By Kinga Miller, Partner, Woloszanski & Partners Law Firm

The Polish Competition and Consumer Protection Office (UOKiK) has devoted the last two years to the very important issue of influencers and their online advertising activities. Recent years have seen a significant development of influencer marketing not only in Poland but on a global scale. Across the world, companies and advertising agencies have noticed the growing popularity of celebrity accounts on Facebook or Instagram, and have strategically used them as a new channel to promote products or services.

The UOKiK first took a hard look at the influencers operating in the Polish market, which include well-known TV personalities and celebrities. It has repeatedly highlighted the importance of transparency for consumers, emphasizing the need for individuals to differentiate between neutral and commercial messages they encounter on social media platforms. In Poland, there are regulations in this area, which primarily prohibit crypto-advertising. When a company pays for the promotion of a product or service, it is imperative that the message directed toward consumers explicitly denotes this fact. This disclosure must be apparent within the content itself, utilizing sounds or images that are easily recognizable to the recipient. In line with Poland's 2007 *Act on Counteracting Unfair Market Practices*, any omission of pertinent information essential for consumers to make informed decisions about a product or service is strictly prohibited.

The UOKiK's actions were not only aimed at protecting consumers but also at ensuring fair competition between companies. The current provisions of the *Act on Combating Unfair Competition in Poland* make it clear that communication encouraging the purchase of goods or services that gives the impression of neutrality is an act of unfair competition. The responsibility for social media content that appears neutral but is actually commercial lies with advertisers, advertising agencies, as well as influencers.

Thus, through consultations with representatives of the influencer marketing industry and academics, the UOKiK prepared the #DesignateAds campaign. As a component of this effort, recommendations of uniform rules were presented for the labeling of advertising content by social media influencers. Its primary objective was to establish an unambiguous, clear, and understandable labeling system for average users of social media platforms to identify influencer posts of a commercial nature. Influencers are advised to use explicit tags such as #advertising, #postsponsored, and #paidcollaboration (their Polish equivalent) to disclose commercial content.

The UOKiK initiated its first proceedings a few months after the recommendations were announced, looking at how online creators use them. The first decisions penalizing influencers were for failing to cooperate with the office's investigation. Subsequently, prominent celebrities were charged by the President of the UOKiK for neglecting to label ads on social media. The end of August brought news of the highest penalty imposed so far by the President of the UOKiK for non-compliance with legal regulations and advertising labeling standards. A dietary supplement producer was fined PLN 5 million (over EUR 1 million) for crypto-advertising on social media. Additionally, three influencers promoting the company's products were fined PLN 44,000 (EUR 10,000) for not adequately disclosing the commercial nature of their posts. In the course of the UOKiK's investigation, it was established that the fined producer had created and supplied influencers with content and labeling guidelines, enforcing strict adherence to this approach.

As part of the prevention of unfair market practices, the UOKiK began checking the cosmetics and fashion industries for greenwashing. Today's environmentally conscious consumers, cognizant of environmental decline, are increasingly drawn to products and services that position themselves as eco-friendly. Using misleading labels like "eco-friendly" or "natural," making environmental claims without any evidence or third-party verification, and using green imagery (pictures of forests, earth, leaves) to give the illusion of environmental responsibility are the most well-known examples of greenwashing. As consumers, environmentalists, and regulators are pushing for more transparency and accuracy in environmental claims, the UOKiK, using Poland's current laws prohibiting unfair market practices, is checking whether products/services are actually as green as presented by the producer – starting with the name of the product, certificates held, and information on its production. ■

NAVIGATING THE IMPACT OF THE EUROPEAN UNION'S FOREIGN SUBSIDIES REGULATION IN POLAND

By Miroslaw Fialek, Managing Partner, MFW Fialek

Poland's dynamic business landscape is about to transform as it adapts to the European Union's *Foreign Subsidies Regulation* dated December 14, 2022 (FSR), which partially came into effect on July 12, 2023. This regulation aims to level the playing field for companies operating in the EU market by scrutinizing financial support from non-EU countries.

The FSR: A Game Changer for Poland

The FSR introduces a mechanism that verifies sources of funding from countries outside the European Union. Until now, funding provided to entrepreneurs by EU member states had to comply with state aid regulations. In contrast, subsidies provided by third countries were not subject to control by any EU instrument. The FSR is intended to close this regulatory gap.

As of October 12, 2023, undertakings receiving foreign subsidies will be required to notify the European Commission (Commission) of this fact. What is crucial, the Commission will be able to investigate foreign subsidies granted up to five years before the FSR enters into force if the effect of distorting the EU internal market appears after the FSR enters into force.

Defining "Use of Foreign Financing"

What does "the use of foreign financing" mean according to the FSR? It should be understood as a situation in which: (1) there is a concentration of the undertakings involving a financial contribution from a non-EU country if (i) the acquired undertaking, one of the merging undertakings, or the joint venture generates an aggregate turnover of at least EUR 500 million in the EU and (ii) the foreign financial contribution is at least EUR 50 million; (2) an economic operator participates in a public procurement procedure and (i) the estimated value of the contract is at least EUR 250 million and (ii) the foreign financial contribution involved is at least EUR 4 million per third country; (3) an undertaking uses any other form of external financing (foreign subsidies) that comes directly or indirectly from non-EU countries.

The last of the above situations is an open catalog of events that the Commission will be authorized to investigate. Foreign subsidies are involved when "*a non-EU country makes, directly or indirectly, a financial contribution that benefits an enterprise that operates in the EU internal market and that is limited in law or in fact to at least one enterprise or at least one industry*." Such financial contributions include grants, loans, loan guarantees, and debt or tax remission.

Understanding "Non-EU Third Countries"

When it comes to "non-EU third countries," they are defined broadly in the FSR as: (1) government institutions at a central level and public bodies at all other levels; (2) a foreign public entity whose activities are assigned to a third country, or (3) a private entity whose actions are assigned to a third country, taking into account all relevant circumstances.

The Commission's Role in Investigations

During the investigation procedure, the Commission will primarily control the amount of the foreign subsidy, the nature of the foreign subsidy, the micro and macro-economic situation of the undertaking benefiting from the financing, and the development of the undertaking's business activities in the EU market. Defined as "increased risk subsidies" will be financing granted to an ailing undertaking, directly facilitating a concentration or in the form of an unlimited guarantee. If the negative effects of a granted or intended subsidy outweigh its positive aspects, the Commission will have the power to impose redressive measures and order that the subsidy be repaid, accept the undertaking's commitment to remedy the distortion caused by the foreign subsidy, or express an objection to the financing. In addition, the Commission may impose a fine not exceeding 10% of the aggregate turnover in the preceding financial year.

The FSR gives the Commission flexibility in evaluating whether or not a particular subsidy will distort the market balance. It is to be expected that the Commission's practice around the FSR will develop, thus providing a benchmark for the market standards regarding foreign subsidies and defining the targeted entities.

Adapting to the FSR in Poland

Looking at the quantitative criteria in the FSR, it should be considered that the new regulations will be of particular significance for large-scale transactions on the Polish M&A market. Henceforth, entities planning an M&A transaction in the European market, including Poland, should thoroughly review the shareholding and capital structure. This step is crucial to ensure that they do not meet the subjective criteria specified in the FSR. While it's expected that the provisions of the FSR will have limited application within the Polish economic landscape, companies should still be mindful of their potential implications. In every M&A transaction involving undertakings from non-EU countries, conducting a comprehensive analysis in this regard is strongly recommended. ■

PROHIBITION OF PARALLEL EMPLOYMENT

By Agnieszka Nowak-Blaszczak, Counsel and Employment Lead, Wolf Theiss

In connection with the implementation of *Directive 2019/1152 on transparent and predictable working conditions in the European Union*, a principle has been introduced into the *Polish Labor Code*, according to which an employer may not prohibit an employee from parallel employment with another entity. The Polish legislator has established a strict ban on parallel employment with very few exceptions, which is widely criticized by employers.

According to the amendment to the *Labor Code*, which came into force on April 26, 2023, an employer may not prohibit an employee from concurrently remaining in an employment relationship with another employer or from concurrently remaining in a legal relationship that forms the basis for the provision of work other than an employment relationship, e.g., a contract for the provision of services. There are two exceptions to this prohibition. First, when employees enter into non-compete agreements, employers can only restrict employment with competing entities, not others. Second, specific legislation may provide for the prohibition of parallel employment. An example of such specific provisions is the *Drivers' Working Time Act*, according to which an employer may prohibit a driver from concurrently remaining in an employment relationship with another employer if this is justified for reasons of safety.

In addition, a provision has been introduced into the *Labor Code* prohibiting unfavorable treatment of an employee who is employed with another entity. Parallel employment, unless non-competition and restrictions in this respect under specific legislation apply, cannot constitute grounds for termination of the employment contract or a reason justifying preparation for such termination. Other actions having an equivalent effect to a termination of employment are also prohibited. Such an equivalent action is failing to conclude another contract after the termination of a previous fixed-term if the reason for not concluding a new contract is parallel employment. If the employee believes that the reason for terminating the probationary contract or not concluding another contract of employment was parallel employment, they may, within seven days, submit a request to the employer to indicate the reason justifying the termination of the contract of employment. The employer must give the employee a response to such a request within seven days.

Until the amendment of the *Labor Code* in April 2023, the legislation did not provide for a prohibition of parallel employment. It was considered that the restriction of the employee's freedom to take up additional employment to the extent that it does not constitute a competitive activity towards the employer is permissible if it is justified by the employee's position, the employer's real interest, and the duty to care for the employer's interests, in particular by the desire to avoid potential conflicts of interest, and the employee receives adequate remuneration compensating for such restriction. This position was also confirmed in case law.

Following the introduction of the ban on parallel employment, employers more often opt to conclude a non-compete agreement during employment to at least partially limit additional employee activity. Such a solution does not eliminate the additional employment of an employee in an entity that is not a competitor of the employer, and the employee's additional activity violates or may violate the employer's interest and expose it to harm. However, the prohibition of parallel employment does not exclude the employee's duty to care for the employer's interests, including the avoidance of conflicts of interest or loyalty to the employer and the duty to keep confidential information, the disclosure of which could expose the employer to harm. Thus, despite the existence of the prohibition on parallel employment, the employee is still obliged to refrain from actions that may violate the employment duties and harm the employer's interests.

A solution proposed by some practitioners is to include paid prohibitions in employment contracts to undertake additional employment related to the actual interests of the employer. Such a prohibition is not unilaterally imposed by the employer but agreed upon by the parties. In addition, the restriction of the employee's right to undertake additional employment is compensated by adequate remuneration. If a breach of the contractually agreed restriction to undertake additional employment were to occur, the employer could apply sanctions in the form of termination – not because of the parallel employment, but because of the breach of contractual obligations. Time will tell whether such a solution will be accepted by the courts.

Employers should review the model employment contracts and internal regulations used, if this has not already been done, and consider entering into non-compete agreements for the duration of the employment relationship, as well as train employees and remind them of their obligations toward the employer, in particular the duty to care for the interests of the employer. ■

LOGISTICS LEGAL OVERVIEW POLAND

By Marta Solarska-Kalenczuk, Partner, and Malwina Guliyev, Senior Associate, Woloszanski & Partners Law Firm

In the realm of logistics contracts, Polish law does not provide a standardized blueprint. Instead, these contracts are multifaceted, drawing from various specific types and broader civil law principles. This makes it essential to keep an eye on the nuances.

Adding to this complex landscape are the transformations unfolding in response to the *Mobility Package* – an initiative by the European Union aimed at harmonizing road transport regulations. This package has been progressively deployed throughout the EU and, in 2023, it catalyzed a series of transformative shifts in Poland's transportation sector. The changes encompass a wide range of aspects – from the deployment of drivers to wage payment protocols. By early 2025, we can expect further modifications, including extended roadside checks and mandatory tachograph replacements.

As a result of this dynamic regulatory landscape, it is essential to grasp the intricacies when forging logistics contracts. Ambiguities or oversights in these contracts can lead to misunderstandings between parties involved, potentially resulting in disputes, legal battles, and financial losses. With that in mind, let us break down some of the crucial components that professionals should consider when drafting these documents:

1. Key Performance Indicators (KPIs)

The first crucial component to consider is KPIs. KPIs serve as an objective measurement tool for gauging the effectiveness of services offered by a logistics provider, often quantified using percentages. They can reflect a variety of performance metrics, such as the number of transports completed on time or the absence of goods shortages in warehousing services. KPIs not only help providers to demonstrate superior service levels but also give clients a means to evaluate the value they receive. Yet, KPIs can be opaque to clients who lack the professional tools to measure or interpret them. Therefore, it is essential to articulate KPIs in a manner that is easily understandable and verifiable by clients. Some providers even go the extra mile by offering clients limited access to specialized tools, often digital platforms, used for KPI measurement. KPIs can cover diverse aspects like "completeness," which could be defined as achieving 98% accuracy in a given billing period, or "timeliness," potentially indicated by 99% of completed services within the same period.

2. Complaint Procedures

A well-defined complaint procedure is highly valued by clients but often overlooked by providers. The absence of a complaint clause doesn't immunize a supplier against client grievances. In these instances, generic legal provisions take precedence, and these can be open to interpretation, often leading to unnecessary and costly litigation. To mitigate this risk, it is prudent to specify the procedures and timeframes, and delineate the scope of issues that warrant complaints. A well-defined complaint process can expedite issue resolution and ultimately save resources for both parties involved.

3. Discrepancy Rate in Warehousing Services

This is essentially a measure of acceptable error – expressed either in terms of quantity or value – that a logistics provider permits during its performance. A well-defined discrepancy rate can serve as a protective clause for the supplier, specifying the margin within which they are not held liable for any inventory shortages. Often framed as a percentage, a common definition might read: "A discrepancy rate of 0.2% in the total inventory value is acceptable, beyond which the supplier is responsible for shortages."

4. Explicit Descriptions of Services

Contracts must explicitly describe the range and types of services provided to eliminate any scope for ambiguity. This is particularly crucial for clients who may not be experts in logistics and may have varying interpretations of what the broadly defined term "logistics services" includes. Clear, unambiguous language in this section can significantly lower the risk of misunderstandings, disputes, and consequent financial losses.

In summary, as the logistics landscape in Poland evolves, especially with influences like the *Mobility Package*, and considering the absence of standardized blueprints for logistics contracts, professionals in the field must ensure their contracts are as clear, comprehensive, and client-friendly as possible. Investing time in understanding and crafting these agreements now will undoubtedly pay dividends in trust, efficiency, and reduced risks down the line. ■

THE BUY NOW, PAY LATER BOOM IN POLAND AND ITS REGULATORY ASPECTS

By Pawel Halwa, Managing Partner, and Weronika Kapica, Attorney at Law, Schoenherr

Due to technological progress and the effects of the COVID-19 pandemic, consumers have increasingly turned to online shopping. This was accompanied by the rapid development of new methods of short-term financing, such as Buy Now, Pay Later (BNPL) services, which allow customers to pay for purchases at a later date than the date of receipt. In Poland, financing is interest-free for a certain period, generally 30 days, after which interest charges apply.

Some deferred payment providers present their service as a convenient method of settling debts or a tool to streamline online shopping rather than a loan. This can be misleading for less informed consumers. Deferred payments are, in essence, a form of credit that can impact a consumer's credit history.

Research firm The Business Research Company has demonstrated how the BNPL market is growing. According to their report, the global deferred payment market is expected to grow from USD 105.15 billion in 2022 to USD 155.79 billion in 2023 and is estimated to reach USD 744.06 billion by 2027. According to the *European Retail Banking Radar 2023* report compiled by consulting firm Kearney, Poles are among the top users of deferred payments and 64% of Polish consumers have already taken advantage of BNPL or installment payment options. In Poland, the BNPL sector provided financing of approximately PLN 2.1 billion in 2022, marking an increase of 181% year-on-year. The value of financing in the traditional lending sector amounted to PLN 13.79 billion. The most popular providers of BNPL services include PayU, Twisto, PayPo, DotPay, and Allegro Pay, but banks also offer such products. For instance, PKO Bank Polski announced in August that 100,000 people have activated their PKO Place pozniej service, which was launched last November, and the total amount of granted loans is PLN 78.4 million.

The Polish BNPL regulatory environment is quite distinctive compared to other European countries, as well as Australia or New Zealand. BNPL providers in Poland rarely benefit from exceptions to the application of Polish consumer credit law, and therefore comply with the provisions thereof, including limits on interest and non-interest costs.

Despite the above, consumer loan companies, including BNPL providers, are currently not subject to supervision by the Polish Financial Supervision Authority (PFSA). They are only required to be listed in the register of loan institutions and therefore are not obliged to report the extent of their activities. The PFSA lacks the legal tools to compel the provision of information and explanations or to inspect the loan companies' operation for compliance with the law.

However, recent changes (introduced at the end of 2022) in Poland's consumer credit laws have tightened regulations. The act amending the laws to combat usury (the *Anti-Usury Act*) has introduced supervision of consumer credit providers by the PFSA, effective from January 1, 2024. Lending institutions, including BNPL providers, will be required to report data on the scale, structure, and nature of their loan portfolio to the PFSA. The Polish regulator will receive quarterly and annual reports from the lending institutions and will have the right to request additional information and make recommendations. In case of irregularities, the PFSA will be entitled to impose administrative fines of up to PLN 15 million (approximately EUR 3.3 million) on the loan company and up to PLN 150,000 (approximately EUR 33,500) on the board member directly responsible for the irregularities.

Furthermore, the *Anti-Usury Act* has imposed tighter restrictions on fees charged to borrowers and the criteria for assessing the consumer's creditworthiness, which must be based on verified data sources, credit bureaus, and, in some cases, income and expense statements.

In summary, the Polish BNPL market is characterized by a comparatively restrictive regulatory environment, especially considering recent legal changes. Therefore, the planned amendments to the *European Consumer Credit Directive* (CCD II) may appear less relevant from the Polish perspective. However, this does not preclude the fact that Polish supervisory institutions, such as the PFSA and the Competition and Consumer Protection Office, should monitor the market and collaborate with each other, including in terms of educational and informational initiatives. ■

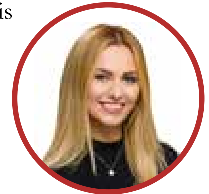
NEW RULES CONCERNING INTERIM RELIEF IN INTELLECTUAL PROPERTY CASES: ADVANCEMENT OR UNNECESSARY OBSTACLE?

By Pawel Halwa, Managing Partner, and Daria Rutecka, Attorney at Law, Schoenherr

The latest amendments to the *Polish Code of Civil Procedure* regarding interim relief in intellectual property cases, among other matters, entered into force on July 1, 2023. Interim injunction proceedings are crucial when the parties wish to quickly prevent further infringement of their intellectual property rights and obtain protection for the duration of the main legal proceedings. The main purpose of these proceedings is essentially to secure claims, i.e., to obtain a ruling (order) in which the court will order the opposing party to act in a certain way or prohibit certain actions.

Before the new provisions entered into force, interim injunction proceedings were generally conducted at the first instance *ex parte*, i.e., without the participation of the defendant. The aim of the amendments was to change the nature of collateral proceedings from an *ex parte* proceeding to an *inter partes* proceeding as the default. According to the newly introduced provisions, in order for an application for injunctive relief to be granted in an intellectual property case, the right holders have to not only make the claim plausible and show that they have a legal interest in securing the claim but are now also required to fulfill additional obligations and perform further actions. First of all, the court examines whether there is a likelihood that the aforementioned right will be terminated in other pending proceedings. This circumstance is determined based on information from all of the parties unless it is known to the court *ex officio*. The above obligation must be preceded by the right holder informing the court whether a termination proceeding is pending vis-a-vis their right, as a lack of such information is now treated as a formal deficiency.

Secondly, the new provisions introduced a new rule that stipulates that any application filed more than six months after learning about the intellectual property infringement will now be automatically dismissed by the court. A delay in the right holder taking action and thus tolerating the violation for too long can and should determine the absence of a legal interest in security, and therefore precludes the need for interim protection. It must, however, be taken into account that a six-month deadline of this kind is not very practical from a business perspective. Companies take various approaches when it comes to addressing the violation of their intellectual property, and their internal procedures could lead to a situation where the six-month term is exceeded simply due to internal compliance. Thus, there is no option to take into account the special circumstances of a particular case and apply, for example, an abuse of rights clause even if there are clear grounds for doing so.



The third main change relates to the confidential nature of the proceedings. Starting from July 1, 2023, the granting of interim relief in intellectual property cases will generally only be possible after hearing from the party against whom such a measure is to be taken. The two exceptions include situations where the requested method of security is enforceable only by a bailiff (e.g., by seizing goods) or where the court decides that it is necessary to issue the decision immediately.

As explained in the justification for the amended provisions, they are necessary due to the unfavorable phenomenon – increasingly observed in practice – relating to the abuse of the injunctive relief institution in disputes between entrepreneurs. Obtaining collateral, consisting of a ban on marketing certain products or services, can serve to effectively eliminate competition, especially given the duration of court proceedings. Amendments to the rules on interim measures proceedings are intended to help reduce the number of unfounded applications for injunctive relief for infringement of intellectual property rights.

However, as the new provisions are currently fairly ambiguous and there is not yet sufficient case law to support their use, entrepreneurs whose businesses rely to a great extent on intellectual property are concerned as to how to use them and whether such use will affect their development in terms of technological and innovative advancement. Generally speaking, however, even though the introduced changes do require further improvements, they should be viewed as positive. They will motivate the right holders to introduce faster and more effective decision-making processes and will enable the development of strategies to protect entrepreneurs against the blocking of their operations in Poland. ■

KNOW YOUR LAWYER: ANDRZEJ STOSIO OF CLIFFORD CHANCE

Career:

- Clifford Chance; Senior Associate/Counsel/Partner; 2008-present
- Norton Rose; Associate/Senior Associate; 2001-2007
- Allen & Overy; Associate; 1998-2001

Education:

- University of Bonn; German and European Law; 1997
- University of Warsaw; MA in Law; 1999

Favorites:

- **Out of office activity:** Traveling, most recently to Latin America. Reading about languages and linguistics and learning Spanish. Playing squash and tennis
- **Quote:** "If you're the smartest person in the room, you're in the wrong room." – Author unknown
- **Book:** *The Man in the High Castle* by Philip K. Dick
- **Movie:** *2001: A Space Odyssey* by Stanley Kubrick

Top 5 Projects:

- Advising Ciech on innovative long-term refinancing of the group in the form of a simultaneous issue of high-yield bonds, and domestic bonds, supplemented with a super senior revolving facility.
- Advising retail distributor Empik Media & Fashion on complex group debt restructuring involving the consolidation of bank financing as well as bonds and shareholder funding.
- Advising a consortium of lenders composed of the Polish state development Bank BGK, Bank Millennium, Bank Pekao, Santander Bank Polska, PKO Bank Polski, Societe Generale, PZU and PZU Zycie on the financing of the construction by Lotos Asfalt of a delayed coker unit and accompanying infrastructure at a Gdansk refinery.
- Advising leading European paper producer Arctic Paper on the refinancing of the company's debt and its capital expenditures in a transaction involving a bank-bond multi debt platform.
- Advising Emitel on its corporate refinancing and capex facilities.

CEELM: What would you say was the most challenging project you ever worked on and why?

Stosio: Very often, the most recent project is the most challenging one as the ambition and complexity of what we do tend to increase. Over time, memory fades away and what once upon a time could have been perceived as extremely complex and challenging is less and less so as we all grow more mature and experienced. If I were to single out one project, it could be the debt restructuring and refinancing of Central European retailer EM&F. The transaction was a real roller coaster, involving a multitrack process, one of the first in my legal career when a simultaneous bank and high yield routes were pursued. It had almost everything a finance lawyer can dream of – approximately 10 jurisdictions, complex multilayer funding arrangements – multiple bank lenders, activist bondholders, interesting shareholder dynamics.

CEELM: And what was your main takeaway from it?

Stosio: No matter how well you plan and think things through, always expect the unexpected. This is where, as a lawyer, you can add the most value to your clients. While it seemed that everything was going according to plan, the barbaric shooting down of the MAS17 flight over Ukraine temporarily shut down the high-yield bond markets. It meant that the transaction structure had to be reinvented (again) which added a lot of pressure and stress connected with the debt restructuring of the EM&F Group.

CEELM: Name one mentor who played a big role in your career and how they impacted you.

Stosio: If I am to single out one individual, it has to be Grzegorz Namiotkiewicz. Even though I would like to think that when I joined Clifford Chance in 2008, I was relatively mature as a lawyer, having had a chance to work with Grzegorz and benefit from his wisdom and expertise has always been a great boon. Not only his legal expertise but also his wide horizons are an enormous resource to draw upon. For as long as I can recall, Grzegorz has always been an inspirational leader of the banking and finance community. Having been able to co-operate with him for more than 15 years has been a great privilege. Be it a discussion on synthetic securitization, IBOR replacement, or chit-chat about the latest Vermeer exhibition, you can always count on Grzegorz to elevate the conversation and inspire.

CEELM: Name one mentee you are particularly proud of.

Stosio: It has been a great pleasure to watch Milosz Golab develop his legal career. I have known him since he was a law student and I have had the honor to collaborate with him ever since. Obviously, now the times when I could call him my mentee are long gone and Milosz has been promoted to the partnership of Clifford Chance. I hope I helped Milosz throughout his legal career, but he owes his successes to himself. Milosz is currently one of the leaders of the Polish debt restructuring market and has become a mentor to many younger colleagues in our office.

CEELM: What is one thing clients likely don't know about you?

Stosio: I used to be allergic to public speaking or large business meetings when I was a junior lawyer. It took me a very long time to overcome this.

CEELM: What is the one piece of advice you'd give yourself fresh out of law school?

Stosio: This piece of advice stands as much now as it stood a couple of decades ago: Do not try to specialize too early in your career. Do not bet your dollar too early on whatever fancy little product may be fashionable at the moment.

MARKET SPOTLIGHT: TURKIYE

ACTIVITY OVERVIEW: TURKIYE

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

147

64

63

55

47

Partners with the most client matters reported by CEE Legal Matters.

51 Kerem Turunc

43 Elvan Aziz

36 Sera Somay

35 Muhsin Keskin

32 Togan Turan

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■ Period Covered:
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TURKISH INFLATION: PAST, PRESENT, AND PATH TO RECOVERY

By Teona Gelashvili

Inflation rates, while high across Europe, have been particularly making headlines in Turkiye. Yalcin Babalioglu Kemahli in cooperation with CMS Managing Partner Done Yalcin, Ergun Law Firm Partner Lara Sezerler, Celepci Law in cooperation with Schoenherr Office Managing Partner Levent Celepci, KP Law Managing Partner Onur Kucuk, and Guleryuz & Partners Partner Zahide Altunbas Sancak discuss the current outlook.

Levent Celepci, Managing Partner, Celepci Law

"In absolute terms, the inflation figures are certainly impressive," Celepci says. "According to official statistics, the yearly inflation rate surpassed 80% during the tail end of 2022 and has now fallen to a yearly 58.9% as of August 2023," Sancak points out, noting that "officially published figures are frequently challenged by several economic institutions in Turkiye, who publish much higher inflation rates, such as 128% as of August 2023."

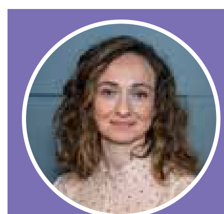
"These numbers place Turkiye on top among OECD countries," Celepci adds, with Sezerler highlighting that "as per the *World Economic Outlook* report published in April 2023 by the International Monetary Fund, Turkiye together with Argentina, both of which are also G20 countries, are in the top five in terms of inflation rates among 237 countries."

Past Echoes and Present Pressures

Onur Kucuk, Managing Partner, KP Law

Fighting inflation is not new for the country. "Looking back to Turkish economic history, there was a period of 34 years starting from 1971 characterized by double-digit inflation figures," Kucuk explains. "Although it dropped to single-digit rates in the 2000s, inflation resurfaced as a serious problem in the late 2010s due to exchange rate fluctuations and price increases." Consequently, Kucuk says, "Turkiye spent 33 out of 34 years between 1970 and 2004 with double-digit inflation rates and one year (1994) with triple-digit inflation."

As for the present time, Yalcin says that the inflation in Turkiye is influenced by "both internal and external factors. The challenges caused by the pandemic and the Russia-Ukraine conflict have disrupted supply chains and increased energy and input costs." Additionally, "domestically, political tension, the crises in the Eurozone, and unpredictability stemming from changes in the Central Bank's leadership and monetary policy approaches contribute significantly to inflation." Yalcin further highlights that "the primary factor behind the continuous depreciation of the Turkish lira appears to be the difficulty in establishing a robust rule of law."



Zahide Altunbas Sancak, Partner, Guleryuz & Partners

Sancak adds that the catalyst for the current situation "was the deterioration in the trust in the economic institutions in Turkiye, which had been demonstrated by the dismissal of the Central Bank's governor in March 2021 through a presidential decree and the economic governance in general having turned further away from orthodox economics."

Main Policies to Tackle Inflation

To address the situation, several policies have been put in place. "There is an ongoing process of implementing legislative changes to combat inflation, ranging from restrictions to banks to amendments in tax laws," Sezerler notes.

"Three main pillars may be cited in terms of addressing the challenges of the high-inflationary environment," Celepci says. Firstly, for low-income workers, he highlights that "the increase of minimum wage in several tranches was aimed at easing the challenges of the rise in the cost of living. Rent increases have also been capped at 25% on an annual basis – much lower than inflation – which is the main expenditure item of many households." Secondly, he highlights, "a new instrument, linking Turkish lira savings accounts to foreign currency, has been created." Additionally, he says, "access

to loans has been restricted as a result of a tighter monetary policy."

"Besides conventional methods of combating inflation such as the sale of FX by the Central Bank, the most 'unique' way of combating inflation and currency devaluation was found in the FX-Protected Deposit Accounts," Sancak explains. "This instrument is unique in that it guarantees a return for the investor regardless of the movement in the FX exchange rates. If the exchange rate rises above the interest rate, the investor is compensated for the change in the exchange rate while if the exchange rate is stable, the investor still gains the interest in the deposit account."

Done Yalcin, Managing Partner, Yalcin Babalioglu Kemahli

Yalcin also draws attention to the increased activities of the regulator: "Due to price increases, particularly in the retail industry, the Turkish Competition Authority has recently initiated investigations against several companies," she notes. "Further, an Unfair Price Evaluation Committee has been established with the enacted law. This Committee has the authority to impose sanctions on retail enterprises that engage in excessive pricing and stockpiling."

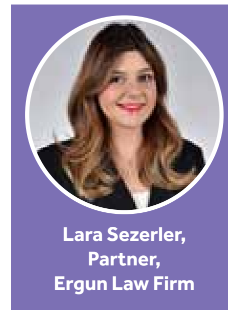
FDIs

Naturally, inflation has influenced the inflow of FDIs in the country. "The Turkish government continuously enforces regulations and incentives to attract FDI and has been successful since the mid-2000s," Sezerler says. Still, she emphasizes that the "foreign investor rate in Borsa Istanbul was around 60-65% in 2020 and decreased to 29% at the end of 2022. Similarly, net capital from FDI amounted to USD 1.3 billion in 2022, compared to more than USD 16 billion in 2006-2007."

According to Kucuk, in particular, "foreign investors are reviewing their strategies based on the level and stability of the Turkish lira. Looking at the sectors preferred by incoming foreign investments, the wholesale and retail trade sector holds the first place with a 16% share, followed by the electricity, gas, steam, and air conditioning production and distribution sector with 11%."

Sancak, on the other hand, notes that despite the challenges, "the current climate also resulted in a very interesting situation for prospective investors, as they stand to benefit from the devaluation of the lira, which results in lower operating costs while benefiting from the exceptional geographic benefits. Therefore, there has been recent interest in FDIs."

A New Economic Course: Post-Election Shifts


Lara Sezerler, Partner, Ergun Law Firm

Post-elections, the situation seems to be changing. "After the presidential elections in May 2023, Turkiye started pivoting back to more orthodox economic policies by increasing the interest rates in June 2023, which seems to be a positive direction," Sezerler notes.

"The policy shift following the recent presidential elections can only be summed up as a total reversal from the previous policies," Sancak agrees. "With the new appointments to the important offices of the finance ministry and the presidency of the Central Bank, the policy shift has been towards a return to orthodox economic policies, involving interest rate hikes to combat inflation." According to her, "lately, the new economic direction has signaled a return to more conventional economic governance, which resulted in a relative uptick in market confidence and macroeconomic indicators. For example, the new economic governance led by a new minister of finance and a new head for the Central Bank has resulted in a sudden surge on the stock exchange, which is usually a good indicator of overall economic health in Turkiye."

The new appointments, according to Kucuk, "are expected to have a positive impact on foreign investors," as the new emphasis is "on a 'rational foundation,' a 'rule-based Turkish economy,' and 'macro-financial stability.'" Consequently, he points to the Central Bank's inflation forecast, saying that "inflation is expected to be around 65% by the end of 2023 and around 33% by the end of 2024."

Overall, "there is indeed much work ahead," Yalcin stresses. "Turkiye must ensure the rule of law pervades our institutions, nurture international relations, uphold the Central Bank's independence, pursue balanced budget policies, transparent public procurement procedures, instill confidence in both domestic and foreign investors, and improve the investment climate." ■

TAKING THE PULSE OF THE TURKISH LEGAL MARKET

By Teona Gelashvili

In the context of economic and political uncertainties, coupled with the depreciation of the currency, interesting dynamics are unfolding within the Turkish legal landscape.

"Although it is true that Turkiye has been enduring economic and political uncertainties, the Turkish legal market has overheated in the last 12 months," Gokce Attorney Partnership Managing Partner Gorkem Gokce says. "The Turkish market always finds itself in high demand due to its innovative investment climate full of dynamic individuals and incentive opportunities. This pro-investment approach first generates a large number of start-ups, many of which are very successful in a wide range of industries, next, financial and strategic investors invest in Turkiye, and finally, the cycle repeats."

ADMD Mavioglu & Alkan Law Office Managing Partner Orhan Yavuz Mavioglu underscores that their firm has experienced an increase in workload, with the firm's "volume of work having increased by 23% in the last 12 months." He adds that "new investments into Turkiye by Chinese and Russian companies could be considered as the main reason."

Pekin Bayar Mizrahi Senior Partner Selin Bayar and Norton Rose Fulbright Global Head of Corporate, M&A, and Securities and Head of Istanbul Office Ayse Yuksel Mahfoud stress that internal developments within their firms have also played a pivotal role in increasing their workloads. "Pekin Bayar Mizrahi's volume of work has increased in the last 12 months, mainly due to our alliance with Norton Rose Fulbright," Bayar says. This strategic collaboration, according to Mahfoud, "expands the team's offerings in providing full-service capabilities."

Yet, the Turkish legal market has its challenges despite its growth. Abcoo Partner Erdogan Oksak draws attention to "the current economic situation in Turkiye," as a factor hindering Turkish law firms' work. Similarly, KECO Legal Partner Berk Cin adds that "the volume of work in the Turkish market has decreased during this period." The main reason for the decrease, according to Cin, "is the presidential and parliamentary elections held in Turkiye in May. The uncertainty driven by the elections affected the Turkish economy as well as the number of new deals. Another significant reason is the macroeconomic instability in Turkiye."

The Practices in the Spotlight

Among the most active practices, Corporate/M&A appears to be dominant." M&A transactions, especially in the start-up ecosystem, are on the rise," Gokce says. "Sizable transactions have been completed in the last 12 months, and there are more in the pipeline."

"M&A and banking & finance matters are staying at the forefront of what we do," Mahfoud agrees while noting that this year their team has been "busier in emerging areas like digital banking and fintech."

Oksak highlights a surge of activity in the retail sector. "We mostly provided legal services to our clients operating in the retail sector," he says. "Despite the high inflation rate, pre-election and earthquake-related spending caused a growth in the retail sector."

However, not all sectors have experienced such growth. "Our practice in real estate, infrastructure, and construction is currently going through a period of relative calm," Gokce notes. The construction sector, in particular, has slowed down, with Oksak explaining that "given that the bank loans were out of the table, the construction sector shrank – e.g., house sales decreased by 44.4% year-over-year in June."

Additionally, Mahfoud mentions a slowdown in renewable energy projects. "While we are doing a bit less in renewable energy, we have not had any major projects in the infrastructure sector in the past twelve months," she notes. "The main reason behind this trend is the extended period of elections, which might have temporarily slowed down the implementation of new projects."

Price Pressures

Considering the challenges, Cin and Bayar highlight how these have affected the legal services sector, particularly in terms of pricing. "The depreciation of the Turkish Lira has substantially heightened client concerns regarding costs," Cin says. "This currency devaluation has made it more difficult

Ayse Yuksel Mahfoud, Partner and Head of Istanbul Office, Norton Rose Fulbright

Berk Cin, Partner, KECO Legal

Erdogan Oksak, Partner, Abcoo

Gorkem Gokce, Managing Partner, Gokce Attorney Partnership

Orhan Yavuz Mavioglu, Managing Partner, ADMD Mavioglu & Alkan

Selin Bayar, Senior Partner, Pekin Bayar Mizrahi

for the firm to maintain competitive pricing and has led to increased pressure on the firm's profit margins." According to him, "the fluctuating value of the currency has created an environment where clients are cautious about managing their legal expenses." The primary challenge, as explained by Bayar, "has been serving Turkish clients and pricing services in Turkish Lira, especially, when the projects are long term and payment is made at the end of the project."

Gokce adds that "currency fluctuations and runaway inflation led to a decrease in legal services fees, and the law firms entered into a 'fiercer' price competition with each other." According to Gokce, "excessive depreciation has now led to the convergence of the prices of medium-sized and large-sized law firms. This resulted in a demand for law firms that were previously seen as overpriced, as they did not have to increase their fees as much."

Mahfoud emphasizes that this heightened price competition is not solely a consequence of currency fluctuations. For Mahfoud, price competition can also be attributed to the "increasing spin-offs in the legal sector."

Flying the Nest

Another noticeable trend is that of spin-offs, with Mavioglu noting: "It is generally the nature of the legal business for experienced Partners to seek out new and independent firm ventures." Bayaralso adds, that "the number of lawyers in a firm does not exceed 100 in any firm," and that "it has been a common trait for lawyers to spin-off after a few years to establish their own practice."

Cin points out that the increasing trend in spin-offs is particularly noticeable after the COVID-19 pandemic. "I believe that the 'great resignation' period and changing working habits during the post-COVID-19 era have had a profound impact on the approach of experienced senior and partner lawyers toward traditional big law firms. Many have re-evaluated their priorities and sought greater flexibility and autonomy in their careers."

"Except for a few instances, the concept of large and institutional law firms has not quite taken hold in the market yet," Mahfoud concludes. "So far, we have mostly seen spin-offs. However, given the challenges in the business environment, we do not necessarily anticipate significant structural changes in the next 12 months." ■

INSIDE INSIGHT: INTERVIEW WITH BIGE YUCEL OF SIEMENS

By Andrija Djonovic

Siemens Turkiye Lead Country General Counsel Bige Yucel talks about her in-house legal team's current and upcoming focuses.

CEELM: Can you walk us through your career to date?

Yucel: I have been the Lead Country General Counsel and Board Member of Siemens Turkiye for the past three years. Before Siemens, I worked for 18 years as a lawyer in Turkish law firms and represented multinational and Turkish clients. Fifteen years of these were with Herguner Bilgen Ucer, where I focused on dispute resolution and employment law, with primary emphasis on collective negotiations, trade union affairs, industrial restructurings, and white-collar crime. I really enjoyed being at courthouses, in meeting rooms full of trade union representatives, or in conference rooms for arbitration proceedings and never deemed them as the final destination, but only as a school. Indeed, all these prepared me well for my current in-house role and made a remarkable contribution to my professional life on the business side.

Apart from my position as the General Counsel at Siemens, I am the Vice President of the German-Turkish Chamber of Industry and Commerce (AHK). I am leading the Women in Business Working group of the AHK. Siemens has taken bold steps towards sustainability by introducing the *House of Sustainability* approach, comprising the *DEGREE* framework (Decarbonization, Ethics, Governance, Resource Efficiency, Equity, Employability). I am proud to lead the Equity group and our mission to drive diversity in business life.

CEELM: After 18 years in law firms, how did you make the transition? What was the biggest challenge and the biggest surprise during the switch to the in-house life?

Yucel: Rather than a challenge, it was a pleasure to make this switch! The significant amount of time I spent in law firms was a key asset that facilitated my transition. Moreover, having worked with multinational companies, I had a deep understanding of their priorities, how they function, what their daily operations look like, as well as their decision-making processes. Working at Siemens wasn't so much of a challenge as much as it was a delightful transition to collaborating with the business team of one such multinational corporation.

One of the good parts of being an in-house consultant is being able to closely monitor the outcome of your advice. When advising a client at an external law firm, you often don't have the opportunity to witness even the short-term effects and outcomes of your advice on a company. On the flip side, at Siemens, I had the opportunity to witness the outcomes and impacts of consultancy and legal efforts, which proved to be an enriching learning experience for me. It was truly invaluable to be a member of such a vast organization that has operated across the globe for over 175 years.

CEELM: How large is your team right now, and how is it structured?

Yucel: Siemens AG has a large and experienced legal and compliance community. In Turkiye, Siemens AG's regional company is Siemens Sanayi ve Ticaret A.S. Within this entity, we have a team of six. In addition to this, Siemens AG has various subsidiaries in mobility, financial services, and many other areas in which the company operates. Siemens Turkiye, specifically, has around 15 team members in legal and compliance roles.

CEELM: How do you decide what work to delegate, and how do you choose the external counsel you'll be working with?

Yucel: The decision to delegate depends on the content and complexity of the legal query at hand. We have a well-furnished and experienced in-house team, which allows us to handle several matters in parallel within a short timeframe. We have some essential rules in place, one of which is that we do not directly involve ourselves in litigation matters – instead, we outsource representation to external offices.

For areas such as competition law, data privacy, and employment law, where we have in-house experts, we typically handle these matters internally. We seek the support of our external colleagues only when we require insights into best practices in the market, court precedents, or recent events that may impact our operations, making our work more efficient. We

consider the experience of the local law firms but also seek a good command of multi-linguistic reporting and communication.

When selecting external counsel, we initially consider a panel list of law firms that Siemens AG collaborates with globally. Additionally, we have local panel firms that are region-specific, chosen based on their knowledge, experience, and overall capacity. Our primary focus is on engaging law firms and legal experts who can provide precise advice promptly and without communication barriers. This year marks Siemens' 167th year of operation in Turkiye, which translates to a deep reservoir of knowledge and experience that enables us to be agile and precise in our decision-making.

CEELM: What has been keeping you busy recently and what do you foresee as being the primary driver of work for the next 12 months?

Yucel: Currently, our focus is primarily on regulatory matters. The EU sanctions on Russia have generated a significant workload in our contract and claim management. Additionally, recent developments in competition law and data privacy in Turkiye have been demanding a lot of attention from our team. The legislative and judicial authorities in Turkiye and the EU often have asynchronous agendas, which requires us to regularly review and adapt our general operational principles.

As a former litigator, I'm pleased to note that we have been successful in keeping our lawsuit levels low. This success is also attributed to the strong collaboration of our business teams and contract management professionals.

In the coming year, regulatory matters will continue to be a significant focus for us, particularly in the areas of competition law, data privacy, and potential implications arising from EU sanctions on Russia. We do not have many cases or proceedings related to receivable collections due to proper collateral models being in place, so litigation and disputes are not expected to be a heavy burden on our workload.

CEELM: What would you say are the main challenges for GCs in Turkiye right now?

Yucel: Digitalization and AI are the chief challenges that have been dominating discussions among legal professionals lately. Siemens is dedicated to using digital transformation to make a positive impact on the world and Turkiye. We make cyber security our top priority and confidently implement our in-house developed digital tools as part of our legal and compliance initiatives. However, we often encounter a significant level of hesitation from our external legal and business partners. People appear to be apprehensive about losing their standing in the market, and they are not always motivated to adapt to these new technologies.

If you ask the opinion of a middle-aged lawyer in Turkiye about ChatGPT, they would likely list at least ten concerns about it, while overlooking the potential benefits it could offer and the type of regulation that could optimize its impact on the market. Nevertheless, there is a real added value to be gained here, and in my opinion, all legal practitioners should focus on AI-driven topics, emphasizing opportunities over obstacles and reservations. ■

MARKET SNAPSHOT: TURKIYE

ALIEN LABOR IN TURKIYE

By Nurefsan Kandemir, Head of Labor Law, and Buket Rona and Melike Saglam, Associates, Nazali Tax & Legal

The phenomena of globalization and heightened international economic competition have led to a growing demand for qualified foreign labor in Turkiye. Especially in recent years, as Turkiye has become a target country for migration, the issue of work permits for foreigners has become a hot topic of employment.

In international law, states have the discretion to determine individuals who may enter their territories and engage in business within their borders as part of their sovereignty rights. Therefore, most states subject the employment of foreigners to permits in pursuit of safeguarding their economic structure and labor market. In this context, the principle of obtaining permission for the employment of foreigners is also applicable and mandatory in Turkiye.

Although *International Labor Law numbered 6735* (Law) stipulates that work permit applications will be evaluated by the administration in accordance with international labor policies, the Law does not specify how international labor policies will be addressed in work permit applications. Therefore, this situation grants the administration broad discretion in the evaluation of work permit applications.

Work permit applications can be made through the Ministry of Labor and Social Security's (Ministry) online system in two ways: from abroad or within the country. For an application to be made within the country, the foreigner must have a valid residence permit with a minimum duration of six months, which leads to some preferring to apply from abroad since that can be done directly from Turkish embassies. In addition, since in the Turkish legal system, a work permit also serves as a residence permit, making the application from abroad can, in certain situations, be more advantageous to minimize bureaucratic procedures.

If the work permit application is evaluated positively, the foreigner is granted one of the permit types specified in the Law, corresponding to the application. Most often, for a foreigner who will work under the orders and instructions of an employer for the first time, a fixed-term work permit – which is a general work permit – must be taken. This permit is granted for up to one year upon the first application and can be extended via extension applications for subsequent periods.

This one-year limitation is criticized by employers. It is considered short and, even though it is legally possible to extend its duration via an extension application, the Ministry mostly tends to extend the permit for one additional year the first time. The good thing is that if all requirements are met, the Ministry who accepted the first work permit application predominantly accepts extension applications.

For a successful application, it is important to follow the exact procedure of the Ministry. For instance, the Ministry requests that applicants fill and sign its standard employment contract created specifically for work permit applications and upload this contract to the system during the application and the applicants cannot agree on a salary below the minimum limit determined by the Ministry for that relevant job. On the other hand, since this standard contract is a basic template and lacks many crucial provisions regarding working conditions, preparing an additional protocol as an annex to the Ministry's sample contract and regulating details of the employment relationship in this protocol after the application process is very much needed. This additional protocol cannot contradict the core terms of the contract or alter the articles to the detriment of the employee.

Furthermore, in order to protect society's welfare and economic balance, the Ministry requires the employer to provide a valid reason for hiring a foreigner instead of a Turkish employee during the application process. This justification typically pertains to the foreigner's educational background, qualifications, and/or experience. At this point, it is important to state that having a proper diploma is compulsory for foreigners who will work within the scope of vocational services and in professions deemed necessary by the Ministry.

If the application is approved and the foreigner obtains a work permit, it becomes possible for their spouse and children to apply for family residence permits since the unity of the family is an important matter in Turkiye and this permit will be valid until the end date of the foreigner's work permit if the procedure completes successfully.

Lastly, given that Turkish international labor legislation is comprehensive and includes specific provisions regarding job titles, exemptions, exceptions, restrictions, and prohibitions, along with a well-established practice, seeking guidance from a legal consultant is essential when undertaking international labor procedures. ■

TURKIYE'S MEDIUM-TERM PRESCRIPTION OFFERS A MORE DYNAMIC BUSINESS AND INVESTMENT ENVIRONMENT FOR THE NEAR FUTURE

By Ayse Ulku Yalaz, Partner, Nazali Tax & Legal

Turkiye's Medium-Term Program (MTP) for 2024-2026 serves as a comprehensive roadmap for aligning the nation with global, regional, and domestic economic indicators and trends. This document delineates key policies aimed at bolstering the Turkish economy, with a particular focus on the policies affecting the business and investment landscape. In this article, we have addressed the most significant elements of this policy that impact the M&A ecosystem in Turkiye.

1. Policies Toward Judicial Reform

Defects and deficiencies in a country's judicial system can significantly impair the business and investment climate, particularly for foreign investors. Resolving these issues is therefore essential for attracting and retaining foreign investment.

In the context of judicial reforms within the scope of MTP, several key measures have been outlined as follows: (1) As part of the effort to enhance specialization within the judiciary, initiatives will be undertaken to improve the qualifications of judges, prosecutors, and mediators, alongside the strengthening of specialized courts. (2) Endeavors are set to increase the effectiveness and prevalence of alternative dispute resolution mechanisms, with a particular focus on activating administrative reconciliation procedures to swiftly and cost-effectively resolve disputes between individuals, legal entities, and the state. (3) Legal proceedings and the reinforcement of alternative dispute resolution mechanisms, especially arbitration, will be accelerated. (4) There will be a promotion of greater utilization of arbitration mechanisms in resolving commercial disputes and the enhancement of the Istanbul Arbitration Center's structure and global visibility. (5) Measures will be taken to enhance the efficiency of the enforcement and bankruptcy system.

The policy objectives outlined in the MTP for judicial reform are expected to result in a more efficient and internationally recognized legal system in Turkiye, which would have positive implications for the country's standing in the global legal community and attract global investors.

2. Digital Transformation and Data Protection

Considering trends in the global economy, the MTP includes plans to establish international standards in the digital transformation of the business and investment environment. Permits, registration, trade registry, and licensing processes for investments will be accelerated as part of the digitalization, which will expedite and add dynamism to the new investments.

In order to solve concerns such as security, data protection, inclusiveness, and sustainability, the MTP underlines that work on the EU harmonization process and acquis, especially the *Personal Data Protection Law* and the *European Union General Data Protection Regulation*, will be completed in the near future.

Furthermore, considering that it is imperative to encourage the development of new technologies and value-added production and establish a robust system for safeguarding intellectual property rights, the policy addresses enhancing the legal infrastructure that supports the formation and protection of intellectual property rights.

3. Entrepreneurship Ecosystem

In recent years, the entrepreneurship ecosystem has experienced substantial growth in Turkiye with new record-sized company sales being constantly registered. However, as in other developing economies, one of the most problematic issues for start-ups in Turkiye is funding. Alternatives such as angel investing and equity crowdfunding – which can be a lifeline, especially for early-stage start-ups – have been developing in Turkiye in recent years as the interest of angel investors in Turkish start-ups increases. As evidence of this trend, the Turkish Capital Markets Board lists 11 crowdfunding platform companies at present.

One of the most efficient methods that start-ups use in order to keep their qualified employees in the company is so-called "stock option plans." Especially, with the new *Turkish Commercial Code numbered 6102* (TCC), the way for the implementation of share option plans has been paved; however, the use of share option plans remains limited due to reasons such as taxation, shareholders dilution, and the inability to create non-voting shares in companies subject to the TCC. In light of these explanations, the "phantom stock option plan" may be way more accurate considering that no shares will be transferred during the planned period. This specific plan includes a determination of share price at a certain point in time based on the company's valuation. When the option matures, the difference between the new price of the share and the initial price based on the company's valuation is paid to the employee. As the MTP portrays, effective groundwork and alternative plans are indispensable to enable future start-ups to attract and retain skilled employees through such incentives.

These planned changes will elevate the M&A momentum in Turkiye and expedite processes, ultimately making Turkiye a more attractive investment environment. ■

KNOW YOUR LAWYER: OKAN DEMIRKAN OF KOLCUOGLU DEMIRKAN KOCAKLI

Career:

■ Kolcuoglu Demirkan Kocakli; Partner; 2010-present
■ Herguner; Senior Associate; 2000-2010

Education:

■ University of Sussex School of Legal Studies, United Kingdom; LLB; 2000
■ Rijnlands Lyceum Oegstgeest, the Netherlands; IB; 1997

Favorites:

■ **Out of Office Acivity:** Spending time with my son, traveling, wine, reading non-legal books and journals, flying my drone, watching Galatasaray play and win in Europe
■ **Quote:** "Life begins at the end of your comfort zone." – Edward Whitacre, Jr.
■ **Book:** *What Got You Here Won't Get You There* by Marshall Goldsmith
■ **Movie:** *Rocky* (with no preference for a particular one of the nine-film series)

Top 5 Projects:

■ Representing Coca-Cola in an ICC arbitration arising from a FIDIC contract (2017-2019).
■ Representing Frontera Oil in an enforcement lawsuit in Turkiye, for the enforcement and subsequent execution of a US arbitral award (2013-2016).
■ Advising the Trans-Anatolian Natural Gas Pipeline Project (TANAP) Consortium in relation to a multibillion-dollar project involving the construction and operation of the longest transit pipeline in Turkiye's history (2011-2013).
■ Advising the Shah Deniz Consortium (at the time comprised of BP, SOCAR, Total, and Statoil) on the legal structure of the Shah Deniz Stage II Natural Gas Sales Project (2011-present).
■ Advising and assisting BTC Co. on all regulatory, corporate, finance, real estate, litigation, and employment matters surrounding the Baku-Tbilisi-Ceyhan Crude Oil Pipeline (2000-2010).

CEELM: What would you say was the most challenging project you ever worked on and why?

Demirkan: The TANAP Project was probably the most challenging one, even though it did not feel that way at the time (thinking retrospectively, I now see that it was extremely so compared to other projects). We were a new law firm at the time and I was only 31 years old. We advised a group of very large energy companies on this multi-billion-dollar project. We had the task of drafting and negotiating international agreements amongst two governments and state-owned enterprises, whilst ensuring the protection of our four clients' (sometimes not perfectly overlapping) commercial interests. Sitting at a table with almost 30 very senior people, all representing differing interests, was a challenging task at such a young age. We had to handle a very wide range of legal issues including public international law, energy regulations, land rights, construction, tax, customs, corporations, and employment. I was very lucky – I believe the experience helped me grow as a legal practitioner.

CEELM: And what was your main takeaway from it?

Demirkan: I was genuinely inspired by the negotiating skills and methods of companies' representatives and government officials. I learned a great deal about having to at least appear as if I had nerves of steel.

CEELM: What is one thing clients likely don't know about you?

Demirkan: I like to think that they know all they need to know.

CEELM: Name one mentor who played a big role in your career and how they impacted you.

Demirkan: The greatest fortune of my career was the opportunity to work with the likes of my current partner Umut Kolcuoglu as well as very inspiring individuals such as Umit Herguner, Itir Sevim Ciftci, and Ender Ozeke. In the past 23 years, I also had the privilege of being mentored by non-lawyers such as Betul Mardin, Sedat Birol, and Asim Barlin, who have all greatly contributed to several decisions and developments in my career.

Since I *must* single out one mentor, Mustafa Kemal Ataturk has been my foremost influential mentor in all aspects of life. His unmatched courage, unbelievable drive, loyalty to principles, and visionary personality are beyond inspirational. We do not have to have met him personally to benefit from his vision – he is mentoring us every day we live and work in this wonderful nation.

CEELM: Name one mentee you are particularly proud of.

Demirkan: Looking back at the past 23 years, the first names that come to mind are Ceylan Yavasca and Sarper Boz. These two former colleagues have incredibly inspiring stories – both professionally and personally. I feel very proud that our paths crossed.

As I have to name one, perhaps with a slight recency bias, I would name my current colleague, Cihan Mercan. It has been a pleasure to witness his development as a lawyer and a human being.

CEELM: What is the one piece of advice you'd give yourself fresh out of law school?

Demirkan: Relax, do not rush. You have plenty of time.

EXPERTS REVIEW: LABOR

In this edition, the focus of our Experts Review is Labor. The articles are presented ranked by the unemployment rate (% of total labor force) of each country as per World Bank 2022 data, indicating the share of the labor force that is without work but available for and seeking employment.

Moldova and the Czech Republic lead the way with the lowest unemployment rates of 2.3% and 2.4%, respectively, whereas North Macedonia lags behind, with an unemployment rate of 15.1%.

Country	Unemployment Rate (% of Total Labor Force)	Page
Moldova	2.3	Page 73
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Hungary	3.4	Page 76
Slovenia	4.2	Page 77
Bulgaria	4.4	Page 78
Austria	4.7	Page 79
Romania	5.4	Page 80
Lithuania	5.6	Page 81
Slovakia	6.1	Page 82
Croatia	6.7	Page 83
Serbia	9.5	Page 84
Ukraine	9.8*	Page 85
Turkiye	10.0	Page 86
Bosnia & Herzegovina	14.1	Page 87
North Macedonia	15.1	Page 88

*2022 data not available. 2021 data used instead.

MOLDOVA: MODERNIZATION OF MOLDOVAN LABOR LAW

By Doina Doga, Head of Practice, and Domnica Bejan, Junior Associate, ACI Partners

Following its separation from the Soviet Union, the Republic of Moldova has pitched upon a rigid labor law system defined by overly protective conditions toward employees.

Driven by the aim to maximize security for employees, up until recent years, the Moldovan labor system mainly consisted of the standard employment model, which hindered the opportunity for greater flexibility for both workers and employers alike. However, the impact of digital progress and modern information and communication technologies has created the need for increased adjustability in labor relations. Alternative models of contractual relations have emerged, improving employment relationships in terms of effectiveness and comfort for both the employer and the employee.

Labor Law Today – What Has Changed?

Recent regulatory amendments have allowed non-standard and flexible contractual arrangements to emerge in labor relationships. The most recent changes to Moldovan labor law offer a cutting-edge regulatory framework by relieving the employer of customary formalities, granting more negotiating leeway, and opening the door to the incorporation of digitalization into employment interactions. The revisions' main modifications impact non-competition agreements between employers and employees, flexible employment models, employees' individual performance evaluations, and digitizing employees' informing procedures.

Until recently prohibited, non-compete clauses in employment relationships have been introduced in 2022. Aiming to protect the interests of the employer, the non-compete clause creates a restrictive covenant for the employee, who is bound to refrain from engaging in any activity competing with the one pursued by the employer.

This is an effective tool used by employers to protect the investments made within a certain employee in terms of time, knowledge, and particular data disclosed during the labor relationship. No limits regarding the extent of a former employee's liability for damages in case of breaching the non-compete obligation are set by law.

However, by keeping in mind the interests of employees and to avoid eventual abuses by employers, Moldovan labor law has restricted non-compete clauses to certain features. This ensured a balanced approach toward the need to protect the business interests of the employer while securing the interests of employees.

To be enforceable, the non-compete obligation shall be limited in terms of duration, scope, and geographical area it extends to. The employee shall also be rewarded in return for observing the non-compete limitation for the specified time of its validity. Failure of an employer to pay the necessary remuneration entitles the former employee to release themselves from the non-compete obligation, subject to observing certain formalities.

The introduction of a performance improvement plan (PIP) provides another tool in ensuring the modernization of the up-until-recently rigid Moldovan labor law system, allowing the employer to foster effectiveness and productivity among its workforce.

Until 2022, terminating an employment relationship with a poor-performing employee was an option almost impossible for the employer due to missing applicable procedures. To avoid eventual legal actions with the employees, employers were often forced to recur to other, often burdensome tools. Improving the performance of a certain employee was also a difficult task for the employer.

The recently introduced PIP offered straightforward rules in terms of evaluating an employee's individual performance. By assessing the outcomes of the employee, the employer is now able to pinpoint areas requiring professional development, address the deficiencies established, and set a roadmap toward meeting certain performance objectives. Termination of employment with a poor-performing employee is also now backed up by a clear procedure.

Introducing flexible contractual arrangements within employment relationships such as remote work, work from home, and part-time or partial workweek is another example of Moldovan labor law responding to swiftly changing employment and social needs. Employees are now afforded a greater possibility to ensure a balance between personal and professional life, which, in turn, leads to increased efficiency and individual accountability.

Although most of the amendments were enacted in 2022, their practical implementation picks up steam in 2023, as companies are given newfound latitude in how they interact with employees. Overall, these amendments create the premise to increase the efficiency of employment activity while maintaining the special protection enjoyed by employees. ■

CZECH REPUBLIC: SIGNIFICANT AMENDMENTS TO THE CZECH LABOR CODE

By Jaroslav Skubal, Partner, and Tereza Erenyi, Senior Associate, PRK Partners

On September 12, 2023, the Czech Parliament adopted an amendment to the *Labor Code*, which will become effective already from October 1, 2023 (unfortunately, employers will have very limited time to prepare for the new regulation). The main purpose of the amendment is to implement the European directives on the work-life balance of parents and carers (*No. 2019/1158*) and on transparent and predictable working conditions (*No. 2019/1152*) which were to be implemented by member states in August 2022. But there are further changes that should address problems in the daily operation of employers. The following areas may be key for employers:

Work from Home

The COVID-19 pandemic demonstrated the importance of addressing the absence of regulations relating to working from home. Based on the amendment, a written agreement between the employer and an employee is necessary for the employee to be able to work from home. There are no explicit legal criteria, thus the content of the agreement is up to the parties' negotiations. Such an agreement may be terminated by either party by giving 15 days' notice unless it is specifically agreed that termination is not allowed (this may be important, e.g., for employers who do not have a standard workplace for all employees). The amendment specifically provides for three options of how the costs incurred by employees who work from home may be reimbursed by employers. The first option is to agree on an hourly lump sum that will be determined by the Ministry of Labor (an hourly payment of around EUR 0.2 is expected). The second option is to agree that no costs will be reimbursed at all – this is an option which will be used namely if working from home is a benefit. If no agreement is reached, employees will be entitled to reimbursement of claimed and proven costs (however, utility costs can be difficult for employees to prove).

Stricter Regulation of "Zero-Hours" Agreements

The *Czech Labor Code* recognizes two categories of agreements that can be signed for a limited but unguaranteed extent of work. The first one is an agreement to complete a job that must not exceed 300 hours per year and the second one is an agreement to perform work that does not exceed 1,040 hours per year (an average of 20 hours per week). Currently, these agreements have a lot of flexibility compared to regular employment contracts (no shift schedule, no guaranteed extent of work, simple notice termination with no severance pay, etc.).

From the employers' point of view, the amendment will downgrade the regulation as employees will be entitled to paid annual leave (the minimum leave is 24/80 hours if all 300/1,040 hours have been worked). The new right to leave will apply from January 1, 2024. In addition, these agreements should be subject to all working time restrictions (namely as regards the length of shifts and rest periods) and a written shift schedule will be mandatory (thankfully, only for the next shift or for some shorter period, such as the coming week).

Important Document Execution and Distribution via Electronic Means

The long-term absence of any regulation of the electronic execution and distribution of important employment documents is another key issue. As a result of the amendment, employment contracts, zero-hours agreements, as well as all their contractual modifications and/or terminations may be entered into via email. However, the employee must initially agree to the electronic approach and provide the employer with their private email address. Thanks to the amendment, the employer will also be able to send unilateral notices of termination by email (currently, this is not possible), provided that the employee gives their prior consent.

Informational Duty

The amendment imposes a greater duty on employers to provide written information about rights and obligations to employees (including employees who work under zero-hours agreements). As a result, all employees must be informed about a probation period (if agreed), the procedure relating to termination of employment, the extent of overtime work, the expected extent of work in case of zero-hours agreements, etc. Employers will thus be obliged to review their templates in order to get them in line with the new regulation. Based on the informational duty, employers will also be required to provide employees with a written justification for some of their decisions, such as refusing to let a carer work part-time or terminating a zero-hours arrangement.

POLAND: INCREASED PROTECTION FOR EMPLOYEES

By Agnieszka Nowak-Blaszczak, Counsel and Employment Lead, Wolf Theiss

On September 22, 2023, the amendment to the *Polish Code of Civil Procedure* entered into force that significantly reinforces the protection of employees who benefit from special protections against dissolution of employment. As a result, an employer can no longer dismiss a specially protected employee until a final judgment is passed, which can, due to lengthy court proceedings, take several years. This solution stabilizes the employee's situation during court proceedings. However, the regulation only takes into account the interests of the employee while completely disregarding the interests of the employer, in particular in the situation where the final judgment confirms that the dismissal of the protected employee was justified and lawful.

The amendment to the legislation is the result of an agreement between the government and the NSZZ Solidarnosc trade union. The agreement stipulates precisely the introduction of special protections for trade unionists in labor law cases. However, the final wording of the legislation passed by the parliament is significantly broader and extends the special protection to all employees covered by protection against dismissal.

In Poland, special protections against dismissal are available to many groups of employees. These include employees of pre-retirement age, employees performing military service, employees who have performed military service toward Polish independence, or war-disabled persons. In addition, employees are protected during a justified absence from work, in particular during annual leave or inability to work due to illness, employees during pregnancy and maternity leave as well as employees during paternity leave, parental leave, and partially during extended parental leave. A separate group of specially protected employees are those entitled to protection because of their public or social function. These include MPs, senators, councilors, social labor inspectors, as well as trade unionists and other members of employee representative bodies, for example, the workers' council, European Works Council, etc. The purpose of guaranteeing employment stability to the latter group is to ensure the independent and undisturbed activity of a trade union or other employee representation.

After September 22, 2023, the court will be obliged to grant injunctive relief by ordering the continued employment of a worker under special protection by the employer until the final conclusion of the proceedings, if the eligible worker so requests. The injunctive relief will only be based on the substantiation of the claim. The court will be able to refuse such injunctive relief, but only if the employee's claim is manifestly unfounded. In addition, the court, in its injunctive relief order, will be able to threaten the employer, if the protected employee so requests, to order pecuniary payment to the employee if the employer does not continue the employment under the court's order.

The employer will only be able to request the revocation of a final injunctive relief order if it demonstrates that after the injunctive relief was ordered, the premises justifying the dissolution of employment due to the employee's fault have arisen. Varying the injunctive relief order is not allowed. The injunctive relief order may be appealed before the court of second instance.

The new regulation is widely criticized because it means that the court, when granting injunctive relief, won't be able to consider all the circumstances of the case.

Another proposed change concerns all employees, not only those whose employment relationship is protected. If an employee is dismissed with or without notice and the court of first instance reinstates the employee, the court will have to impose in its judgment an obligation on the employer to continue employing the employee until the proceedings have become final, if the employee so requests. Currently, the court's decision on the employee's continued employment is optional. The court considers the employee's request based on assessing the totality of the circumstances of the case, in particular considering whether continued employment is actually possible and appropriate. After September 22, 2023, the court will have to order the continued employment of the employee until the case is finally resolved. The court will therefore serve as a mechanical enforcer of the injunctive relief application.

The new solutions may be assessed as overly burdensome for employers and protecting only the interests of employees. Practitioners point out that this is another change in the law that may induce employers to seek forms of employment other than an employment contract. ■

HUNGARY: EMPLOYEE OR CONTRACTOR – EFFECTIVE STRATEGIES TO AVOID MISCLASSIFICATION

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

Under Hungarian private law, legal relationships aimed at performing various tasks on the basis of instructions are generally based on either employment contracts regulated by *Act I of 2012 of the Labor Code* (Labor Code) or services agreements governed by *Act V of 2013 of the Civil Code*.

Misclassification arises when a hiring organization designates a worker as an independent contractor and enters into a services agreement with them although an employment contract should have been concluded based on the content elements of the services and the nature of the rights and obligations specified by the parties. The primary motivation behind misclassification is often cost reduction as it allows employers to bypass mandatory employee benefits and protections provided by the Labor Code. Unfortunately, this places the worker at a significant disadvantage, depriving them of essential rights and safeguards granted to employees, such as minimum wage, overtime compensation, severance payment, rights related to termination, and many others.

The risks and possible legal implications of misclassification mainly depend on which authority assesses the nature of the legal relationship between the parties. Either way, if misclassification is established, the employer may face serious consequences such as a labor fine imposed by the labor inspection authority as a result of an employment supervisory inspection, a tax penalty imposed by the tax authority, or even an action for damages brought before the relevant court by the worker. With respect to this, it is crucial for employers to be able to differentiate between employment contracts and services agreements in order to avoid the risks of misclassification.

In Hungary, the key instrument in determining the difference between an employment contract and a services agreement is *No. 7001/2005. (MK 170.) FMM-PM Guideline* (MK170). Although MK170 was repealed as of January 1, 2012, the Hungarian Supreme Court (*Kuria*) still views its content as applicable, and further decisions of recent case law also take the content of MK170 into account when differentiating between employment contracts and services agreements. Based on the specific qualification marks provided by MK170, a set of dos and don'ts may be established to assist employers in drafting their agreements with independent contractors while navigating misclassification issues cautiously.

First, it is advisable to steer clear of any Labor Code terminology (e.g. "wages," "working day," "rest period," "severance payment") within the agreement.

Furthermore, the agreement should be meticulously drafted to specify the tasks assigned to the independent contractor in a manner that prevents them from appearing as routine or repetitive. However, it is essential not to overemphasize the independent contractor's constant availability and readiness for task execution as this can unintentionally suggest the existence of an employer-employee dynamic.

It is also suggested to reinforce the flexibility of collaboration in the agreement by setting forth that the independent contractor may engage a subcontractor, manage their own schedule and workspace, and use their own tools, resources, and materials. Moreover, emphasizing the independent contractor's responsibility for their own work and health and safety further delineates the distinction from a traditional employment relationship. Additionally, it is prudent to underscore the individuality of the independent contractor and structure the relationship between the parties so that it qualifies as rather horizontal. This may be achieved by ensuring that the hiring organization's right to provide instructions does not extend to the minute details of the independent contractor's tasks. Likewise, whenever feasible, granting the independent contractor the freedom to engage with other clients reinforces their status as an autonomous professional. In terms of financial arrangements, fees and payment terms should be structured so that they appear not too similar to the remuneration in a typical employment relationship. For instance, monthly itemization of the tasks and calculation of the monthly fee based on such itemization might be suggested since it is not quite conventional in an employment relationship.

Finally, it is also recommended to avoid liability constructions resembling those outlined in the Labor Code as these could inadvertently imply an employment relationship.

In conclusion, the intricacies of employment classification in Hungarian private law necessitate a thorough understanding of the distinctions between employment contracts and services agreements. Misclassification, stemming from the misdesignation of workers as independent contractors, can lead to significant disadvantages for the workforce and substantial legal consequences for employers. By meticulously detailing agreements with independent contractors, employers can safeguard themselves against misclassification risks and foster a fair and legally compliant working relationship for all parties involved. ■

SLOVENIA: WHAT CHANGES ARE ON THE HORIZON FOR LABOR LAW?

By Ziga Sternad, Head of Labor, and Maja Skorupan, Associate, Senica & Partners

For more than half a year, Slovenia has been intensively preparing amendments to the *Employment Relationship Act* (ZDR-1), which is usually called the "little workers' constitution." Like any other exemplary EU country, we transpose and implement all EU regulations and directives into our legal order in as timely and effective manner as possible. Unfortunately, this often does not solve the most acute problems of the labor market and the adopted legal solutions do not always help the economy to achieve higher productivity.

This year's amendments to the ZDR-1 include, among others, the implementation of two EU Directives (*Directive 2019/1152/EU* and *Directive 2019/1158/EU*). In doing so, they significantly interfere with the content of the law and introduce new labor law institutes, the impact of which will need to be reflected in the various employers' procedures. The envisaged amendments are mostly aimed at improving the employment situation of workers, and the criticism in social dialogue negotiations was mainly voiced by employers as their proposals – mainly aimed at the flexibilization of employment relations – were not accepted.

One of the envisaged novelties is the right of workers to carers' leave. This will be used to care for a family member or a person with whom the worker lives in the same household in cases where time off work is not something the worker can claim (under health insurance regulation). Despite the fact that this type of leave will be unpaid for the worker, the employer will be obliged to pay all the compulsory insurance contributions. It is foreseen that the employee's obligation to notify the employer of the use of this leave may be *a posteriori*, which will certainly have a negative impact on the employer's organization of the work process. In addition, we consider that the ex-post notification of the exercise of this right is also contrary to the foundations of contract law as it creates unpredictability and uncertainty for the employer.

The law will also regulate the "right to disconnect," which is essentially self-evident, but nevertheless requires additional legal safeguards due to abuses in practice. If you are wondering what the right of disconnection entails, it covers the right of a worker not to be at the employer's disposal during rest periods or justified absences from work. To this end, the employer will have to take appropriate measures aimed at stopping work-related activities – in particular, enforcing the right not to communicate online or to answer calls, emails, or any other communication – and the employer may also be fined in the event of a breach.

The bill also redefines the right to special protection for workers who are victims of domestic violence. This is a new concept that has not been regulated in the ZDR-1 so far. Victims of violence will be subject to an absolute prohibition on dismissal, which means that even in the event of serious breaches of employment obligations, the employer will not be allowed to terminate the employment contract. However, under the proposed regulation, the employer will not be able to terminate the contract even in the course of the employer's winding-up proceedings, which certainly constitutes a violation of the constitutionally guaranteed category of the right to free economic initiative.

Other amendments concern the regulation of the possibility for the employee to propose to the employer a more predictable and secure employment in order to improve their employment situation, but the emphasis remains on the "propose," as the employee will not have any serious leverage to request the employer to amend the employment contract.

ZDR-1, as the fundamental law that should govern the rights and obligations of workers and employers, is increasingly being transformed into a law whose primary purpose is to ensure the protection of workers' rights. There are certainly several reasons for this transformation, which are also closely linked to the development of EU law. It will be interesting to follow its future development, and it is likely to open up further legal dilemmas for us labor law specialists. ■

BULGARIA: IMPORTANT CHANGES IN LABOR LEGISLATION

By Antoniya Markova, Partner, and Teodora Shopova, Associate, Gugushev & Partners

In light of the constantly and rapidly changing world climate, there was a need for changes to provisions in labor law that have not been updated for years, namely on minimum wages and payment of salary.

Until recent amendments to the *Labor Code*, the minimum wage in Bulgaria was determined by the Ministry Council of Bulgaria as a fixed amount – a norm that has been applied in Bulgaria for about 30 years. However, the European Parliament has adopted *Directive on adequate minimum wages in the European Union* that envisages that the member states who have determined statutory minimum wages shall also establish the necessary procedures for setting and updating those statutory minimum wages, and those member states shall adopt the measures necessary to comply with the directive by November 15, 2024. Amendments have been adopted in the Bulgarian legislation establishing the mechanism for determining the minimum wage. As of February this year, the minimum wage for the next calendar year shall be set by September 1 of the current year as follows: the minimum wage shall be 50% of the average gross wage for 12 months, which shall include the last two quarters of the previous year and the first two quarters of the current year. It is important to note that the new legislative decision envisages that the minimum wage could not be lower than the one determined for the previous year.

However, a couple of months after the amendments to the minimum wage were adopted, a bill was submitted to the National Assembly regarding the amendment of the mechanism for determining the minimum wage. The bill envisaged the mechanism for determining the minimum wage would apply from July this year, with the 12 months including the last three quarters of 2022 and the first quarter of 2023. However, at this point, the bill has been adopted only at first reading. Given the many public discussions and the sharp criticism of the adopted mechanism by employers and some trade unionists, it is not unlikely a new mechanism will be proposed for determining the minimum wage.

Another important change relates to payment of salary. Labor law provides that the employer could pay wages to its employees in cash or to a bank account. Under one of the latest amendments, restrictions are introduced regarding the payment of wages in cash in certain cases. As of September 1, 2023, payments within the territory of Bulgaria shall be made only by transfer or deposit to a payment account, where the payments are wages within the meaning of the *Labor Code*, paid by employers who have 100 or more employees. However, the calculation of the number of employees does not include short-term seasonal agricultural employment, where the wage is normally paid daily (as opposed to the usual way of being paid once or twice a month). In the case of an employer with 100 or more employees, the wages shall be paid only by transfer or by a deposit into a payment account at a bank in the country designated by the employee. It is noteworthy that the regulation with the new restrictions on the payment of remuneration in cash does not affect small enterprises, where the average number of employees for the accounting period is 50, and micro-enterprises, where the average number of employees for the accounting period is 10.

The reason for restricting payments in cash is to improve control and limit tax and social security evasion, as well as to allow employees to monitor that their remunerations are paid in the accurate amount and within the respective time limits agreed in their employment contracts. However, it remains to be assessed whether the introduction of these restrictions does not adversely affect the employees who are most in need of labor law protection, namely those who are paid at or close to the minimum wage. Such employees will now have to pay additional bank fees to receive their wages instead of receiving their full wage, which is already at, or close to, the minimum.

Although the amendments have received considerable criticism, given that they affect the interests of the state, businesses, and employees and that it is difficult to reach a balance between the interests of all concerned, the necessity of the amendments could not be denied. ■

AUSTRIA: ECJ AND AUSTRIAN SUPREME COURT STRENGTHEN EMPLOYEE RIGHTS FOR ANNUAL VACATION

By Walter Poeschl, Partner, and Clemens Chwala, Associate, Taylor Wessing

The statutory right to vacation originally arose from the employer's duty of care for its employees. The *Austrian Vacation Act* of 1976 is a manifestation of this duty of care. It provides for five – with some seniority six – weeks of vacation for each working year. The law also expressly states that vacation should be used up, if possible, by the end of the year in which it was accrued. However, the employer and employee must agree on the specific leave days. In general, this means that neither the employee can take off for vacation unilaterally, nor can the employer impose it. Therefore, if there is no agreement on the actual use of vacation, this leads to an accumulation of vacation days.

Austrian law and precedence stipulated that employees may lose any accumulated vacation entitlement in two cases: (a) forfeiture because the employees' vacation becomes time-barred, and (b) resignation by the employee without cause and without observing the notice period.

This, according to the European Court of Justice (EJC), is not in line with EU law. Austria thus had to adapt its laws and precedence on vacation.

Employer's Duty to Provide for Vacation

Under Austrian law, an employee's vacation becomes forfeited if it is not consumed by the employee within two years from the end of the vacation year in which the entitlement arose. This should prevent the "hoarding" of vacation and should motivate the employee to request vacation or accept offers to take vacation from the employer. However, if it is encompassed within the employer's duty of care that the employee consumes vacation, where does that duty of care fall in the context of the statute of limitations on vacation entitlements?

Recently, the ECJ dealt with precisely this issue (*ECJ C-120/21, TO*). The ruling strengthens the rights of employees in connection with the forfeiture of vacation entitlements. In a very recent judgment, the Austrian Supreme Court made clear that the reasoning of this ECJ ruling also applies in Austria. The courts ruled that the vacation entitlement may be forfeited only if the employer has proactively enabled vacation and, for example, has pointed out that the vacation is about to expire. The bottom line is that the employer must be able to prove that employees could use the accumulated vacation days.

Compensation Rewards Unauthorized Resignation

The accumulation of vacation may entail a considerable financial expense for the employer. This is because, upon termination of the employment relationship, the *Vacation Act* requires that the unused vacation entitlement must be paid out in money. This includes the pro-rated entitlement for the ongoing working year but also any unused vacation days for previous years.

Until recently, the *Austrian Vacation Act* provided for a specific exception to the entitlement to vacation compensation: according to this provision, compensation for the current vacation year was not due "if the employee leaves the company prematurely without good cause." As of November 1, 2022, this provision was amended to the effect that now "no compensation is due for the fifth and sixth week of the entitlement to vacation from the current vacation year."

The reason for this change also came from the ECJ. It already repeatedly stated in the past that the only prerequisite for mandatory financial compensation for vacation was the termination of the employment relationship and the existence of remaining vacation. Hence, the motivation behind the termination as such is irrelevant. Consequently, the Austrian Supreme Court requested a preliminary ruling and the ECJ issued a decision in the *job-medium* case (*ECJ C-233/20, job-medium*). It ruled the Austrian legal situation to be contrary to EU law. In the subsequent proceedings, the Supreme Court therefore assumed that the employee is entitled to compensation for unused vacation even in case of resignation without cause. However, this only applies to the four-week minimum leave granted by EU law. The Austrian legislator followed suit with an amendment to the *Vacation Act* and has thus created the aforementioned, quite complex regulation to comply with union law. Accordingly, compensation for the national minimum leave, which exceeds the minimum leave of four weeks guaranteed under union law, is not required. ■

ROMANIA: THE IMPACT OF ROMANIA'S NEW EMPLOYMENT REGULATIONS – THE GOOD AND THE BAD

By Mihai Anghel, Partner and Co-Head of Employment, Tuca Zbarcea & Asociatii

The end of 2022 has brought numerous and substantial updates to employment legislation in various areas, such as adjustments to the minimum content of the internal regulations and to the mandatory template for the employment contract, as well as a whole new piece of legislation regulating social dialogue: *Law no. 367/2022* to replace the former *Law no. 62/2011*.

Some of the most noteworthy amendments brought by the new *Social Dialogue Law* are the reduction of the threshold at which collective negotiations become mandatory in a given unit from 21 to 10 employees, the reduction of the representativity threshold of unions in units from 50% to 35% of the total number of employees, the newly introduced guidelines on how to conduct the information and consultation process with unions and/or employees' representatives, as well as the (re)introduced possibility to conclude a collective bargaining agreement at national level.

Whereas the new law brings a series of welcome clarifications for the labor market and former legislative overlaps have been eliminated, there are still some open points for clarification which the legislator should perhaps consider addressing in future updates.

For instance, as far as collective bargaining agreements at a unit level are concerned, the new law expressly gives the initiative of collective negotiation to either of the social partners (i.e., employer and the employees' representatives/trade union), whereas the former law limited this initiative to the employer.

Nevertheless, the law also institutes an administrative fine for employers who fail to carry out the mandatory collective negotiation process at companies with at least 10 employees (for comparison, the former law only sanctioned employers refusing to start the collective negotiation initiated by the representatives of employees). The current law therefore appears quite inconsistent as regards to the party who must initiate the process despite appearing to have split the responsibility equally between the employer and the trade union/employees' representatives. Moreover, by extending the sanction to employers who simply fail to carry out negotiations – i.e., including where they fail to initiate the process – the new law seems to place more burden on employers.

A particular discussion may appear where employers have neither representative trade union(s), nor elected employees' representatives, especially since the law now expressly prohibits employers from intervening in the election process of the employees' representatives, allowing employers to only facilitate the process at the express request of the employees. Thus, the law now sanctions the employer for its lack of initiative in negotiating the collective bargaining agreement, while, at the same time, drastically limiting the potential involvement of the employer in the election of the employees' representatives in order to gain a partner for discussions and negotiations.

Lacking elected representatives, one could reasonably argue that the employer is simply not under obligation to initiate any collective negotiation process and could not be subject to the fines applicable by labor inspectors, as it lacks a partner for discussions.

However, in order to accommodate all the provisions of the *Social Dialogue Law*, the safest and a more practical approach would be for employees to be periodically informed about their right to organize an election process, with an emphasis on the powers the elected representatives have and the employer's openness to negotiate the collective bargaining agreement. In this manner, employers can demonstrate that they have tried to initiate the collective negotiation in spite of lacking a legitimate partner for negotiation.

Given such situations may arise in practice, there still seems to be room for improvement in the legal framework and we can expect that the so-called "reform" of the labor market is not yet finalized. ■

LITHUANIA: FLEXIBILITY AND NUANCES IN THE LABOR CODE

By Tomas Bagdanskis, Managing Partner, and Milda Jogelaite, Senior Associate, Ilaw Lextal

In today's fast-evolving world, countries are continuously revising their labor laws to achieve the right balance between the needs of the workforce and the demands of the corporate sector. The Republic of Lithuania stands out in this regard, as its *Labor Code* seeks to provide flexibility in labor relations, all the while ensuring the rights of its employees are not undermined. A close examination of the Labor Code, local documentation practices, and the progressive legal shifts toward Western norms paints a comprehensive picture of the nation's approach to employment dynamics.

1. The Fine Balance Between Flexibility and Employee Rights

A cornerstone feature of the *Labor Code of Lithuania* is its provision that allows for deviations from the mandatory norms under certain conditions. Specifically, if an employee's monthly wage is not less than double the average gross monthly wage of the national economy – as published by the Lithuanian Statistics Department – there exists a possibility of diverging from the stringent regulations of the *Labor Code* or other related labor law norms.

In this context, two aspects become important in order to benefit from this possibility. It could not compromise critical areas such as maximum working hours, minimum rest durations, the process of concluding or terminating an employment contract, minimum wage, health and safety concerns of employees, and the principle of gender equality. Furthermore, any deviation should always be made with the primary aim of achieving a harmonious balance between an employer's requirements and the employee's welfare (providing additional annual leave, and other benefits). However, this flexibility isn't absolute. There are plenty of practical applications of this provision. Employers and employees might mutually agree upon diverse non-compete clauses, modify the bounds of the employee's liability, or negotiate varied compensations for business trips and overtime, among others. Such tailored arrangements might be especially advantageous for roles demanding unique skill sets or particular responsibilities. Thus, although the law imposes certain limitations, employers have sufficient scope to agree with the employee on terms different from those imposed by the *Labor Code* in order to benefit their business.

2. The Significance of Local Documentation and Awareness

Apart from the overarching Labor Code, local documents, often endorsed by a company's director, hold substantial importance in Lithuania's labor law. These internal documents elucidate specific rules and regulations that the employees must abide by during their tenure.

Case law in Lithuania has often underscored the significance of these local documents. In scenarios where the employee might contravene these rules, their awareness becomes pivotal. If the employee hasn't been adequately informed about these regulations in written form, in many cases, it is much harder to prove that the employee is at fault and to hold them liable. This stems from the understanding that an uninformed individual could not be faulted for non-compliance. This precedent ensures that employers maintain transparency and proper channels of communication with their workforce, thereby promoting a culture of awareness and understanding.

3. Progressive Adaptations

While the Republic of Lithuania has its unique labor regulations, there's a palpable shift toward adopting legal practices reminiscent of Western countries. In recent times, Lithuania's legal landscape has seen employers being obligated to introduce local policies addressing key societal and workplace challenges. These new policy requirements encompass areas like promoting equality in the workplace, implementing a whistleblowing model, and taking proactive steps to prevent instances of violence and harassment. Such mandates not only showcase Lithuania's commitment to creating a supportive work environment but also reflect the nation's effort to align with global standards and best practices. Furthermore, the legislator of the Republic of Lithuania, while acknowledging the adaptability necessitated by the pandemic and the global nature of employment relations, has made efforts to emphasize remote work provisions and its opportunities, promote the secondment of employees, and offer guarantees to foreigners – all to bolster market competitiveness. It is also worth mentioning that the updated *Labor Code* facilitates more straightforward employee termination, albeit with higher severance pay. The reasons for termination might range from individual behavior to qualifications, granting employers considerable discretion in decision-making.

Lastly, the public sector is not forgotten either – the latest amendments established a reduced working time rate of 32 hours per week for employees of budget institutions who raise children under three years old, with the aim of encouraging employees to return to work earlier, without losing their qualifications and connection to the workplace, while at the same time allowing them to effectively care for a small child. ■

SLOVAKIA: STRENGTHENING WHISTLEBLOWER PROTECTION

By Stanislav Durica, Partner, and Katarina Pecnova, Managing Counsel, Dentons

The Slovak Republic's amendment to the *Whistleblowers Protection Act* widens the scope of protection, shortens deadlines, and increases fines for non-compliance. Most provisions took effect on July 1, 2023, with some coming in on September 1, 2023.

Extension of Protection: The amendment expands the definition of a whistleblower and the group of people protected by the *Whistleblowers Protection Act*. Previously, whistleblower protection only applied to those in employment relationships, but it now covers others: self-employed contractors, company officers, interns, volunteers, etc. Close relatives, people who have helped the whistleblower, and partners or subsidiaries of the whistleblower are also protected. It broadens the definition of "anti-social behavior" to include a wider range of offenses due to the reduction of the upper penalty level's qualifying criterion from three years to two years. It also defines a retaliatory measure as any action taken against a whistleblower or others for reporting information about anti-social activity if such action is likely to cause harm to the whistleblower or other protected individuals. It specifies examples of retaliatory measures, but others not expressly listed may also apply.

Employer's Obligations: Employers are required to name a person within their organization who is responsible for verifying whistleblower notifications. Traditionally, many companies have outsourced this function to an external provider. The amendment limits the possibility of outsourcing to someone outside the organization – only employers which are not public authorities and have less than 250 employees will be eligible to do so.The types of employers that are obliged to set up an internal whistleblowing system have been expanded to include public authorities and businesses with at least five employees, that offer financial, transportation safety, or environmental services. The whistleblower's written consent is required before information about their identity can be revealed.

The employer is responsible for ensuring an effective process for reporting anti-social activities and is obligated to take appropriate action against any employee who prevents the reporting of an incident or the proper recordkeeping of such reports. Failure to comply with these obligations can result in fines for both employers and individuals.

Time Limits: The amendment shortens the time limit in which the employer must verify the information and notify the whistleblower of the results to 90 days following the acknowledgment of receipt of the notification.

Previously, the employer was required to verify the notification within 90 days of receiving it, and in some cases, had the option to extend this by an additional 30 days. The employer was required to inform the whistleblower of the investigation's findings within an additional window of 10 days. In cases where the notification is referred to the police for criminal proceedings, the amendment keeps the 10-day window for informing the whistleblower of the investigation's findings. It is no longer possible to extend the deadline for investigating and responding to allegations, regardless of how complex the matter may be. The Whistleblower Protection Office may impose a penalty for missing the deadline. The downside is that it is sometimes impossible to finish an investigation in such a short time, especially when multiple countries, individuals, and issues are involved, or when the scope of the investigation expands as new facts come to light.

Sanctions: The amendment increases fines for administrative offenses while simultaneously adding new offenses: (a) An employer which takes (or threatens to take) an employment action against a protected person or whistleblower, without the approval of the Whistleblower Protection Office, can be fined up to EUR 100,000. (b) An employer which has at least 250 employees and has violated any of the legal requirements relating to internal whistleblowing systems can be fined up to EUR 100,000. (c) An employer that fails to take action to address violations found during the compliance inspection or fails to provide the Whistleblower Protection Office with a written report on those violations can be fined up to EUR 30,000. Fines for those who threaten or penalize a whistleblower for reporting an incident, reveal the identity of the whistleblower, or prevent the reporting of an issue have been increased from EUR 2,000 to EUR 6,000. In some cases, fines may be doubled to EUR 12,000.

What Now? To ensure compliance with the amended *Whistleblowers Protection Act*, companies should analyze who is entitled to whistleblower protection, which actions could constitute anti-social behavior, and which could constitute retaliation. They should also ensure that their policies and processes are compliant with the law and address any potential risks. In the event of a reported incident, companies should ensure proper communication with the Whistleblower Protection Office and abide by its requirements. ■

CROATIA: GARDEN LEAVE – WHEN TIMING IS OF THE ESSENCE

By Marija Gregoric, Partner, and Matija Skender, Senior Associate, Babic & Partners

Terminating an employee is a critical juncture for employers, fraught with potential risks and complications. Such a move can disrupt workflow and productivity, casting a shadow on workplace morale and organizational stability. Additionally, it opens the door to legal disputes, with terminations often seen as unfair or discriminatory, resulting in costly litigation. The murky waters of termination-related legal issues are further muddied by ambiguous statutory provisions. Regrettably, Croatian employment laws and practices reflect these challenges, as protracted and expensive litigation stemming from employment terminations is an all-too-common occurrence in Croatia. In light of this, employers are advised to meticulously strategize the termination process – ideally, seeking guidance from experienced legal counsel – in order to mitigate these risks.

One crucial consideration that arises during the planning of the termination process is whether to place the terminated employee on garden leave. In essence, garden leave entails requiring a departing or terminated employee to remain absent from the workplace and refrain from performing their job duties during the notice period, all while still receiving their regular salary and benefits. The decision to enforce garden leave typically rests with the employer, who should carefully weigh the pros and cons. On one hand, terminated employees continuing to work during the notice period may facilitate the efficient transfer of tasks to other employees, but on the other hand, it carries the risk of employees attempting to misuse the employer's confidential information, solicit clients or co-workers, or even cause material and/or reputational damage to the company. In Croatia, employers should also consider additional crucial factors when contemplating granting garden leave.

Under the *Croatian Employment Act*, the notice period begins to run the day after the employee is served with the termination notice. However, if the employee happens to be on sick leave at the time the termination notice is served (typically through methods like postal service), the notice period begins to run only upon the employee's return from sick leave. Furthermore, if the employee initiates sick leave during the notice period, the notice period will either (i) be paused until the employee returns from the sick leave, or (ii) expire automatically after six months from the beginning of the notice period – whichever occurs first.

To put this into perspective, when being served with a termination notice subject to a notice period, an employee will be in a position to delay the notice period up to a full six months, provided they receive clearance for sick leave from their family doctor, which is a rather common occurrence.

The employer does have one opportunity to restrain the employee from prolonging the notice period by initiating sick leave. The *Croatian Employment Act* states that sick leave does not pause a notice period if the employee is on garden leave. Until recently, it was customary for employers to place a terminated employee on garden leave as soon as the employee initiated sick leave during a notice period. This practice, however, became a thing of the past. Under the most recent amendments to the *Croatian Employment Act*, entering into force on January 1, 2023, the placing of an employee on garden leave will not prevent pausing of the notice period unless the employee is placed on garden leave by the termination notice itself, and before sick leave is initialized.

This alteration exacerbates the employer's dilemma. They must choose between granting the employee garden leave, effectively allowing the employee to enjoy a paid notice period without any work obligations, or risking the employee extending the notice period by up to six months. The legislative direction taken by Croatia could very well lead more and more employers to opt for garden leave, potentially shifting it to being perceived as a terminated employee's entitlement rather than the employer's discretionary right. To restore the balance, Croatian authorities would need to address the issue of unjustified and excessive use of sick leaves, which in itself is a separate and complex problem that cannot be rectified overnight. ■

SERBIA: CONTRACTUAL PENALTY IN LABOR LAW

By Damjan Despotovic, Partner, DNVG

In the Serbian market, contractual penalties are often included in employment contracts since this is concrete and efficient protection for the employer in case of a breach of certain contractual obligations by employees. On a general note, a contractual penalty is a fixed monetary receivable that can be claimed in case of a breach of contractual obligations by one party, without having to prove the actual amount in damages. However, in the area of labor law, there is still uncertainty when it comes to the validity of such clauses and their enforceability in case of disputes.

Namely, an employment contract is primarily a contractual relationship that is subject to the principle of freedom of contract, implying that a contractual penalty may be applied based on the parties' mutual consent. On the other hand, there is the principle of protection of employees as the weaker party, which in Serbian labor law is expressed in the provision which mandates that employment contracts must not introduce less favorable work conditions than those guaranteed by the law.

A contractual penalty as such is not regulated by Serbian labor legislation. Hence, it can be argued that it would not be valid since it deviates from the legal norms by imposing additional obligations (i.e., sanctions) on employees. On the flip side, it could be argued that these do not constitute less favorable work conditions but rather just specific sanctions for a breach of obligations arising from employment.

A contractual penalty is most commonly stipulated as a sanction for a breach of the following obligations arising from employment: non-compete clauses (i.e., the obligation not to engage in activities which are competitive to the business of the employer) – both during employment and after its cessation; protection of confidential information (confidentiality); and non-solicitation clauses. It is typically expressed as an obligation to pay an amount equivalent to a certain number of base salaries (i.e., six base gross salaries).

These are all potentially very sensitive issues for employers, especially in industries where knowledge and information are key for a company's competitiveness in the market (e.g., IT). Since these are industries characterized by dynamic competition, employees often switch jobs in search of better conditions, which additionally increases the risk of violations as well as potential damages for the employer. Therefore, it can be legitimately argued whether employers' interests can be adequately protected without contractual penalties, especially keeping in mind that violations often occur after termination of employment or after the employee has decided to quit, which renders disciplinary sanctions inapplicable. Consequently, the only remaining legal recourse for the employer is compensation of damages, which is notoriously difficult to prove, and thus employers are facing the prospect of long litigation with an uncertain outcome.

A connected but still separate issue is the legal treatment of non-solicitation clauses (i.e., the covenant that precludes employees from soliciting other employees, associates, or clients of the employer for a certain period of time after termination of employment), which is a standard clause in some jurisdictions. As pointed out, non-compliance with this clause is often sanctioned by a contractual penalty.

As with contractual penalties, Serbian labor law does not regulate such a provision, leaving the same opposing interpretations.

The existing case law is not sufficient to resolve the aforementioned dilemmas since disputes concerning these issues are apparently very rare. This could be due to the efficiency of contractual penalties as a deterrent against violations or just reluctance by both parties to engage in disputes with uncertain outcomes.

To be sure, there is an argument found in the elaboration of a verdict that asserts that a contractual penalty is a covenant inherent to contractual law and not suited for labor relations. However, the case in question did not directly relate to the validity of contractual penalties and the reasoning could have been different if this was specifically the subject of dispute. Consequently, it cannot be said with certainty that judicial practice does not allow contractual penalties in labor law.

Until the above uncertainties and competing interpretations are resolved, our recommendation for employers is to stipulate contractual penalties as a sanction for violations that can cause significant damage to the company. Regardless of the uncertainty when it comes to its legal validity, there is no doubt that contractual penalties are a significant deterrent against violations and abuses by employees. It is also important to emphasize in employment contracts that the contractual penalty supersedes the contract itself and that it remains valid even after the termination of employment. ■

UKRAINE: ENSURING THE EMPLOYEES' SAFETY DURING AIR STRIKES

By Timur Bondaryev, Managing Partner, and Kseniia Lotosh, Associate, Arzinger

Considering the ongoing martial law in Ukraine and frequent air strikes in various parts of the country, more and more employers are becoming concerned about whether they should adopt measures to protect their personnel or provide shelter, and what the liability if these obligations are not fulfilled would be.

Currently, private companies are not obliged to have a shelter. Respectively, there is no penalty for its absence. In case of danger, employees may use the closest publicly-allocated shelters or places suitable for their protection.

There are no specific requirements in terms of accessibility and location of such public shelters either. Still, based on *State Building Normative B.2.2-5-97*, there needs to be a shelter within a 500-meter radius. Though such a requirement is not directly correlated with the employer's duties, if an air strike causes injuries or death of employees en route to shelters further than 500 meters from the employer's location and the employees were traveling there under the employer's instruction, such an instruction may be recognized as endangering the employees.

Thus, it is reasonable to include such shelters in the relevant evacuation plan only as additional options among other more practical options, if any, for employees to choose from (alongside the demand to stop working immediately and to go to the closest safe place). Also, the employer must not demand employees to go to premises that are not suitable for their protection.

There are no rules for evacuation times either. However, it should be done as soon as possible after the air raid alarm goes off.

Regardless of the above, employers have other obligations – e.g., installing an air raid alarm system, developing a plan/instruction for reactions to air raid emergencies, and conducting trainings for employees.

First of all, employers with a "mass presence" of people (as defined under established criteria) are obliged to ensure that the air raid alarm is functioning and is available to all employees present at the premises and cannot disconnect these channels/systems or dismantle them (according to Clause 25 and Clause 26 of the *Regulation of the Cabinet of Ministers of Ukraine No. 733* dated September 27, 2017).

Second, the employer cannot prevent employees from evacuating and the employer cannot demand employees to continue their work in case of an air strike danger. Such actions not only will be grounds for employees to file a claim with state authorities but also may result in liability in the case any accident occurs.

Third, the employer must adopt an instruction/plan for reaction to emergencies (according to Article 130 of the *Code of Civil Protection of Ukraine*). The methodological recommendations developed by regional offices of the State Emergency Service of Ukraine may be used. Employees should be familiarized with the plan/instruction and pass relevant training. Additionally, the employer may use other available measures. If some employees refuse the training and familiarization with the documents, the employer may forbid such employees to enter the employer's premises and establish paid downtime for them.

In case of an accident caused by an air strike, an investigation must be carried out to determine whether any injuries or deaths are related to the employees' work and whether there was any employer's fault in the accident (e.g., via violating occupational safety rules).

If the employer's violation of occupational safety (including if the employer has not taken sufficient measures to prevent danger and its negative impacts) leads to injuries or deaths, criminal liability may be applicable to the CEO or another official (e.g., Occupational Safety Engineer). According to Article 271 of the *Criminal Code of Ukraine*, penalties include fines, correctional labor, restriction of liberty, or imprisonment with or without deprivation of the right to hold certain positions or engage in certain activities.

Therefore, it is recommended not to neglect the mentioned obligations not only in order to avoid liability but also to protect the employees and their lives in such dangerous times. ■

TURKIYE: UPPER-LEVEL MANAGERS IN TURKISH LABOR LAW

By Tarik Guleryuz, Partner, Guleryuz & Partners

There is no specific definition in the *Turkish Labor Code* (TLC) for upper-level managers who work at the top management level in companies. Therefore, it is difficult to determine whether they are defined as employees, employers, or an employer's representatives, and what their rights and obligations are.

The Concept of Employer Representative and Upper-Level Manager

In the TLC, while a distinct definition of "upper-level manager" remains absent, the concept of an "employer's representative" is well-established. An "employer's representative" represents an employee entrusted with acting on behalf of the employer, thus embodying the employer's presence in the management of work, the workplace, or the enterprise. The title of "employer's representative" does not eliminate the employee rights and obligations of the persons holding this title. However, according to the TLC, employer representatives who are authorized to manage the entire enterprise or those who are entitled to manage the relevant workplace and to recruit and terminate employees cannot file a reinstatement lawsuit. That being said, while every upper-level manager is qualified as an employer's representative, not every employer representative must hold a position at the upper-level.

Upper-Level Managers in Joint Stock Companies

In joint stock companies, upper-level managers may be members of the board of directors or general executives (chief executive officer, chairman, etc.).

As a rule, being a board member or holding the chairman position does not prevent one from working in the same company with an employment contract. An employment contract may be concluded between the company and the board member in addition to a proxy contract. The upper-level executive's capacity to give orders and instructions, as well as the extent of the management authority delegated to them, should be evaluated to determine whether they hold the title of an employee. For instance, a board member to whom the authority to manage and represent the company is fully delegated cannot be considered an employee. The Court of Cassation evaluates how the board member maintains their life financially to identify their legal status – for this, the court looks into their position within the company, the nature of their work, working conditions, and their income overall.

Typically, shareholding alone does not automatically disqualify an individual from being classified as an employee. In fact, it is commonly observed that companies allocate shares to their employees without altering their employment status. While the membership status of a shareholder within the board of directors is not a critical factor in recognizing their involvement under an employment arrangement, it is of vital importance to assess the shareholder's influence over management decisions based on their shareholding rate. This is because the shareholder is not considered as an employee if the shares held by such shareholder enable him/her to control the company.

In joint stock companies, upper-level managers with titles such as general executive, CEO, and similar titles act on behalf of the employer and take part in the management of the company and therefore qualify as the employer's representatives in terms of the TLC. In practice, these upper-level managers generally work within the framework of their employment contract. This is because being a director of a joint stock company alone is not sufficient to exclude the title of employee.

Upper-Level Managers in Limited Liability Companies

In limited liability companies, upper-level managers are usually "the company manager" or among the shareholders. When a shareholder is granted with the authority to manage and represent the company, then s/he is considered as a person-organ in the capacity of "company manager." Such company managers are therefore in the position of the employer and not considered employees because they are not in a relationship of dependency, which is the distinguishing element of an employment contract.

According to the Court of Cassation, it has been acknowledged that the managers who do not have a shareholding in the company are also the organs of the limited liability company and thus do not have the status of an employee.

On the other hand, it is possible for a shareholder who is not a manager to be an employee. However, in such a case, it should be checked whether the position, duties, working conditions, and salary of the shareholder in the company are symbolic or not. ■

BOSNIA AND HERZEGOVINA: SIGNING OF MANAGEMENT CONTRACTS IN PRACTICE

By Leila Salijevic, Head of Labor, Ibrahimovic & Co

The need for management contracts arises when an employer needs to arrange for a relationship beyond that of one with a simple employee – one with an individual performing managerial or supervisory tasks. Therefore, the relevant labor laws (in the Federation of Bosnia & Herzegovina, Republika Srpska, and Brcko District of Bosnia & Herzegovina) introduce management contracts that offer an alternative for the employer to conclude an agreement with a manager without establishing actual employment. The aim is for a more flexible arrangement of said business relationship or established employment which is absolutely subject to the provisions of the relevant labor laws.

It should be noted that in the case a management contract is concluded without establishing employment, the tax base is constituted by the manager's total income. Thus, income tax at a rate of 10% will be paid on the tax base, which includes not only the compensation agreed upon between the employer and the manager but also all other expenses incurred during the duration of that relationship. For instance, entering into an employment contract for a definite or indefinite period or concluding a management contract with established employment implies the non-taxation of specific allowances disbursed by the employer, such as bonuses, official travel expenses, a certain amount for meals, etc. However, compensation that would be paid to the manager based on a concluded management contract without establishing employment is fully subject to taxation in accordance with prevailing income tax laws ("income from other independent activities") and the *Temporary Opinion of the Tax Administration of the Federation of B&H* since 2015.

The concept of a management contract is not precisely defined in the aforementioned regulations, meaning that practical questions arise concerning the implementation of this type of engagement – especially considering that numerous provisions of labor laws don't apply, including provisions related to employee remuneration. Recognizing the fact that rewarding top managers is a significant mechanism in corporate governance, this ambiguity has created numerous dilemmas. For instance, employers have questioned whether they can pay a single compensation to a manager who oversees the work processes in multiple affiliated companies of the original employer under the condition that one management contract includes the mentioned compensation, while the other contracts do not involve an established employment relationship and compensation, or whether the compensation can be determined as a percentage relative to the value of profitable decisions brought to the company, along with many other questions.

These dilemmas among employers in Bosnia & Herzegovina were expected, as managers often received bonuses or other benefits in addition to their basic fixed monthly salary (prior to the introduction of this institute) based on the level of success in managing the company or the specific task at hand. The relevant ministry publicly released an opinion regarding these practical dilemmas. It stated that when concluding a management contract, the nature of such a contract should be considered, emphasizing that the contract is indeed a labor law institute and should contain basic elements such as salary/compensation.

However, it is believed that the elements of a lawful labor relationship will be fulfilled even if compensation is determined solely proportionally (in line with a Decision of the Supreme Court of the Federation of Bosnia and Herzegovina – 23 0 Rs 027961 19 Rev from August 13, 2020). At the same time, the obligation to submit management contracts to the Pension and Disability Insurance Funds (Federation of B&H and Republika Srpska) is not perceived as irregular, even when processed by the respective fund, regardless of the fact that the compensation is neither specified nor determinable.

In light of the aforementioned, the competent authorities have not taken a unified stance regarding the provisions concerning salary/compensation when concluding a management contract, nor is this institute extensively regulated by other statutes (keep in mind that the publicly released opinion is not legally binding). Concluding a management contract without compensation can pose a risk in the event of a tax inspection. Since the employer is obligated to pay income tax from the worker's income, tax officials during tax audits might determine that the management contract was concluded without compensation in an attempt to evade tax obligations.

Furthermore, apart from what's mentioned, entering into a management contract without establishing an employment relationship and without compensation could expose the employer to risk if the manager later claims compensation for the work performed, as everyone "has the right to fair pay." ■

NORTH MACEDONIA: ADAPTING TO ECONOMIC CHALLENGES – EXPLORING REMOTE WORK AND COST-CUTTING STRATEGIES

By Marija Filipovska Jelcic, Partner, and Martin Ivanov, Attorney-at-Law, CMS

In recent times, the global economic landscape has raised concerns about the potential onset of a recession. Consequently, businesses operating in North Macedonia are proactively seeking strategies for cost reduction and organizational restructuring.

Additionally, the repercussions of the global energy crisis and the recession have begun to manifest locally, resulting in notable job losses in specific sectors. Concurrently, North Macedonia has felt the effects of the so-called "Great Resignation" and "Brain Drain" phenomena, witnessing a surge in voluntary departures from employment positions. These developments, coupled with industry-specific redundancies, have dynamically altered the employment landscape in the country.

Despite these challenges, North Macedonia tries to demonstrate pockets of growth and resilience. In any case, businesses must remain agile and responsive to the ever-changing economic environment. When confronted with economic adversity, businesses frequently turn to an array of strategies designed to economize while simultaneously safeguarding the well-being of their workforce. In practice, we see different approaches depending on the goals and size of companies, such as restructuring, mass dismissals, part-time employment, remote work, etc.

Organizational restructuring encompasses the realignment of a company's operations, potentially involving departmental mergers, or the elimination of redundant positions. While restructuring can be a potent cost-saving tool, it necessitates careful consideration of its impact on employees and their morale. In certain circumstances, mass dismissals may become a necessary but drastic measure. It is essential to adhere rigorously to legal regulations and ensure that affected employees receive fair compensation when implementing such measures.

The adoption of part-time employment arrangements can effectively reduce expenditures while retaining valuable talent. Such arrangements offer flexibility and mutual benefits for both employers and employees. It is imperative to uphold workers' rights and ensure equitable compensation when implementing part-time work arrangements. These practices offer several advantages, including enhanced flexibility and the potential for cost savings related to office space and overhead expenses.

The existing Macedonian labor legislation does not explicitly regulate "remote work" but rather "work from home," which creates legal ambiguity when applying global-standard remote work practices and often generates legal uncertainty for both employers and employees. Namely, the Macedonian labor framework defines work from home as tasks performed at the employee's residence or other chosen premises, with legislation governing employment contracts for such arrangements and determining the legal status of home-based workers. Regrettably, the applicable *General Collective Agreements* do not address work-from-home matters, similarly echoed in branch collective agreements.

Analyzing the provisions within the *Law on Labor Relations*, it appears evident that the legislator's intent was to regulate employment contracts for work from home in the form of "initial" contracts that establish employment relations. The contracts cover tasks that fall in the description of the employer's registered business activities or are necessary for their performance. This situation necessitates employers to submit employment contracts for work from home to the Macedonian labor inspector within three days of their conclusion. However, given that the *Law on Labor Relations* does not prohibit the subsequent alteration of the place of work, regardless of whether it initially designated work in the employer's premises or another location chosen by the employee, it implies contractual flexibility. In essence, the current Macedonian labor legislation imposes no limitations on organizing or altering work locations. Transitioning from the employer's premises to an alternative location represents a fundamental change in the employment contract's elements, necessitating a mutual agreement between the employer and the employee. According to the existing legal framework, amending employment contracts for remote work – regardless of the model chosen – can be achieved through an amendment.

It is anticipated that Macedonian legislative authorities will soon introduce remote work provisions into relevant legislative acts governing employment contracts in remote work contexts. Such remote work-related amendments should include provisions on amendment agreements that address various aspects, including remote work application, working conditions, duration of working hours, breaks and rest periods, occupational safety and health regulations, data protection, and employee privacy, as well as regulations concerning the use of work equipment.

To successfully integrate remote work practices, businesses in North Macedonia must carefully assess the unique challenges and opportunities these arrangements present. By aligning global trends, such as remote work, with the specific needs and attributes of the local workforce, companies can navigate economic adversity effectively, ensuring their resilience and sustainability in uncertain times. ■

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