



CEE LEGAL MATTERS

YEAR 2, ISSUE 3
JUNE 2015

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



■ ACROSS THE WIRE: DEALS AND CASES IN CEE ■ MARKET SPOTLIGHT: ESTONIA, LATVIA, AND LITHUANIA ■
■ EXPERTS REVIEW: LIFE SCIENCES ■ PROFILE OF RON GIVEN: WOLF THEISS'S ACE IN THE HOLE ■
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■ A MAJOR REARRANGEMENT OF LAW FIRM ALLIANCES IN THE BALTIC ■ INSIDE INSIGHTS ■

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

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Disclaimer:

At CEE Legal Matters, we hate boilerplate disclaimers in small print as much as you do. But we also recognize the importance of the "better safe than sorry" principle. So, while we strive for accuracy and hope to develop our readers' trust, we nonetheless have to be absolutely clear about one thing: Nothing in the CEE Legal Matters magazine or website is meant or should be understood as legal advice of any kind. Readers should proceed at their own risk, and any questions about legal assertions, conclusions, or representations made in these pages should be directed to the person or persons who made them.

We believe CEE Legal Matters can serve as a useful conduit for legal experts, and we will continue to look for ways to expand that service. But now, later, and for all time: We do not ourselves claim to know or understand the law as it is cited in these pages, nor do we accept any responsibility for facts as they may be asserted.

Editorial: Working for Our Readers



The role of CEE Legal Matters, as Radu and I see it, is to serve as a conduit between the law firms of Central and Eastern Europe and the General Counsel and Heads of Legal who engage and retain them. As a result, almost everything we do in the magazine, on the website, and with our related services is designed to foster communication between the two, and to facilitate a useful and productive exchange of information about the law, about providers, about alternatives, about the legal marketplaces of CEE, and about the personalities that inhabit them.

Take this issue, for instance. A report on a Round Table conversation about the nature of the Czech legal market including the comments of four senior partners at leading Czech firms. A profile of Ron Given, Wolf Theiss's expatriate Managing Partner and fixer extraordinaire. A Market Spotlight on the Baltics, that remarkable island of innovation in the Northeast of CEE. Experts Review articles on Life Sciences. Our ever-growing Summaries of Deals and Lateral Moves. As always, this issue is packed with information.

But we hardly rest on our laurels. We continue to search for ways to strengthen that conduit and to increase our usefulness to both in-house counsel and private practitioner alike. To that end, there are a few updates we'd like to share.

First, regular visitors to the CEE Legal Matters website should already know about the upcoming 2015 CEE Legal Matters General Counsel Summit, which will bring several hundred Heads of Legal together in Budapest, this September, for an unprecedented exchange of ideas about best practices, strategies, and developments of interest to senior in-house counsel across the region. Several international law firms have already signed up to sponsor the event, and more are in the works. Never before in CEE have so many Heads of Legal gathered

in one place for an information exchange and networking event, and we're excited about the opportunity to bring everyone together and to meet so many of our readers in person. If you haven't already registered to attend the event, you should do so now, while tickets are still available.

Second, we've recently introduced CEELM Services, a selection of special services available to lawyers in the region, including Client Feedback and Market Analysis surveys and reports, special Client Contact and Business Development opportunities, Legal Ranking Submission Assistance, and much more. A summary of these services is now available on the CEE Legal Matters website. Check them out and contact us for more information.

Speaking of the CEE Legal Matters website: It continues to grow in reach and popularity. The website now registers some 40,000 unique visitors each day – well over 1 million a month – and those firms and service providers who advertise on the site are reporting remarkable results as well. We expect to expand on the site's content soon, and to provide more special features, more thought leadership articles, and more legal analysis.

Finally, we're in the process of putting together our second annual GC Best Practices Report, featuring the comments and contributions of over 500 General Counsel and Heads of Legal in the region. Last year's report was an enormous success, and we expect the 2015 version to be both bigger and better.

Through all of this, of course, we remain a profoundly personal organization. The editors – Radu and I – produce the entire magazine ourselves, without resorting to previously-published or second-hand content. We pick up our own phones. We answer questions and inquiries immediately, and we are committed to remaining responsive to our readers needs, concerns, suggestions, and requests. So give us a call. Tell us what you like, would like, or don't like. Tell us how we can improve. After all, it's not a stretch to say ... we work for you.

David Stuckey

BUDAPEST, 10 - 11 SEPTEMBER, 2015

CEE 2015 GENERAL COUNSEL SUMMIT

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Registration for the first CEE Legal Matters General Counsel Summit is open. Join 150+ legal executives from across the region for 2 days of networking and the opportunity to share prized insights and explore top trends in the in-house world. Space is limited so register to attend today.



Reshuffling the Deck

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The Ace In The Hole:

Ronald Given is Wolf Theiss's Secret Weapon (Page 32)



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Legal Ticker: Summary of Deals and Cases

Full information available at: www.ceelegalmatters.com

Period Covered: April 14, 2015 - June 16, 2015

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
16-Apr	Fellner Wratzfeld & Partner	Fellner Wratzfeld & Partner advised HYPO NOE, the association of mortgage banks of the Austrian Provinces, and Pfandbriefbank on how to ensure the timely payment of principal and interest to bondholders of Pfandbriefbank, which was affected by the Austrian Financial Market Authority's moratorium set on March 1, 2015.	EUR 1.25 billion	Austria
17-Apr	AFR Rechtsanwälte; Binder Grosswang; Gleiss Lutz; Noerr; Taylor Wessing	Binder Grosswang and Gleiss Lutz advised the Lenzing Group on the sale of its fully owned German subsidiary Dolan GmbH, and its 91.1% stake in European Carbon Fiber GmbH, to WHEB Partners of England and Jan Verdenhalven. Taylor Wessing and AFR Rechtsanwälte advised WHEB Partners, and Noerr advised Norddeutsche Landesbank Girozentrale, Hannover.	N/A	Austria
21-Apr	Schoenherr; Wolf Theiss	Schoenherr advised Cimpres, the Dutch-listed printing group, on its acquisition of the lower Austrian online printing group druck.at, which was represented by Wolf Theiss.	EUR 23.3 million	Austria
27-Apr	Binder Grosswang	Binder Grosswang advised AGM Automotive on the entrance into a strategic partnership with Cross Industries in the car carpet production sector, and on the AGM Automotive acquisition of a majority stake of Durmont Teppichbodenfabrik.	N/A	Austria
29-Apr	Wolf Theiss	Wolf Theiss advised Bernhard Ramsauer, the former CEO of Deutsche Bank Austria, on his acquisition of shares of Semper Constantia Privatbank during a management buy-in, and his appointment as new chairman of the board of Semper Constantia.	N/A	Austria
1-May	CHSH Cerha Hempel Spiegelfeld Hlawati	Acting on behalf of the Environmental Ombudsman for Carinthia, CHSH successfully persuaded the Supreme Administrative Court in Austria to uphold the ruling of the Federal Administrative Court regarding an environmental impact assessment for the 220 kV overhead line between the Austrian communities of Weidenburg and Somplago.	N/A	Austria
11-May	Allen & Overy; Feshfields;	The Regional Court of Munich ruled in favor of Bayerische Landesbank ("BayernLB"), represented by Freshfields, in its dispute with Heta Asset Resolution AG (Heta), represented by Allen & Overy.	EUR 2.26 billion	Austria
13-May	Binder Grosswang; Schoenherr	Binder Grosswang advised the seller and project developer Raiffeisen Property International on the sale of the space2move office building in Vienna to the Union Investment Real Estate company, in Germany, which was represented by Schoenherr.	EUR 185 million	Austria
13-May	Clifford Chance; DLA Piper; Dorda Brugger Jordis.	Clifford Chance acted as international transaction counsel and DLA Piper Weiss-Tessbach acted as Austrian co-counsel, advising the underwriters in connection with the capital increase of UBM Realitätenentwicklung Aktiengesellschaft. Baader Bank and Erste Group acted as Joint Bookrunners and Joint Lead Managers. UBM was advised by Dorda Brugger Jordis.	EUR 58.5 million	Austria
21-May	CHSH Cerha Hempel Spiegelfeld Hlawati	CHSH reported that the EU General Court in Luxembourg issued a judgment on May 13, 2015 rejecting both appeals brought by airline Niki in connection with the acquisition of Austrian Airlines by Lufthansa, bringing a long dispute to an end. CHSH represented OBIB (at the time doing business as OLAG), the seller of AUA.	N/A	Austria
22-May	CHSH Cerha Hempel Spiegelfeld Hlawati; CMS	CHSH advised the Immofinanz Group in connection with financing of EUR 300 million for a prime Austrian real estate portfolio, with CMS advising Bank Austria and pbb Pfandbriefbank on the deal.	N/A	Austria
22-May	DLA Piper; CMS	DLA Piper advised UniCredit Bank Austria as a lender on the financing of the acquisition and the construction of two Lower Austrian wind farms. CMS advised the borrowers, Energie AG Oberösterreich and 4P Invest.	EUR 43 million	Austria
3-Jun	Baier	The Baier law firm in Vienna advised Sigmapharm Arzneimittel on legal issues related to the relocation of its plant from Vienna to Hornstein, in the eastern Burgenland state of Austria.	N/A	Austria
5-Jun	Freshfields	Freshfields advised Vossloh on a successful refinancing by means of a syndicated loan.	EUR 500 million	Austria
9-Jun	Binder Grosswang	Binder Grosswang advised Oberbank AG on its successful capital increase in the amount of approximately EUR 91 million.	N/A	Austria
11-Jun	Brandl & Talos	Brandl & Talos advised the investor and real estate developer Hallmann Holding International Investment on the increase of its stake in the listed company C-Quadrat Investment AG to 10.01% of the voting shares and the share capital.	N/A	Austria
15-Jun	Squire Patton Boggs; Voicu Filipescu; Wystrand	Squire Patton Boggs, Wystrand, and Voicu Filipescu advised Raiffeisen Bank International AG in Vienna on the financing of the trade receivables of the Faurecia Group through Raiffeisen Factor Bank AG.	EUR 50 million	Austria; Czech Republic; Romania
27-Apr	Samardzic	Samardzic – the Serbian arm of the Austrian Specht & Partner law firm – advised System Industrie Electronic Holding from Austria on its acquisition of a controlling share in Tagor Electronic, a closely-held manufacturer of electronic devices.	N/A	Austria; Serbia
22-May	Revera Consulting Group	The Revera Consulting Group provided general counseling to the Industrial Park Development Company – a joint-stock company jointly owned by China and Belarus – on the creation of a special economic zone in Belarus known as "Great Stone", as well as assisting on the selection of and negotiation with the general contractor which constructed the industrial park.	N/A	Belarus

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
22-May	Aleinikov & Partners	Aleinikov & Partners coordinated and finalized a transaction between the Belarusian mobile games developer Melesta Games and Wargaming.	N/A	Belarus
28-May	Aleinikov & Partners	Aleinikov & Partners advised on the incorporation of a new joint venture in Belarus: the China Merchants China-Belarus Commerce & Logistics Corporation CJSC.	N/A	Belarus
15-Apr	Baker & McKenzie; BDK	BDK advised generic drugmaker Mylan in relation to its acquisition of Abbott Laboratories' established products business in Bosnia and Herzegovina, as part of its USD 5.3 billion global acquisition of Abbott's non-U.S. developed markets specialty and branded generics business. Baker & McKenzie advised Abbott Laboratories on the deal.	N/A	Bosnia and Herzegovina
21-Apr	Sajic	The Sajic law firm advised ISA Breko, a company with primarily Italian capital, on the acquisition of real estate, machinery, and equipment.	N/A	Bosnia and Herzegovina
3-Jun	Selih & Partners; ODI	Selih & Partners advised Lindab AB on its acquisition of IMP Klima Group from Hidria Group in a cross-border transaction that involved 6 markets: Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia, and Slovenia. ODI advised Hidria.	N/A	Bosnia and Herzegovina; Kosovo; Macedonia; Montenegro; Serbia; Slovenia
21-May	Kambourov & Partners	Kambourov & Partners advised Kaufland on the development and construction of its new and 52nd store in Bulgaria, which officially opened its doors on Wednesday, April 8.	N/A	Bulgaria
27-May	Wolf Theiss	Wolf Theiss Bulgaria advised the STS Medical Group on the acquisition of Salvamed AD, the Bulgarian entity of Luigi Salvadori S.P.A., which came as part of STS Medical's global acquisition of Luigi Salvadori. Salvamed was represented by Bulgarian lawyer Dimitar Grozev.	N/A	Bulgaria
2-Jun	Baker & McKenzie; Cacic & Partners; Dentons; Wolf Theiss	Dentons advised the Adris Group on the sale of TDR and other entities within Adris Strategic Business Units Tobacco and Retail to British American Tobacco for an enterprise value of EUR 550 million. BAT was assisted on the deal by Baker & McKenzie and Wolf Theiss. Dentons worked alongside Cacic & Partners, long-time Croatian counsel to Adris	EUR 550 million	Bulgaria; Bosnia and Herzegovina; Croatia; Czech Republic; Serbia; Slovenia
25-Apr	Addleshaw Goddard	As part of a wider restructuring, Addleshaw Goddard advised Tate & Lyle on the re-alignment of Eaststarch, its European joint venture with Archer Daniels Midland.	EUR 240 million	Bulgaria; Hungary; Slovakia; Turkey
9-Jun	Porobija & Porobija; ODI	ODI advised a Slovenian company, Collegium Mondial Travel, one of three investors in Projects Sibenik, on the acquisition of 100% of the shares in the Obonjan Riviera project, an island in the Adriatic 5 miles from Sibenik on the Dalmatian Coast. Porobija & Porobija, advised Gratosius d.o.o., HR.	EUR 30 million	Croatia; Slovenia
3-Jun	Kocian Solc Balastik	Kocian Solc Balastik advised O2 Czech Republic on the spin-off of Ceska telekomunikacni infrastruktura.	N/A	Czech Republic
8-Jun	CMS; Heresova Ruzicka	CMS Prague advised the Slovenian insurance company Triglav INT, which is fully owned by Zavarovalnica Triglav, on the sale of Triglav pojisovna, its Czech subsidiary, to VIGO Finance, part of the VIGO Investments Group. The buyers were represented by the Heresova Ruzicka law firm.	N/A	Czech Republic
29-Apr	DSS Partners; Kocian Solc Balastik; Lakatos Koves & Partners	Kocian Solc Balastik and Lakatos Koves & Partners advised Karlovarske mineralni vody on the acquisition of Szentkiralyi Asvanyviz, which was advised on the sale by DSS Partners.	N/A	Czech Republic; Hungary
27-Apr	CMS; PeliFilip; PRK Partners	CMS advised the Lama Energy Group on the acquisition of Digi Czech Republic from RCS & RDS, a major telecommunication operator in South-Eastern Europe head-quartered in Romania. RCS & RDS was represented by PeliFilip and PRK Partners.	N/A	Czech Republic; Romania
15-May	Havel Holasek & Partners; ODI; Ulcar & Partners; White & Case	ODI and Havel Holasek & Partners advised Ceska Sportelna and Ceskoslovenska obchodni banka on financing of the acquisition of Kofola's acquisition of Radenska from Lasko. White & Case and Ulcar & Partners advised the buyer Kofola, and independent attorney Stojan Zdolsek advised Lasko.	N/A	Czech Republic; Slovenia
21-Apr	Hedman Partners	Hedman Partners helped Jobbatical, an Estonian start-up focused on creating a marketplace for short-term jobs with life-changing experiences, to collect a EUR 260,000 investment round in October 2014.	N/A	Estonia
21-Apr	Sorainen	Sorainen Estonia advised Cofi, a new Estonian financial institution specialising in consumer credit and hire purchase, on its successful application for a credit institution licence from the Estonian Financial Supervision Authority.	N/A	Estonia
7-May	Sorainen	At the request of the Estonian Technical Regulatory Authority, Sorainen, together with the Estonian Centre for Applied Research, is analyzing the effects of Rail Baltic – an environmentally-friendly high speed rail network which will connect Estonia with the Latvia, Lithuania, and the rest of Europe.	N/A	Estonia
3-Jun	Red	The Red law firm advised Linda Nektar on the listing of its shares on the alternative market First North.	N/A	Estonia

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
10-Jun	Hedman Partners	Hedman Partners advised Monese, a London-based financial technology startup, on raising investment from Seedcamp (Europe's leading acceleration fund), the Estonian early stage VC fund SmartCap, Spotify advisor and investor Shakil Khan, and a selected group of other business angels and private investors from Estonia and abroad.	USD 1.8 million	Estonia
16-Jun	Red	Red Legal advised EfTEN – a leading Estonian fund manager – on the initial public offering of shares in its new alternative real estate investment fund EfTEN Real Estate Fund III AS.	N/A	Estonia
1-Jun	Castlegreen; Hannes Snellman; Hansen Law; Sorainen; Travers Smith; Wiersholm	Sorainen announced that its Estonia, Latvia, and Lithuania offices – working together with Hannes Snellman, Wiersholm, and Travers Smith – advised the Bridgepoint private equity group on the acquisition of Nordic Cinema Group from the Ratos private equity conglomerate and Bonnier Holding. The Hansen Law and Castlegreen law firms represented the NCG management on the deal.	EUR 500 million	Estonia; Latvia; Lithuania
5-Jun	Tark Grunte Sutkiene; Sorainen	Tark Grunte Sutkiene advised the MCI.TechVentures 1.0 private equity fund on the acquisition of a 51% shareholding in the Pigu Group – the leading e-commerce company in the Baltic States. Sorainen advised the Pigu Group on the deal.	N/A	Estonia; Latvia; Lithuania
11-Jun	Borenius; Tark Grunte Sutkiene; Thommessen	Borenius in Estonia and Latvia and Tark Grunte Sutkiene in Lithuania – both working with the Thommessen law firm in Norway as the main advisor – assisted Estonian Nelja Energia on a successfully completed bond issue to be listed on the Oslo Stock Exchange.	EUR 50 million	Estonia; Latvia; Lithuania
1-Jun	Drakopoulos; Morgan Lewis	Drakopoulos advised Smartbox on an equity investment in which OpenFund I and Jeremie OpenFund II participated together with some of Intellibox's existing shareholders, and on the establishment of a Greek branch of Smartbox. Morgan Lewis acted as legal advisors of Smartbox in the UK.	EUR 6.5 million	Greece
16-Jun	Papapolitis & Papapolitis	Papapolitis & Papapolitis acted for the GSO/Blackstone Group in respect of its investment in the Greek listed real-estate development company Lamda Development.	N/A	Greece
16-Apr	Cleary Gottlieb	Cleary Gottlieb successfully secured the dismissal of claims against the Hellenic Republic in an ICSID arbitration initiated by the Slovak bank, Postova banka, and its former Cypriot shareholder under the bilateral investment treaties between the Hellenic Republic and the Slovak Republic and Cyprus, respectively.	EUR 500 million	Greece; Slovakia
1-Jun	Kapolyi Law Office	Kapolyi Law Office advised Kozolt Hungary Ltd. on the acquisition of an office building in the 2nd district of Budapest from TBA Ltd.	N/A	Hungary
11-Jun	Kapolyi Law Office; Naszados & Pronay	The Kapolyi law firm advised Magyar Posta Takarék Ingatlan Befektetési on its acquisition of the inNove Business Park. The seller was assisted in the deal by the Naszados & Pronay law firm.	N/A	Hungary
15-Jun	Baker & McKenzie	Baker & McKenzie successfully represented the Hungarian energy company MOL before the European Court of Justice, which dismissed the EU Commission's appeal against an earlier annulment by the EU's General Court of an EU Commission decision alleging that MOL had received illegal state aid to the tune of HUF 30.4 billion.	N/A	Hungary
6-May	Red	Red successfully recovered the country-code top-level domain name pepsi.lv for PepsiCo.	N/A	Latvia
15-May	Lawin	Lawin successfully represented Re:Baltica, the Baltic Center for Investigative Journalism in a defamation case involving research about offshore companies that use international money-laundering networks through Latvian banks that was published on the Re:Baltica website.	N/A	Latvia
29-May	Cederquist; Hannes Snellman; Red; Sorainen	Red advised Graanul Invest on its acquisition of SIA Latgran, the largest wood pellet producer in Latvia, from shareholders BillerudKorsnas AB and Baltic Resources AB. Sorainen – working together with the Swedish law firm Cederquist – assisted Latgran Biofuels in the sale of its shares in Latgran. Hannes Snellman advised on Swedish elements of the deal.	N/A	Latvia
3-Jun	Sorainen	Sorainen advised Svago Retail, a Finnish company formerly operating under the brand name Timari, that is facing insolvency proceedings, about the liquidation of VLTN Latvia, its subsidiary in Latvia.	N/A	Latvia
16-Jun	Borenius	Borenius advised the 4finance Group in connection with an offering of high-yield notes.	SEK 225 million	Latvia; Lithuania
5-May	Sulija Partners	Sulija Partners advised Small Planet Airlines on the dry lease of an Airbus A320 aircraft from Pegasus Aviation IV, Inc., a subsidiary of a US-based worldwide aircraft leasing company.	N/A	Lithuania
5-May	Glimstedt; Lawin; Plesner	"Lawin – working with the Plesner law firm from Denmark – advised Kyocera Unimerco (an international producer of industrial cutting equipment) on its acquisition of Garsdalo medienos technologija. Glimstedt represented the seller – Ole Garsdal, the CEO and founder of Lithuania's Garsdalo Medienos Technologija.	N/A	Lithuania
6-May	Sorainen	Sorainen advised SEB Bank on the financing it provided for the Palanga bypass project, involving the construction of a bypass on the Klaipeda-Liepaja road.	EUR 35.8 million	Lithuania
14-May	Raidla Lejins & Norcous	Raidla Lejins & Norcous advised Practica Capital, a group of venture capital companies managing the Practica Seed Capital and Practica Venture Capital venture capital funds, on its investment in NanoAvionika – the aerospace technologies company founded as a spin-off from Vilnius University in 2014.	EUR 200,000	Lithuania
15-May	Sorainen	Sorainen Lithuania advised AIG on opening a shared services center in Vilnius to engage in insurance support activities and other shared services functions.	N/A	Lithuania

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
18-May	Raidla Lejins & Norcoux; Lawin	Raidla Lejins & Norcoux advised Invalda INVL, a major asset management and investment company in Lithuania, on the sale of Bank Finasta and Finasta brokerage company to Siauliu bankas, which was represented by Lawin.	N/A	Lithuania
21-May	Dominas & Partners	Dominas & Partners advised K2 LT in connection with its listing on the NASDAQ First North market.	N/A	Lithuania
29-May	Sorainen	Sorainen advised the Lithuanian-owned TV and Internet company Init on the acquisition of 100% of shares in Dokeda.	N/A	Lithuania
16-Jun	Sorainen; Ellex	Sorainen advised the Inreal Valdymas real estate company in Lithuania – part of the Invalda Privatus Kapitalas group – on its sale of the Vertingis business center in Vilnius to the Swedish-based Nordic and Baltic Property Group, which was advised by Valiunas Ellex.	N/A	Lithuania
14-Apr	BDK	BDK advised Turkiye Cumhuriyeti Ziraat Bankasi (the Agricultural Bank of the Republic of Turkey), on the establishment of a bank in Montenegro.	N/A	Montenegro; Turkey
20-Apr	FKA Furtek Komosa Aleksandrowicz	FKA Furtek Komosa Aleksandrowicz advised Alior Bank on the financing of a medium-sized wind-farm project in in the Pomerania region of Poland.	EUR 28.7 million	Poland
21-Apr	Baker & McKenzie; Clifford Chance; Dentons	Dentons advised Aventicum Capital Management (Switzerland) on its acquisition, through affiliates, of two Polish companies from the Layetana Group (SPVs). Baker & McKenzie advised the Layetana Group. As part of this transaction, Aventicum also acquired certain loan facilities and receivables towards SPVs from the banks financing the development of both projects: KBC Bank and Bank Zachodni WBK. Clifford Chance advised the banks.	N/A	Poland
24-Apr	Baker & McKenzie; White & Case	Baker & McKenzie advised Uniwheels AG in connection with its initial public offering on the Warsaw Stock Exchange. White & Case advised Dom Maklerski mBanku, acting as the Global Coordinator, Joint Bookrunner and Joint Offering Agent, mBank, acting as the Underwriter, and Bank Zachodni WBK, acting as the Joint Bookrunner, Joint Offering Agent and Underwriter, on the deal.	N/A	Poland
25-Apr	Magnusson	Magnusson advised the Austrian investor and developer Immofinanz Group on commercialization of the retail space of the Tarasy Zamkowe Shopping Center in Lublin, Poland, and advised on negotiations of its lease agreements with tenants.	N/A	Poland
27-Apr	Dentons	Dentons advised ERG Renew, the largest Italian wind energy operator and one of the leading wind companies in Europe, on the acquisition of two wind parks in Poland.	EUR 23 million	Poland
27-Apr	Domanski Zakrzewski Palinka	DZP provided legal advice to Polskie Gornictwo Naftowe i Gazownictwo on the introduction of the first ever discount scheme for strategic gas customers.	N/A	Poland
29-Apr	Studnicki Pleszka Cwiakalski Gorski	SPCG persuaded the President of the Polish Office of Competition and Consumer Protection to annul a previous decision that Deutsche Bank Polska had infringed on the collective interests of consumers.	N/A	Poland
5-May	Domanski Zakrzewski Palinka	DZP successfully advised the Malaysian Embassy in a dispute with the city of Warsaw over the perpetual usufruct to real estate in the center of the city purchased many years ago for diplomatic purposes.	N/A	Poland
6-May	Dentons; Linklaters	Dentons acted as legal counsel to Union Investment on the acquisition of the Focus Park shopping center in Rybnik, a Polish city close to the Czech border. The seller, Aviva Investors Polish Retail, was advised by Linklaters.	N/A	Poland
7-May	Greenberg Traurig	Greenberg Traurig advised Wirtualna Polska Holding and its selling shareholder, European Media Holding – an entity controlled by the Innova Capital private equity fund – on the initial public offering of shares and listing on the Warsaw Stock Exchange.	EUR 72.8 million	Poland
8-May	Weil, Gotshal & Manges	Weil, Gotshal & Manges acted as lead legal counsel on matters of Polish, U.K., and U.S. law to joint global coordinators Goldman Sachs International, Dom Maklerski Mercurius, Pekao Investment Banking, and UniCredit Bank, in connection with the April 16, 2015 initial public offering of Idea Bank on the Warsaw Stock Exchange.	EUR 63 million	Poland
11-May	Dentons; Goralski & Goss Legal	Dentons advised the Hines Poland Sustainable Income Fund on the acquisition of the Nestle House office building, located in Warsaw's Mokotow district, from Kronos Real Estate. Kronos was represented by Goralski & Goss Legal.	N/A	Poland
25-May	CMS; Komosa Imielowski	CMS advised the Resource Partners funds on the sale of their majority stake in the Polish rice cake manufacturer Good Food Products to the Czech-based investment fund Hartenberg Holding. The buyer was advised by the Komosa Imielowski law firm.	N/A	Poland
28-May	Baker & McKenzie; Weil, Gotshal & Manges; White & Case	Two funds advised by Weil, Gotshal & Manges – one managed by Towarzystwo Funduszy Inwestycyjnych PZU and the other by Templeton Asset Management – made a EUR 81.7 million equity investment in easyPack, a company established in 2012 by Integer.pl Group and PineBridge Investments. At the same time, BGK, the state-owned bank in Poland, provided a USD 36.7 million debt arrangement to easyPack. Integer.pl was advised by Baker & McKenzie on both the investment and loan while BGK was advised by White & Case.	EUR 81.7 million and USD 36.7 million	Poland
28-May	Allen & Overy; Dentons	Dentons advised the European Property Investors Special Opportunities 3 (EPISO 3) fund, managed by Tristan Capital Partners, on the acquisition of the Enterprise Office Park and adjacent land in Krakow from Hesanta Investments and Modestia Investments. Allen & Overy advised Hesanta Investments on the deal.	N/A	Poland

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
28-May	Norton Rose Fulbright; WKB	The WKB law firm advised the Aviva insurance group on its acquisition of a 100% stake in Expander Advisors – one of the largest independent financial advisors in Poland – from the Innova Capital private equity fund, which was advised by Norton Rose Fulbright.	N/A	Poland
29-May	Archers Law Firm; Dentons; Domanski Zakrzewski Palinka; Norton Rose Fulbright	DZP Domanski Zakrzewski Palinka and Dentons advised Wielton SA, the largest Polish manufacturer of trailers and semi-trailers, on the purchase of 65.31% of shares in Fruehauf Expansion SAS, the French trailer market leader, from the MBO Capital 2 FCPR Fund. The agreement provides for an option to purchase the remaining 34.69% of shares, currently owned by Francis Doblin (Fruehauf's CEO) and Dauphine Investissement, at the end of 2017. Francis Doblin was supported by the Archers Law Firm. The acquisition was partially financed by a credit facility obtained from BGZ BNP Paribas S.A. and Bank Gospodarstwa Krajowego, both advised by Norton Rose Fulbright.	N/A	Poland
1-Jun	Clifford Chance; Norton Rose Fulbright	Norton Rose Fulbright advised a group of banks on a PLN 496 million loan facility financing and pari passu PLN 125 million domestic bond financing advanced to American Heart of Poland and its subsidiaries, which were advised by Clifford Chance.	PLN 621 million	Poland
3-Jun	Baker & McKenzie; CMS	CMS successfully advised Novascon Pharmaceuticals, the Polish maker of OTC drugs, on the sale of its Pneumolan brand to Walmark, the CEE healthcare company. Walmark was advised by Baker & McKenzie.	N/A	Poland
3-Jun	White & Case	On May 14, 2015, the Supreme Court granted the cassation appeal submitted by mBank – represented by White & Case P. Pietkiewicz, M. Studniarek i Wspolnicy – Kancelaria Prawna – in connection with the class action suit filed against mBank by 1,247 clients who have loans with mBank in Swiss francs.	N/A	Poland
5-Jun	Norton Rose Fulbright	Norton Rose Fulbright advised the Polish state-owned investment vehicle Polskie Inwestycje Rozwojowe S.A. on the execution of a preliminary investment memorandum with EDF Polska concerning the financing of a new gas-fired CHP plant in Torun, Poland.	N/A	Poland
8-Jun	Greenberg Traurig	Greenberg Traurig advised the UBS Limited and WOOD & Company Financial Services, A.S. Polish Branch investment banks in the sale, through an accelerated book-building process, of CCC S.A. shares by Ultron S.A., an entity controlled by billionaire Dariusz Milek, the President of the Management Board of CCC.	N/A	Poland
12-Jun	White & Case	White & Case acted as exclusive legal counsel on the sale by Mansa Investments, a wholly-owned indirect subsidiary of Kulczyk Investments, of 15.4 percent of the shares in Polenergia.	EUR 46.5 million	Poland
15-Jun	CMS; Weil, Gotshal & Manges	CMS successfully advised PZU on the financing of Echo BV's acquisition of a 41.55% stake in real estate developer Echo Investment. Echo BV was represented by Weil, Gotshal & Manges.	EUR 402 million	Poland
15-Jun	Dentons; Soltysinski Kawecki & Szlezak	Soltysinski Kawecki & Szlezak advised the Blue City, Blue Office, and Blue Parking retail-office center in Warsaw on the refinancing by ING Bank Slaski S.A., ING Bank N.V., and ING Bank N.V., London Branch, which were advised by Dentons.	EUR 185 million	Poland
7-May	Pachiu & Associates	Following Chevron's decision to terminate its operations in Romania due to poor exploration results and extensive protests by environmentalists, Pachiu & Associates is assisting the company in the decommissioning and abandonment of its operations in the country.	N/A	Romania
7-May	NNDKP; Schoenherr	NNDKP assisted the Bucharest City Hall in a EUR 500 million municipal bond issuance. Announced on April 24, 2015, the transaction was intermediated by a consortium led by Raiffeisen Bank, which included BT Securities and was advised on the matter by Schoenherr.	EUR 500 million	Romania
13-May	Tuca Zbarcea & Asociatii	Amethyst Radiotherapy confirmed that the Accession Mezzanine Capital III fund – administered by Mezzanine Management – participated in the capital increase approved by Amethyst management at the end of April, thus becoming a shareholder in the company. Tuca Zbarcea & Asociatii advised on the capital deal.	N/A	Romania
21-May	Buzescu Ca	Buzescu Ca represented Petrol before the Romanian Energy Regulatory Authority with regard to the issuance of the electricity trading license to its Romanian subsidiary.	N/A	Romania
27-May	Roedl & Partner	Roedl & Partner advised the Dr. Oetker group of companies on its acquisition of Alex Desserts, the Romanian baked goods brand, from Alex & Comp.	N/A	Romania
1-Jun	Buzescu Ca	Buzescu Ca advised Belfast-based Seopa Ltd. on its acquisition of Timisoara-based Acrux Software.	N/A	Romania
1-Jun	NNDKP	Nestor Nestor Diclescu Kingston Petersen advised RR Media on its acquisition of Eastern Space Systems in Romania.	N/A	Romania
2-Jun	Allen & Overy	RTPR Allen & Overy successfully represented Panasonic Marketing Europe in the Bucharest Court of Appeal in canceling a fine imposed by the Competition Council of Romania.	EUR 46,000	Romania
8-Jun	PeliFilip; Wolf Theiss	Wolf Theiss advised UniCredit Bank Austria AG on its acquisition of a 45 per cent shareholding interest in UniCredit Tiriak Bank S.A. ("Tiriak Bank") from Tiriak Holdings Ltd., which was advised by PeliFilip.	N/A	Romania
15-Jun	Buzescu Ca; Tuca Zbarcea & Asociatii; Vilau Associates	Buzescu CA obtained a victory on behalf of low cost airline Wizz Air in Romania in a case in which Tuca Zbarcea & Asociatii and Vilau Associates were also involved.	EUR 10.5 million	Romania
15-Apr	BBH	BBH successfully represented the PPF Group regarding its lease of premises to Rostelekom	N/A	Russia

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
20-Apr	Russian Counsel	The Russian Counsel law firm is providing ongoing corporate assistance to the UNIQLO clothing chain in Russia.	N/A	Russia
30-Apr	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners (EPAM) – in collaboration with Macfarlanes – successfully persuaded an English court that it did not have jurisdiction over bankruptcy claims brought by Erste Group Bank against the Russian State Corporation Rostec and its affiliate RT Capital.	N/A	Russia
4-May	Debevoise & Plimpton	The London and Moscow offices of Debevoise & Plimpton advised Uralkali on a pre-export finance facility with a syndicate of eight international banks.	USD 800 Million	Russia
19-May	Vegas Lex	Russia's Vegas Lex law firm agreed to represent Prosveshcheniye, which the firm describes as "a major and greatly respected publisher of educational material."	N/A	Russia
22-May	Debevoise & Plimpton; Hogan Lovells; Lydian	The London and Moscow offices of Debevoise & Plimpton LLP advised NLMK Europe Plate Division in signing and closing a revolving collateralized credit facility with four international banks, led by Deutsche Bank as Coordinator, Bookrunner, and Agent. Deutsche Bank was advised by lawyers from Hogan Lovells. Lydian acted as Belgian counsel.	EUR 250 million	Russia
9-Jun	Lemchik, Krupskiy & Partners	The Lemchik, Krupskiy & Partners law firm entered into a strategic partnership with the Russian Union of Mineral Developers.	N/A	Russia
11-Jun	Pepeliaev Group	The Pepeliaev Group reported that the Constitutional Court of the Russian Federation had ruled in favor of the firm's client, Zapolyarneft, on an appeal of a lower court decision regarding the proportionality of penalties levied against the company for an oil spill.	N/A	Russia
16-Jun	Art De Lex; Goltsblat BLP; Pepeliaev Group; YUST	The Art De Lex law firm successfully represented the New Forwarding Company and Ferrotrans, Russian railway operators both belonging to the Globalports Group, before the Moscow Commercial Court, in a challenge to a fine levied by the Federal Antimonopoly Service of Russia against Russian Railways, 16 railway operators, and the administration of the Kemerovo region. In addition to Art De Lex, other defendants were represented by Goltsblat BLP, the Pepeliaev Group, and YUST.	RUB 2.2 billion	Russia
16-Jun	Lyniya Prava	The Liniya Prava law firm advised the administration of the city of Volgograd and a limited liability company the firm identifies as "Water Supply Concessions" on a concessionary agreement for a communal infrastructure system centralizing the systems for cold water supply and water disposal.	N/A	Russia
21-Apr	Dentons	Dentons reported that the Kemerovo Oblast Arbitration Court rejected a claim by Sibkonkord, shareholder of Siberian Cement, against France's Ciments Francais, seeking the annulment of a 2008 transaction in which Sibcem acquired its Turkish assets.	EUR 50 million	Russia; Turkey
12-Jun	Avellum	Avellum Partners advised MHP S.A. in connection with the exchange of the Voronezh Agro grain growing assets in the Voronezh region of the Russian Federation for the assets belonging to Agrokultura in the Lviv, Ternopil, and Ivano-Frankivsk regions of Ukraine.	N/A	Russia; Ukraine
30-Apr	Karanovic & Nikolic; Vukovic & Partners	Karanovic & Nikolic advised Serbia Broadband on the acquisition of EUnet, which was assisted on the deal by Vukovic & Partners.	N/A	Serbia
8-May	BDK	BDK advised the online security company AVG Technologies on Serbian aspects of its global acquisition of Privax, a leading provider of desktop and mobile privacy services.	USD 60 million	Serbia
12-May	BDK	BDK Advokati advised the Vienna-based ITTech technology company, on its acquisition of 35% of RT-RK's share capital.	N/A	Serbia
5-Jun	Samardzic	Samardzic in cooperation with Specht & Partner successfully advised and represented Danos Ltd in a dispute for breach of a joint-sale contract with an unidentified Serbian rolling stock producer.	EUR 40,000	Serbia
9-Jun	Samardzic	Samardzic in Cooperation with Specht & Partner successfully registered the "Pronto Bianchi" trademark for Ducla Trading, one of the largest importers of food and consumer products to Serbia and Bosnia and Herzegovina, with the Intellectual Property Office of the Republic of Serbia.	N/A	Serbia
12-Jun	Jankovici Popovici Mitic	JPM advised the Swedish furniture producer IKEA on "all administrative and legal matters" related to the expected autumn commencement of construction of the first IKEA store in Serbia.	N/A	Serbia
1-Jun	Peterka & Partners	Peterka & Partners provided legal assistance to the Slovak branch of the French dairy group Senoble on its sale of shares in Senoble Central Europe – a Slovak subsidiary – to the international dairy group Schreiber.	N/A	Slovakia
17-Apr	De Brauw Blackstone Westbroek; Selih & Partners; Schoenherr; Wolf Thess	Wolf Thess advised the Slovenian Pivovarna Lasko brewery, Schoenherr advised a consortium of shareholders in the company, and the Dutch firm De Brauw Blackstone Westbroek and Slovenian firm Selih & Partners advised Heineken, on the latter's acquisition of a majority stake in the Slovenian brewery.	EUR 223.6 million	Slovenia
21-Apr	ODI	ODI advised a consortium of banks on the financial restructuring of Cimos, the Slovenian automotive component manufacturer.	EUR 530 Million	Slovenia
25-Apr	Jadek & Pensa; Selih & Partners	Selih & Partners advised Podravka on its acquisition of 183,386 shares of the Zito food production company from a consortium of sellers consisting of Slovenski drzavni holding, Modra zavarovalnica, KD Kapital, KD Skladi, Adriatic Slovenica, and NLB Skladi. The sellers were represented by Jadek & Pensa.	EUR 33 million	Slovenia
25-Apr	ODI; Rojs, Peljhan Prelesnik & partners	ODI advised a consortium of 8 banks on a EUR 100 million out-of-court financial restructuring of Slovenian poultry production company Perutnina Ptuj – which was represented by Rojs, Peljhan Prelesnik & partners.	N/A	Slovenia

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
15-Jun	Wolf Theiss	Wolf Theiss acted as Slovenian legal adviser to UniCredit, BNP, KKR, Credit Suisse, Citigroup, Raiffeisen Bank, ING Bank, and Banca IMI as the purchasers in connection with the issue of the 7.875% Additional Senior Secured Notes due 2020 of the United Group.	EUR 150 million	Slovenia
16-Jun	Houlihan Lokey; ODI; Wolf Theiss	ODI is advising an affiliate of York Capital Management and Elements Capital Partners on the purchase of receivables and obligations against Istrabenz from BAWAG and banks in the Erste Group. The sellers are being advised by Wolf Theiss and Houlihan Lokey.	EUR 46.7 million	Slovenia
17-Apr	Turunc	The Turunc law firm represented Borsa Istanbul in its partnership with the London Stock Exchange relating to the trading of futures and options on Borsa Istanbul indices and stocks on the London Stock Exchange Derivatives Market.	N/A	Turkey
20-Apr	Turunc	Turunc represented Borsa Istanbul in two related agreements with the London Metal Exchange (LME) and LME's parent company, the Hong Kong Exchanges and Clearing (HKEx), pursuant to which (1) Borsa Istanbul, LME and HKEx will partner on the dissemination of market data and (2) Borsa Istanbul will acquire all of LME's stake in the clearing house LCH.Clearnet.	N/A	Turkey
29-Apr	Ashurst; Cailliau & Colakel; Turunc	Turunc acted as Turkish counsel and Cleary Gottlieb Steen & Hamilton as international counsel to IMS Health in connection with the company's USD 520 million acquisition of certain information solutions and customer relationship management businesses of Cegecim. Ashurst acted as international counsel and Cailliau & Colakel as Turkish counsel to Cegecim.	USD 520 Million	Turkey
6-May	Atoz; BASEAK (Dentons); Field Fisher; Herguner; King & Spalding; Paul Weiss	Herguner advised the Delivery Hero online and mobile food ordering company on the company's acquisition of Yemeksepeti. The London office of Paul Weiss advised the General Atlantic private equity firm on the sale, and BASEAK (the Turkish arm of Dentons) advised on the exiting of Yemeksepeti's founders Gokhan Akan, Cem Nufusi, Melih Odemis, and Nevzat Aydin. In addition, King & Spalding was international counsel to Delivery Hero on the acquisition. Luxembourg law advice on the transaction was provided by Atoz, and Competition law advice was provided by Field Fisher.	USD 589 million	Turkey
25-May	Kinstellar; Yegin Cifti Attorney Partnership (Clifford Chance)	Yegin Cifti Attorney Partnership – the Turkish firm associated with Clifford Chance – advised CarrefourSA on the acquisition of an 85% stake in Kiler Alisveris Hizmetleri, which was represented by Kinstellar Turkey.	N/A	Turkey
26-May	Esin Attorney Partnership (Baker & McKenzie); YukselKarkinKucuk	SOCAR, Turkey's largest foreign investor, received a USD 212 million project finance loan with a 13 year-maturity and a 3 year-grace period from Akbank to finance the development of the Petlim container terminal in Izmir. The Esin Attorney Partnership – a member firm of Baker & McKenzie International – and Baker & McKenzie's London office, advised Akbank on the loan, while YukselKarkinKucuk advised the borrower Petlim Limanlilik Ticaret A.S. and the guarantor Petkim Petrokimya Holding A.S. (a SOCAR affiliate).	N/A	Turkey
2-Jun	Paksoy	Paksoy advised Ekol Gida on the acquisition by Cargill's animal nutrition business of a 51% stake in the company.	N/A	Turkey
5-Jun	Linklaters; Turunc	The Turunc law firm and Linklaters advised Borsa Istanbul on the recent execution of a term sheet with the EBRD for the sale of a 10% stake.	N/A	Turkey
9-Jun	Gide Loyrette Nouel; White & Case	Gide Loyrette Nouel advised Lactalis on the acquisition of an 80% stake in the dairy heavyweight Ak Gida from its shareholders, in particular the Turkish food industry leader Yildiz Holding, which was advised by White & Case.	N/A	Turkey
12-Jun	Clifford Change; Herguner; Verdi Law Firm	Herguner advised the Borrower and the Sponsors on the USD 5 billion dollar financing of the build operate transfer model project for Turkey's 433 km Gebze-Izmir motorway. Clifford Chance Europe and the Verdi Law Firm advised the Lenders on the refinancing of the USD 2 billion credit previously extended for the project, which are reported to include the overseas branches of Akbank TAS, Finansbank A.S., Garanti Bank A.S., Turkey Is Bankasi A.S., Vakiflar Bankasi T.A.O., Ziraat Bankasi A.S., Turkey Halk Bankasi A.S., Yapi ve Kredi Bank A.S., and Deutsche Bank AG's London branch.	N/A	Turkey
16-Jun	Esin Attorney Partnership (Baker & McKenzie)	A team of lawyers from Esin Attorney Partnership, a member firm of Baker & McKenzie International, advised ING Group's Turkish subsidiary on a syndicated loan obtained for trade finance purposes.	USD 244.49 million and EUR 311.99 million	Turkey
21-Apr	Lavrynovych & Partners	Lavrynovych & Partners successfully persuaded the Kyiv Commercial Court that the contract between the Kyiv City State Administration and firm client the "Trade Board" company was valid and should be upheld.	USD 11 million	Ukraine
21-Apr	CMS	CMS in Kyiv successfully represented mBank in a trademark dispute against Bank Mykhailivsky in the Higher Commercial Court of Ukraine.	N/A	Ukraine
27-Apr	Vasil Kisel & Partners	Vasil Kisel & Partners successfully represented the interests of Multi Veste Ukraine 1 in a dispute with the Ukrainian prosecutor's office over Multi Veste's right to acquire and sell a land plot which before its purchase had been a communal property.	N/A	Ukraine
28-Apr	Ecovis Bondar & Bondar	Ecovis Bondar & Bondar successfully represented Ukraine International Airlines in a dispute with Ukraine's Finance & Credit Bank.	N/A	Ukraine
30-Apr	Ilyashev & Partners	Ilyashev & Partners successfully protected Megainpharm's patent for the Okomistin antiseptic.	N/A	Ukraine

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
6-May	Integrites	Integrites acted as legal counsel to the EBRD on the increase of a loan up to USD 16 million to Nadezhda, the Ukrainian operator of liquefied petroleum gas and petrol stations.	EUR 14.22 million	Ukraine
19-May	Egorov Puginsky Afanasiev & Partners; Sayenko Kharenko	Egorov Puginsky Afanasiev & Partners Ukraine acted as Ukrainian legal counsel to Avito Holding in the sale of torg.ua – Ukraine’s leading classifieds free ads site – to MIH Allegro, a part of the South African-owned NASPERS media corporation. Sayenko Kharenko represented MIH Allegro on the deal.	N/A	Ukraine
21-May	Dubinsky & Osharova	Dubinsky & Osharova reported that it had successfully persuaded the Kyiv Commercial Court to rule in favor of Citibank, N. A., and to terminate the Ukrainian certificate for the “Citibank” trademark registered in the name of Sfera Capital, LLC.	N/A	Ukraine
22-May	Arzinger; Asters	Asters acted as legal counsel to Europe Virgin Fund L.P., a regional private equity fund, in connection with its investment in the VENBEST Group, a leading private security services market operator in Ukraine. Arzinger represented the VENBEST Group on the transaction.	N/A	Ukraine
29-May	Baker & McKenzie	Baker & McKenzie’s Kyiv office became an official partner of the Association of Pharmaceutical Research and Development.	N/A	Ukraine
9-Jun	Integrites	Integrites acted as legal adviser in a trade financing project for the Mirta Group, one of the largest Ukrainian producers of home appliances.	N/A	Ukraine
9-Jun	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners Ukraine advised Apax Partners funds on Ukrainian law aspects related to Apax’s public takeover of EVRY ASA, a listed Norwegian company, for a purchase price of 16 NOK per share.	N/A	Ukraine
15-Jun	Vasil Kisel & Partners	Vasil Kisel & Partners successfully represented the interests of Hongyang Metal Industry, an international investor in the manganese ore industry in Ukraine, in several disputes with the state before the Ukrainian commercial courts.	N/A	Ukraine
16-Jun	Avellum; Sayenko Kharenko	Sayenko Kharenko acted as legal counsel to Deutsche Bank, the dealer manager arranging an exchange offer for the outstanding Eurobonds due April 28, 2015 issued by DTEK on the successful change of the governing law of its US-governed high yield bonds to what the firm describes as an “English law scheme of arrangement.” DTEK was advised by Avellum Partners.	USD 200 million	Ukraine

Full information available at: www.ceelegalmatters.com

Period Covered: April 14, 2015 - June 16, 2015

In line with Bener’s strategy of controlled growth, in 2014 Davutoglu Attorneys at Law merged into Bener Law Firm as of September. Mr. Cem Davutoglu is well-recognized in M&A, banking, finance and capital markets. He also advises on corporate law, real estate, pharmaceutical and energy matters. The merger strengthens Bener’s capabilities in capital markets, M&A and corporate law. This is Bener’s second merger, following that with Kucuk law firm in December 2011. Also in 2014, Bener welcomed Ms. Selale Kartal, well known in tax disputes and commercial law, who came from a major law firm where she was head of litigation. These changes set Bener to become one of the leading law firms in Turkey servicing multinational corporate clients.



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On the Move: New Homes and Friends

New Firm in Austria



Axel Reidlinger, a Partner at Freshfields in Vienna, and Hanno Schatzmann, a co-founder and Partner at Gassauer-Fleissner Rechtsanwälte, have launched a new law firm: Reidlinger Schatzmann Attorneys-at-Law. According to a statement released by the new firm, Reidlinger Schatzmann advises “Austrian and international clients in all fields of business law, with a special focus on corporate law, contract law, real estate, mergers & acquisitions, competition law, EU state aid law and energy law.”

According to Hanno Schatzmann: “Our clients can continue to rely on our offer of comprehensive legal advice in our respective fields of expertise.” His new partner, Axel Reidlinger, adds, “We care about an open exchange of ideas with our clients, [and] we are convinced that our attractive new offer will lead to additional long-term client relationships.”

Reidlinger holds a law degree from Vienna University and a business degree from the Vienna University of Economics and Business Administration. He specialized in European Law at the College of Europe in Bruges, where he obtained an LL.M. In 1994 he joined the Austrian law firm Heller Loeber Bahn & Partners (which became part of what turned into Freshfields Vienna), and worked for the firm’s Brussels office for several years. In 2001 Axel became a Partner at Freshfields, where – until leaving the firm in April – he headed its Austrian competition practice.

Schatzmann graduated from the law school of the University of Vienna and obtained his LL.M. from the London School of Economics and Political Science. He then worked for various law firms in Austria and England. Since 1997 he has been based in Vienna, and he became a Partner at Weiss-Tessbach Rechtsanwälte the same year. He co-founded the Gassauer-Fleissner law firm in 2002. His main areas of expertise are M&A, corporate law, general company and contract law, and real estate law.

New Boutique in Tallinn



Attorneys at Law Piret Jesse and Tanel Kalaus left Tark Grunte Sutkiene (TGS) and what was then the Estonian office of the Raidla Lejins & Norcoux alliance, respectively, to found Jesse & Kalaus, a boutique specializing in corporate and transactional matters.

In a statement released by Jesse & Kalaus, the two explained their decision: “Rather than selecting a law firm, clients are willing to hire the best specialist in particular field. That’s exactly what we are offering. We see that in a smaller setting we can more efficiently ensure an equally high quality of service and a more personal approach for clients. We are fans of what we do and are totally committed to finding the best solutions for our clients’ objectives. The clients value that.”

Jesse spent the first four and a half years of her career at Law-in in Estonia before moving to TGS in 2004. The corporate M&A specialist was promoted to Partner in January 2015, and says that she has “extensive experience in assisting construction and real estate companies in development projects, drafting and negotiating agreements and solving disputes.” She obtained her law degree from the University of Tartu in 2000, and got an LL.M. from the University of Minnesota Law School in 2001.

Kalaus, like Jesse, graduated from the University of Tartu in 2000, then immediately joined Raidla Lejins & Norcoux, where he climbed to Senior Associate before moving to co-found his new firm. He claims to be “Estonia’s most acknowledged competition law specialist.”

ETilling and Peters & Partners Merge in Moscow

Peters & Partners and ETilling have joined forces, resulting in the new Tilling Peters law firm, with Oxana Peters and Ekaterina Tilling as the new firm’s Senior Partners.

The new team has 9 lawyers and, according to Tilling, is going to expand further in the near future. Tilling told CEE Legal Matters that Tilling Peters is primarily going to focus on dispute resolution, but will also cover general commercial and corporate

matters.

Prior to Peters & Partners, Peters spent 4 years with Dechert, preceded by 5 years with Noerr, where she was the head of the firm’s litigation and dispute resolution practice in Moscow.

Tilling previously worked as the Head of IP of Baker Botts, and has previous positions with Goltsblat BLP and Pepeliaev, Goltsblat & Partners (now the Pepeliaev Group, since the departure of former Partner Andrey Goltsblat). Earlier experience includes co-founding the Ars Juris Bar Association, and working as a lawyer for the Yust law firm.

Grata Enters Cooperation Agreement with Arzinger Partners in Belarus



Grata International signed a Memorandum of Understanding and Cooperation with the Belarus-based Arzinger & Partners law firm, according to which Arzinger & Partners will provide Grata’s clients with “comprehensive legal support in Belarus and other countries where Arzinger & Partners has presence.”

Grata International was established in 1992, and now has 120 lawyers working in its offices in Kazakhstan, Russia, Azerbaijan, Kyrgyzstan, Tajikistan, Uzbekistan, Turkmenistan, and Mongolia. The firm also has representative offices in China, Netherlands, UAE, United Kingdom, and the United States. Arzinger & Partners was established in 1990 in Germany, and the firm opened its Minsk office in 2006.

Tlek Baigabulov, Senior Partner at Grata International, said that: “We are very happy to join our efforts to develop a global law firm – Grata International, with real experts and associates from Arzinger & Partners. We are confident that the synergies and ambitions of the cooperation will not only help to strengthen significantly our position in Belarus but also to expand the presence of Grata International in Eastern Europe and the Baltic States. We hope we will soon tell good news to our clients about expansion and opening full services practices in China, UAE, and South Korea.”

For his part, Sergei Mashonski, the Managing Partner of Arzinger & Partners, said: “The cooperation is an important step in the development of our firms. Such integration is a logical step forward in view of strengthening of various associations in the CIS countries, including the Eur-AsEC (Eurasian Economic

Community). Our association is not limited to the post-Soviet countries, and taking into account the experience of Arzinger & Partners in working with European companies, together we intend to expand our geographical presence in other countries as well.”

AstapovLawyers Partner Takes Competition Practice Independent

In May, 2015, the Competition practice of AstapovLawyers split off from that Ukrainian/CIS firm to form CLACIS – “a competition law advisory which focuses on matters concerning competition law and compliance in Ukraine, Russia, and Kazakhstan.”

According to a firm announcement, CLACIS “is an independent law firm which works in cooperation with the full-service law firm AstapovLawyers ... and plans further expansion in cooperation with law firms in other jurisdictions.”

The founding partner of CLACIS (an acronym for “competition law advice in CIS”), Antonina Yaholnyk, was the head of AstapovLawyers’ Competition practice and has almost 20 years of experience in the field. According to the CLACIS announcement, Yaholnyk says that the firm will operate “as a one-stop-shop platform for all types of competition law and compliance matters in the region.”

Responding to a CEE Legal Matters inquiry, Yaholnyk explained that CLACIS and AstapovLawyers will cooperate on an independent basis, although AstapovLawyers will no longer have its own competition law practice. According to Yaholnyk, “there were many reasons for this restructuring, one of major is that CLACIS will cooperate also with other law firms in other jurisdictions so basically the brand will expand further in terms of geography in the area on competition law advice.”

Raidla Lejins & Norcoux and Lawin Alliances in Baltics Realign



The pan-Baltic Raidla Lejins & Norcoux (RLN) and Lawin alliances have traded Estonian offices and re-formed under new brands.

The former Latvian and Lithuanian members of RLN have aligned with the former Estonian office of Lawin (led going for-

On the Move: New Homes and Friends

ward by Martin Simovart, with former Managing Partner Peeter Lepik staying on as Counsel) to form Cobalt. Simultaneously, Darya Zhuk in Belarus – the former Managing Partner of Glimstedt’s Minsk office – agreed to leave Glimstedt to lead Cobalt’s operations in that country.

At the same time, the former Latvian and Lithuanian members of Lawin replaced that alliance’s Estonian member with the former RLN office in that country (the “R” in RLN), and have rebranded as Raidla Ellex in Estonia, Klavins Ellex in Latvia, and Valiunas Ellex in Lithuania.

More information on this story can be found in the Market Spotlight, on page 46.

Russian Law Firm Opens Office in the Netherlands



Arkitektura Prava (“Architecture of Law”) has opened a new office in the Netherlands.

According to an official statement, the Architecture of Law firm “provides legal support for business clients whose interests are represented both in Russia and in European countries and in America.” The statement also explained that “the strategic objectives” of the Dutch office include providing “legal support to transnational projects.”

“I am pleased to announce the opening of an office of our law firm in the Netherlands,” said Zuykov Andrey, Managing Partner of Architecture of Law. “This step was taken primarily to meet our clients having business interests in Europe and America, and also demonstrates the openness of our company for foreign clients.”

Poland’s SPP Legal Joins CEE Attorneys Network

The SPP Legal Szmigiel & Papros law firm in Warsaw has become a member of CEE Attorneys, the regional network of law firms begun in March of 2014. With the addition of SPP Legal the network, which already counted Tomicek Legal in the Czech Republic and Fox Martens in Slovakia as members, adds a Polish arm.

“We look forward to establishing cooperation with SPP Legal Szmigiel & Papros and welcome Polish colleagues in CEE Attorneys,” said Zdenek Tomicek, Partner of Tomicek Legal. “Ever since we decided to support the idea of the establishment of a Central European network of law firms, it was clear that Poland would play a significant role in it. Not only because it is the largest and most populous country in the region, but also because Poland has recently become the economic tiger of the Visegrad Group. We had discussed the cooperation for a long time until we finally came to the conclusion that SPP Legal Szmigiel & Papros guarantees the quality of legal services expected from all members of CEE Attorneys.”

Andrzej Szmigiel, Partner at SPP Legal, stated that: “We believe that here we establish something special. Joining CEE Attorneys, one of the fastest growing networks of law firms in Central and Eastern Europe, it is the beginning of a new era for all of us. We firmly believe that the highest standards of legal services provided by us will actually surpass the high expectations of our clients. Together with our partners from the Czech Republic and Slovakia forming the CEE Attorneys Network, we have become a major player creating a commercial pressure on the existing networks of law firms in the Central and Eastern European market.”

CEE Attorneys reports that “intense negotiations about cooperation in other countries are under way.”

BWW Law & Tax Merges With Wojnar Smoluch i Wspolnicy



On June 15, the Polish law offices of Bieniak, Wielhorski, Wojnar Adwokaci i Radcowie Prawni Spolka Partnerska (BWW Law & Tax) merged with Wojnar Smoluch i Wspolnicy. The resulting firm will operate under the name of Bieniak Smoluch Wielhorski Wojnar i Wspolnicy Spolka Komandytowa, or BSWW Legal & Tax.

According to the new firm, the “aim of the merger is to create a larger firm that is better-placed to guarantee comprehensive legal services to its business clients.”

The new team consists of 5 Managing Partners – Jacek Bieniak, Piotr Smoluch, Michal Wielhorski, Piotr Wojnar, and Marek Wojnar – and 14 Partners at the head of an almost 50-strong legal team.

Summary Of New Partner Appointments

Date Covered	Name	Practice(s)	Firm	Country
25-Apr	Clemens Grossmayer	Corporate/M&A	CMS	Austria
7-May	Christoph Urtz	Tax	Baker & McKenzie	Austria
7-May	Georg Krakow	White Collar Crime	Baker & McKenzie	Austria
25-Apr	Lukas Hejduk	Hotel & Leisure	CMS	Czech Republic
25-Apr	Patrik Przyhoda	Corporate/M&A	CMS	Czech Republic
7-May	Michal Hink	Real Estate	Dentons	Czech Republic
21-May	Valter Vohma	Corporate/M&A	Hedman Partners	Estonia
1-May	Tamas Zentai	Corporate/M&A	Eversheds	Hungary
25-Apr	Jakub Marcinkowski	Corporate/M&A	CMS	Poland
25-Apr	Iga Lis	Energy	CMS	Poland
15-Jun	Marta Kosiedowska	Corporate/M&A	BWW Law & Tax	Poland
25-Apr	Cristina Reichmann	Capital Markets	CMS	Romania
25-Apr	Anela Musat	Corporate/M&A; Private Equity	CMS	Romania
28-Apr	Madalina Rachieru	Capital Markets	Clifford Chance	Romania
20-Apr	Denis Belyaev	Corporate/M&A; Private Equity; TMT/IP	DS Law	Russia
25-Apr	Annamaria Tothova	Environment; PPP/Infrastructure; Real Estate	Dvorak Hager & Partners	Slovakia
16-May	Sera Somay	Banking/Finance	Paksoy	Turkey
19-May	Esin Taneri	Competition	GSI Goksu Safi Isik	Turkey
22-May	Cigdem Bal Ilgin	Energy	GSI Goksu Safi Isik	Turkey

Summary Of In-House Appointments And Moves

Date covered	Name	Company	Moving From	Country
1-Jun	Uros Notar	Raiffeisen Bank International (Director - Legal Services Markets & Treasury in Austria)	Wolf Theiss	Austria
16-May	Tereza Simanovska	APS Holding (Head of Legal)	Clifford Chance	Czech Republic
14-May	Vukasin Petkovic	Bambi Food (Head of Legal)	Moravcevic Vojnovic & Partneri (Schoenherr)	Serbia
4-Jun	Yelda Dogan Yasarturk	GSK (Cluster Legal Affairs Director, Legal Operations, Turkey & Near East)	(Promoted)	Turkey
20-May	Yuriy Terentyev	Chairman of the Antimonopoly Committee of Ukraine	ArcelorMittal Ukraine (General Counsel)	Ukraine
26-May	Andriy Kovalyov	Vasil Kisil & Partners	Samsung Electronics Ukraine (Head of Legal)	Ukraine

Summary Of Partner Lateral Moves

Date covered	Name	Practice(s)	Firm	Moving From	Country
17-Apr	Axel Reidlinger	Competition	Reidlinger Schatzmann Attorneys-at-Law	Freshfields	Austria
17-Apr	Hanno Schatzmann	Corporate/M&A	Reidlinger Schatzmann Attorneys-at-Law	Gassauer-Fleissner Rechtsanwälte	Austria
2-Jun	Ivo Keltner	Banking/Finance	Havel, Holasek & Partners	Clifford Chance	Czech Republic
29-Apr	Piret Jesse	Corporate/M&A	Jesse & Kalaus	Tark Grunte Sutkiene	Estonia
29-Apr	Tanel Kalaus	Competition	Jesse & Kalaus	Raidla Lejins & Norcous	Estonia
12-May	Indrek Teder	Litigation/Dispute Resolution	Glikman Alvin & Partnerid	Chancellor of Justice	Estonia
5-May	Maria Bysiewicz	Corporate/M&A	SMM Legal	SPCG	Poland
6-May	Jedrzej Bujny	Administrative Law	SMM Legal	Dr Krystian Ziemski & Partners	Poland
13-May	Radomil Charzynski	Real Estate	Greenberg Traurig	Allen & Overy	Poland
13-May	Agnieszka Stankiewicz	Real Estate	Greenberg Traurig	Norton Rose Fulbright	Poland
13-May	Karol Brzoskowski	Real Estate	Greenberg Traurig	Allen & Overy	Poland
13-May	Magdalena Zyczkowska-Jozwiak	Real Estate	Greenberg Traurig	Norton Rose Fulbright	Poland
28-May	Diana Teodorescu	Litigation/Dispute Resolution	Ionescu Miron	Bulboaca & Asociatii	Romania
21-Apr	Oleg Bychkov	Capital Markets	Liniya Prava	Althaus Legal	Russia
7-May	Oxana Peters	Litigation/Dispute Resolution	Tilling Peters	Peters & Partners	Russia
7-May	Ekaterina Tilling	TMT/IP	Tilling Peters	Etilling	Russia
27-Apr	Tamsyn Mileham	Banking/Finance	Dentons	YukselKarkinKucuk (DLA Piper)	Turkey
2-Jun	Orcun Cetinkaya	Corporate/M&A; Employment	Moroglu Arseven	Gun & Partners	Turkey
19-May	Antonina Yaholnyk	Competition	CLACIS	AstapovLawyers	Ukraine

Other Appointments

Date Covered	Name	Firm	Appointed to	Country
21-Apr	Jitka Logesova	Kinstellar	Board of Directors of the Czech Private Equity and Venture Capital Association	Czech Republic
29-Apr	Prokop Verner	Allen & Overy	Head of Corporate in Prague	Czech Republic
29-May	Agnieszka Pytlas-Skwierczynska	Magnusson	Managing Partner in Warsaw	Poland
25-May	Ion Dragne	Dragne & Asociatii	Dean of the Bucharest Bar	Romania
25-Apr	Igor Gerber	Freshfields	Managing Partner in Moscow	Russia
15-May	Kostiantyn Likarchuk	Avellum	Deputy Head of the State Fiscal Service of Ukraine	Ukraine
21-May	Andriy Stelmashchuk	Vasil Kisil & Partners	New Firm Managing Partner	Ukraine

Full information available at: www.ceelegalmatters.com

Period Covered: April 14, 2015 - June 16, 2015

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Legal Matters: The Buzz

The Buzz

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

Bulgaria

“Food (definition and tax) for thought”

Alexandra Doytchinova, the Managing Partner at Schoenherr in Sofia, identified two updates in the market that have Bulgaria buzzing and which will impact the retail and food market considerably. The first is a draft of amendments to the competition law, which will introduce the definition of “significant market position” in Bulgaria. The new concept is, according to Doytchinova, “nothing that comes from EU law, with other jurisdictions that tried it failing in its application.” She explained that the amendments are coming as a result of a general sense in the market that there is a need to tackle the increasing bargaining power of large retailers in the country (which tend to be owned by foreign investors) relative to local suppliers. Under the proposed amendment, if a retailer registers revenue of over EUR 25 million, it will need to present the Bulgarian Competition Authority with the standard supplier agreement and terms and conditions that it uses with suppliers. The Schoenherr Managing Partner argued that this would likely create huge delays in every contract and the operational activities of the retailers – “not to mention that it tends to go against the idea of a free market.” The bill passed a first reading in the Parliament and it now needs to pass a second one, but Doytchinova explained that it will likely see some edits with “the retail lobbyists being rather strong in Bulgaria and some aspects of the current draft being a bit absurd from a legal standpoint.”

The other widely discussed topic, according to Doytchinov, is a recent statement made by the Minister of Health in which he called for a 10% tax to be introduced on “unhealthy foods” such as certain salty products or sweet/fizzy and energy drinks which contain high amounts of sugar. Modeled on similar taxes in Hungary and some of the Scandinavian countries, the main goal would be to limit the consumption of such foods, with the funds generated directed towards nutritional awareness campaigns. Schoenherr’s Managing Partner said that the firm has several clients concerned that the introduction of such a tax would decrease consumption and arguing that these products are produced in the EU and according to EU standards, meaning that it is not a matter of “unhealthy foods,” but rather an issue of overconsumption. She added that, while local media has reported an existing draft, it has not yet been publicly made available.



Croatia

“Overarching sentiment: It’s election year”

The upcoming election in Croatia is at the back of every politician’s mind, Boris Savoric, the Managing Partner of Savoric & Partners, says, explaining that it tends to influence just about everything – in both positive and negative ways. He expects that this will make long-term focused reforms unlikely in the near future.

A recurring theme remains loans in Swiss francs. The market has been witnessing calls for “protecting consumers” and “banks acting responsibly” every two weeks or so. Against this rhetoric, the country’s Supreme Court has recently ruled on a claim brought by several consumer NGOs a few years ago in the Commercial Court of Zagreb that the banks’ terms were unfair. The decision was that, while the currency clause – i.e. linking a credit to foreign currencies – was valid, changing the interest rates often and without notice amounted to unfair terms from the banks. It seems likely, according to Savoric, that this ruling will be implemented as a matter of law soon, as the topic is at the top of public discourse.

Two IPOs are also pending and have the market holding its breath. The first is that of the Croatian electricity company. Originally expected to conclude by September/October, then announced by the Government to be delayed until November, the local press now reports that it is likely to conclude closer to December or January next year, with certain delays being caused by unresolved issues related to water ownership. Naturally, the Government is keen to have it concluded as soon as possible.

The second is that of HAC-ONC – the company in charge of operating the motorways in the country. In a previous issue of The Buzz we reported on the Citizens’ Initiative calling for a national referendum intended, ultimately, to prevent the planned concessions of the motorways in the country meant to allow for private investor management. Although the Croatian Constitutional Court held that the question could not be put to a referendum – giving the Government a free hand to move forward – it remained unpopular in the general public. Savoric explained that the actual pressure stems from the fact that the loans taken up to build these motorways were provided with a state guarantee, which, under EU law, amounts to public debt, and which the Government is keen to shed.



Czech Republic

“Corporate set-up and transformations eased; Lending consumer protection in the works”

With nothing dramatic happening in the legal industry in the Czech Republic, Christian Blatchford, Counsel at Kocian Solc Balastik, pointed to two legislative updates as the most noteworthy aspects in the market. The first is that from the second half of May it has been possible to register companies and to change their corporate documents directly through notaries rather than via the commercial court. “Up until now, if you wanted to register a company (including after a merger or demerger), or change its statutes, you usually went through a three-step process: talk to a lawyer, go to a notary, then ask your lawyer to deal with the commercial court. By making it possible to sort this out through the notary directly, normally in consultation with your usual lawyer, the process becomes both shorter and cheaper.” Since the notary operates electronically in real time, changes are certain and immediate, which, according to Blatchford, becomes all the more valuable in complex transformations where a specific set of steps need to be followed.

The second legislative update – a result of an EU Directive – is a draft bill that will bring residential lending within the scope of consumer loans protection. The impact of this is that banks will need to take a more active role in assessing the credit-worthiness of borrowers, advising them on the affordability of the loan they have applied for. At the same time, the draft law imposes restrictions on charges for early repayments. According to Blatchford, the draft is being worked on now and is not due to come into effect until next spring. As to whether this will discourage banks from giving out new credits, the KSB Counsel believes it is unlikely. He explained that there is currently an over-capacity in the Czech banking market, so even though the new regulations may increase banks’ costs and potentially decrease their income, they still need to keep lending.

Estonia

“A push in the right direction”

Asko Pohla, Partner of Pohla & Hallmagi, is also the Chairman of the Arbitration Court of the Estonian Chamber of Commerce and Industry and a member of ICC International Court of Arbitration – a permanent arbitration court which settles disputes arising from private law relationships, including foreign trade and other international business relations. He drew on that experience to point out a growing need in the Estonian market (and in the Baltic states as a whole). Specifically, in order to increase the credibility of institutional arbitration courts, there is a move towards setting up formal requirements in order to register an arbitration court so that it can only be done as part of a union of entrepreneurs or business owners (such as the Union of Ports, Union of Food Producers, etc.).

The reason for this, according to Pohla, is that, at the moment, it only takes 3 people, with no real requirement of expertise in place, to come together and establish a non-profit organization and register it as a court of arbitration. The problem with this lack of regulation is that “it does not take long for a few to realize that there is a good chance to make some business out of this.” While this problem is felt even more in Latvia – where, Pohla pointed out, there are approximately 120 permanent courts of arbitration – it is only natural that the Estonian market turn towards restricting this since, as Pohla explained, due to either perceived biases or a simple lack of competency that stems from the lack of regulation, the market is having a hard time building trust in an otherwise potentially useful alternative dispute resolution tool.

Hungary

“Going public ... for a brief moment only”

“For the very first time in history,” explained Andras Posztl, Managing Partner of the Budapest office of DLA Piper, law firms were obliged to send, before the end of May, all their financial statements for 2014 to their Bar associations. The vast majority of law firms have submitted these statements and the Bars started publishing them, which means that, for the first time in the country’s history, information about the revenues and profitability of local firms (and local offices of international ones), was made completely transparent. “It was interesting not only from a competitive perspective to see who the biggest players are, but also to see what the actual size of the market is,” Posztl said.

According to Posztl, the Government introduced this requirement into the Act of the Legal Profession based, likely, on the assumption that law firms should be publishing these numbers the same way that companies do with the commercial register. But Posztl says the publishing requirement has already been reversed by means of a clause introduced into part of a completely different proposed amendment, which was subsequently voted on and passed. Although the requirement is technically still alive at the time this issue goes to print, it will be officially dead once the new amendments are promulgated in the Official Gazette.



Latvia

"Huge pending dispute for the Latvian market (?)"

According to Aivis Dzenis, Senior Partner at Skrastins & Dzenis, the market is holding its breath over developments in a recent deal that made headlines in the country – the EUR 107 sale of the insolvent Liepajas Metalurģs to the Latvian subsidiary of the Ukrainian KVV Group. The Latvian metallurgy company went into bankruptcy a few years ago and the state issued a security for the loans of the company, which led to the state being closely involved in its restructuring.

Investors from the KVV Group have, Dzenis explained, started arguing that not all relevant details related to the Latvian company and its continued operations were disclosed, and it turns out – at least as reported in the local media – that the continuation of operations is more expensive than originally expected. Unless an agreement as to how to proceed is reached, Dzenis predicted that “sooner or later, this will land in court, which would result in a dispute worth over EUR 100 million – a significant number for the Latvian market.”

Dzenis also referred to a new rule introduced in Latvian law empowering the court to require a mediation process prior to proceeding on formal disputes. Although this requirement came into force on January 1, 2015, Dzenis is unaware of any significant instances where it has been implemented. Still, he said, “hopefully, the courts will start using it more often.”

Moldova

"Banking crisis and changes in the courts"

Moldova is currently undergoing an economic and banking crisis, according to Igor Odobescu, Managing Partner at ACI Partners, caused originally by a misappropriation of funds by Banca de Economii – one of the biggest banks in the country – which has led to a considerable drop in the value of the local currency. At the moment, the sector is marked by three banks which have been under administration since the beginning of the year, and three others under supervision, as of two weeks ago, by the National Bank. The question at the moment is what will follow, with the Government considering its options for the three banks under administration. The populist approach would be to nationalize them, which, Odobescu explained, would drain resources from the budget and, implicitly, money from the pockets of citizens. The second option – to liquidate the three banks – is less popular, since many stand to lose savings placed in these banks, even though the Government has promised to cover, at least in part, potential losses.

While the banking sector is by far the most widely-discussed topic in the country, Odobescu pointed out several other updates that stand to have an impact. One of them is a set of proposals for amendments to the civil and criminal procedure in the country intended to set a 6 month deadline for examining cases. At the moment, he explained, the market currently still registers cases that last 2-3 years and the courts are overloaded with cases, which has also prompted suggestions that the number of judges in the country be increased. Another incentive aimed at easing the pressure in terms of case load is to introduce mandatory mediation in civil cases. While it is still a rather unpopular tool in the country, the Government seems “dead set on increasing its popularity and use in hopes that the push will decrease pressure on the courts.”

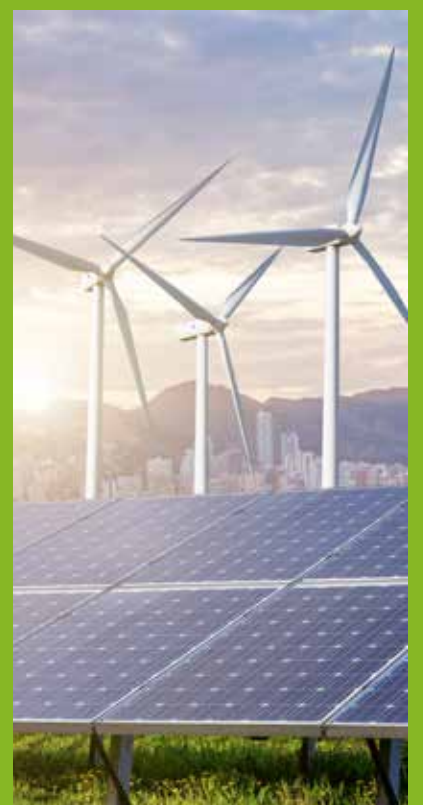
Other updates include new strategies in the fight against corruption in the judicial system both by introducing an accountability body meant to investigate flawed judgments that end up in the Court of Human Rights and potentially introducing a system of trial by jury in criminal cases.

Poland

"Heating up the renewable energy market"

According to Arkadiusz Krasnodebski, Managing Partner at Dentons, what the Polish market is truly excited about is the new legislation on renewables in Poland, which has been in place since the beginning of May. According to Krasnodebski, the new laws completely changed the existing system of support for renewable energy sources by replacing the current green certificate form of support to an auction system. The Dentons Partner explained that this change is in line with what the EU Commission has defined as necessary to avoid illegal state-aid. The reason this has heated up the market is that the projects that become operational this year will still fall within the scope of the old system, which, Krasnodebski explained, has the whole market rushing to complete their projects while also generating a considerable amount of work on the M&A side. Furthermore, since this system “is so new, a lot of regulatory questions come up with a lot of aspects still requiring interpretation,” on subjects ranging from the new auction system’s implementation to the transition period itself (such as the “famous question of what happens if you have a windmill farm with 12 turbines – do you need to interconnect only one of them to the grid to still operate under the old system or will all of them need to be interconnected?”). In any case, energy, M&A, and regulatory legal teams are being kept busy by this legislative update, and it looks like they will continue to be so for quite a while.

One other update from is the set of recent Penal Procedure Code changes in Poland, which Krasnodebski says will result in court proceedings in the country “heading in the direction of the US, where hearings are very contradictory and the judge is limited in influencing what is going on with all the courses of action depending on the parties of the proceedings.” However, he explained, from a legal business perspective this is of limited interest.



Romania

“New head, old head”

In recent weeks, Romania has registered elections for the two main legal associations in the country: the Bucharest Bar – the largest of the Bar associations in the country – and the National Association of Romanian Bars (UNBR).

For the first, on Sunday, May 24, the second round of elections for the new Dean of the Bucharest Bar took place (after the first round had failed to secure the required quorum), resulting in the election of Ion Dragne: the first Dean of the Bar Association to hail from a business law firm. More details on this story can be found in the interview with Dragne that appears on page 26 of this issue.

A few weeks later, on June 6, Gheorghe Florea was re-elected as the President of the UNBR for another four year term. Florea, who is on his third mandate as the head of the UNBR, was elected with a total of 67 votes by the members of the Union Council – almost double the 35 received by his opponent, the Vice President of the Union, Dan Oancea.

Russia

“Two ongoing reforms and one pilot-project in Russia”

Andrei Murygin, Partner at Linklaters CIS, identified 3 noteworthy updates that have the market buzzing in Russia. The first, and broadest in scope, is the ongoing reform of the Civil Code in the country, which, although adopted a while ago, only came into effect in June. According to Murygin, these changes “further improve the Code in an international sense, introducing several new concepts which will prove useful especially in terms of financial transactions.” One example of such new concepts that the Partner highlighted is the new provisions allowing for cash and securities as financial collateral in various financial trades (as opposed to the previously-required pledge over assets).

The second update, according to the Linklaters Partner, relates to the (again, ongoing) development of derivatives regulations in Russia in the context of close-out netting. Derivatives trade reporting is expected to become mandatory from October 1, 2015 and the Central Bank is considering delinking close-out netting enforceability from trade reporting, which Murygin expects will be widely used in the Russian derivatives market in the future.

The third and last update from the market was a transactional development – despite transactional work having slowed down considerably as a result of the sanctions imposed on the country and decreasing incoming international financing. Recently, Russia saw the closing of the financing for the M11 toll road from Moscow to St. Petersburg. Murygin explained that, among other novelties made possible only by the recent securities regulations in the country, this was the first ever infrastructure bond in the country secured by the pledge of rights under concession agreements with the government and using subordination between bond and loan financings and related intercreditor agreements where bondholders are represented by the bondholders agent. According to the Linklaters Partner, this will likely act as a model for future infrastructure financing, which may be replicated often in Russia in the future, with the Government investing considerably in infrastructure and infrastructure upgrades. One major infrastructure project that is expected to close soon is the central ring motorway around the city of Moscow.



Slovenia

“Foreign PE houses are out fishing”

According to Matic Novak, Partner at Rojs, Peljhan, Prelesnik & partners, there are three main topics of conversation at the moment, all of which fall relate to foreign private equity houses actively seeking investment opportunities in Slovenia.

The first involves privatization, with the state looking to sell its stake in a considerable list of companies, including some in the telco and leisure sectors, as well as industrial complexes. “There is a lot of buzz in the market from a legal, political, and journalistic point of view over these privatizations, and the manner in which they are being conducted is a very hot topic,” Novak said. One specific ongoing negotiation – involving Telekom Slovenije – has hit a speed bump, according to Novak, but he says that various press releases describe the problem as an inability to find a common ground at this stage, with none of the parties backing out for good. “And irrespective of the outcome of that deal,” Novak said, “Telekom Slovenije is just one of the many companies on the sale list that has the market excited.”

NPLs are also keeping lawyers busy with many banks trying to get rid of them, complemented by “a lot of investors buzzing around the market interested in buying them.” The RPP&P Partner also pointed to the real estate market as one that is heating up. Banks, he explained, are the root reason, with with many acquiring/repossessing a lot of huge real estate projects which are now again on sale. Novak explained that there is definitely a lot of supply and a lot of demand (also powered heavily by PE firms) and it is only a matter of months before we will see if the two meet.

“It is a very busy period – to say the least,” Novak concluded.



Ukraine

“Question marks over a potential default and set of privatizations in Ukraine”

According to Mykola Stetsenko, the Managing Partner of Avellum, the major topic at the moment is the sovereign debt restructuring and potential default that the country is facing. The Ministry of Finance is in ongoing talks with note-holders trying to agree on either a haircut on the principle of the loans or extending their period. Note-holders, Stetsenko explained, seems to be keen on avoiding a cut in the principle, while the Ukrainian Government claims that it will be impossible to meet IMF-imposed targets without it.

Against this background, ongoing talks around privatization have sprung up in the last few months, with some arguing it'd be a great solution for the state to shed inefficient companies to alleviate budget pressure, while others claim that, in light of the current situation, the valuation of those assets would be far too low. The Avellum Managing Partner reports that it seems like proponents of privatization seem to be prevailing, with two very interesting targets potentially going up for sale: the CenterEnerg energy company, which is “a very valuable asset,” and the UkrSpyrt, which Stetsenko described as a “loose combination of companies that produce and sell spirits, which, are in a monopoly position in the country.”

A positive trend identified by Stetsenko is the continuous deregulation that the market has been registering. While Stetsenko “wished it happened even faster,” he said that a large number of permits, licenses, and certifications have been abolished in the country, and he pointed out that Ukraine “will start feeling the impact of this in a positive way in the upcoming future as economic agents start realizing that less is required of them.”

Turkey

“Time for the aggressive sell”

“It’s an exciting time in the M&A world,” Eren Kursun, Partner at Esin Attorney Partnership, commented. According to Kursun, while it was expected to slow down during the pre-election period, the “M&A market has been crazy” before the election and in its aftermath. The reaction was a bit surprising. As Kursun explained, the ruling party, which has been sole holder of power in the country for the last 13 years, is now faced with the need to run the country as part of a coalition – and the country does not have a track record of successful coalitions.

“We expected the M&A market to reflect the uncertainty that comes with this new set-up of power,” Kursun said but, after talking to several foreign investors, the general feeling is that the Turkish Government may indeed become a bit unstable in the short run, but that this will benefit the country in the long run – “and investors are not looking at the short term when making decisions to invest.”

One of the big drivers for M&As heating up is that a number of strategic players are exiting the country, which, as Kursun explained, might be perceived as a negative sign for Turkey, but the “new and very interesting trend in the market is the aggressive sell.” He added that, because there “a lot of players with an appetite for these assets sellers, sellers tend to be very aggressive with aspects such as limiting the number of questions they are prepared to answer, setting tight deadlines, etc.” Looking back, Kursun concluded: “We’ve seen aggressive sales in the past but this is definitely a new trend and its surely a good sign since it is only in a good market that one can afford this approach.”

And firms are gearing up to take on the promised work resulting from the “crazed” market. As Kursun explained, “even we, who have one of the largest M&A teams in the country, are looking to hire at all seniority levels.”



We thank the following for sharing their opinions and analysis:

- Igor Odobescu, Managing Partner, ACI Partners
- Mykola Stetsenko, Managing Partner, Avellum
- Arkadiusz Krasnodebski, Managing Partner, Dentons
- Andras Posztl, Managing Partner, DLA Piper
- Ion Dragne, Ion Dragne, Dragne & Asociatii
- Eren Kursun, Partner, Esin Attorney Partnership (Member Firm of Baker & McKenzie International, A Swiss Verein)
- Christian Blatchford, Counsel, Kocian Solc Balastik
- Andrei Murygin, Partner, Linklaters CIS
- Asko Pohla, Partner, Pohla & Hallmagi
- Matic Novak, Partner, RPP&P
- Boris Savoric, Managing Partner, Savoric & Partners
- Alexandra Doytchinova, Managing Partner, Schoenherr
- Aivis Dzenis, Senior Partner, Skrastins & Dzenis

Prominent International Disputes Lawyer Joins US IDR Team Of Squire Patton Boggs

In early June, Squire Patton Boggs announced that international disputes specialist Luka Misetic had joined the firm as a Partner in its International Dispute Resolution Practice Group. “Luka is one of the most well-known international dispute resolution lawyers in the former Yugoslavia countries, particularly Croatia,” said George von Mehren, Global Chair of the International Dispute Resolution Practice when the hire was announced. CEE Legal Matters spoke to both Misetic and Stephen Anway, another Partner in the International Dispute Resolution Practice, about the hire.



Luka Misetic

We asked Misetic how an American lawyer had been able to build a track record like his in CEE. He explained: “I started out in a mid-sized firm in Chicago in litigation. I was one of a few lawyers to develop a background in international criminal law. This helped when the International Criminal Tribunal for the former Yugoslavia was set up, since I was trained in the US court system, which meant I had a skill set that was valuable in war crimes tribunals but also had the language skills that allowed me to communicate with the client directly, review evidence first hand, etc. It was also a solid start in developing those relationships with the Government.”

The “Know” Factor

We then asked Misetic why he decided to leave solo practice. He said: “I have been contemplating it for a while now. I had a successful small practice by myself but I was starting to grow out of it and I realized that I needed to join a larger platform in order to provide full services to my clients. At some point it simply became clear that it was more effective for me to be a part of a firm like Squire Patton Boggs in order to address all that a sovereign state would need in terms of legal assistance in such matters.” Asked why Squire Patton Boggs instead of another firm, Misetic explained: “I had the benefit of working with the team for almost a year and getting to know them and it was an attractive proposition to join them and expand my practice and add to theirs as well. There is a synergy here that I believe will be productive for both sides.”

Anway at Squire Patton Boggs is clearly a fan of Misetic’s, saying: “When you work alongside someone that closely for so long you get to know them well, and he is one of the most skilled dispute resolution lawyers with whom I’ve worked. His addition to the team bolsters our practice representing Governments in international investment disputes.” Anway added that the firm’s previous relationship with Misetic minimized the common risks inherent in making lateral hires of senior lawyers: “When making lateral hires, all firms struggle with the unknown. Here, there are none. It’s what makes us so confident in this hire and excited by the opportunity.”

Coming Together: First Steps and Outlook



Stephen Anway

When we asked Anway about the firm’s IDR practice set-up, he explained: “There are two models of IDR practices in big law firms around the world. Some firms prefer having all their IDR practitioners in one or two offices. Others prefer spreading them out among many different offices. We fall in the latter category, which works well with our global platform. Obviously, there are benefits and drawbacks to both approaches, but we find our approach allows us to better serve clients – to be on the ground, and to know the local law, the language, the politics, and the culture.” He added that the firm intends to include Misetic on other matters in the region as well. “All in all,” he said, “our firm represents clients on 11 investment dispute arbitrations so there is plenty of work for which we will benefit from Luka’s skill and expertise.”

We then asked Anway about the potential sources of work for Misetic: “It is difficult to say. Our practice historically covers two categories: investment treaty arbitration (which involves representing or suing sovereign nations under treaty disputes) and commercial international arbitration (which generally involves representing a company from one country against a company from another country). With regard to the first category, the European Commission is currently seeking to reform investment treaty dispute resolution in the European Union. How well these efforts will shape up in the future is still in the air, but – if they are successful – they may have a significant impact on our work. In any event, we expect that we will continue to be extremely busy. We started more than a decade ago with a single case for Czech Republic, and we now are counsel in 11 investment-treaty arbitrations for 6 countries. Under the excellent leadership of George von Mehren, we’ve been on that upward trend from more than a decade, and there is every reason to believe that we will only continue to grow. The future is bright.”

We asked Misetic what his first steps in integrating with the rest of the firm would be. He answered: “There are quite a few people in Europe that I am working with already. Vis-a-vis the Mol matter for example, I am working with a colleague in Prague, one in Paris, one in Doha, and a number in Croatia, where we will have a hearing in the Mol case soon and I will be on the ground as a result. This is just related to matters where I am involved now, but it looks like a busy period ahead and I will definitely get plenty of opportunities to learn more about the people and offices in CEE and more.”

Finally, Misetic said: “It goes without saying that I am excited about the future. We have a great relationship and I look forward to adding value to the Squire Patton Boggs practice and continuing to develop my existing international criminal work.”

Radu Cotarcea

Breaking Patterns: Interview with Ion Dragne, Newly Elected Dean of The Bucharest Bar



On May 24 the Bucharest Bar – the largest of the Bar Associations in Romania – elected a new Dean: Ion Dragne, the Managing Partner of Dragne & Asociatii. The position has traditionally been held by independent litigators, so the election of a lawyer from the “consulting side” – as Dragne calls it – was a first in the Bar’s history. CEE Legal Matters talked with the new Dean of the Bucharest Bar about what drove his election and his initial plans in the new role.



CEELM: Traditionally, the Bucharest Bar has not had a business/consulting lawyer at its lead. Why do you believe that was true, and what has changed in this election?

I.D.: I believe it’s a simple matter of history. Prior to 1990, in Romania, there was no distinction between litigators and legal consultants. The Bar was established in 1990, but it was in 1995 that the practice of law was liberalized (by which I mean a lawyer would be free to practice and be only subject to statutory law and regulations of the professional body). It was only around 1995 when – also propelled by the increase of investors’ interest in the Romanian market – law firms began to emerge with a mixed character, incorporating both litigation representation and consultancy legal service. Consequently, the gap between the two types of lawyers emerging might account for the “traditional” vote.

As for this year’s elections in particular, I’d say it reflects a trend oriented to the effort to attract law firms towards the Bar by getting them more actively involved. As for myself, I think I was privileged to be in the unique position of having worked, in the past 20 years, both as a solo practitioner litigator and within consultancy-focused law firms. I believe my election was a first step towards positioning the Bar as a representative body of all lawyers, whether they are

Ion Dragne was a solo practitioner and litigator in Bucharest between 1997 and 2004, after which he joined the Musat & Asociatii law firm. He parted ways with Musat in 2010, by which point he had become a Deputy Senior Partner and had been in charge of the Litigation & Arbitration Practice for 2 years. He founded his own firm, Dragne & Asociatii, in July 2010.

litigators or consultants, solo practitioners or law firms.

CEELM: You mentioned a trend towards trying to involve law firms more in the Bar. Presumably, regulations such as the ones of a year ago, which restricted their ability to market their successes, didn't help in that regard.

I.D.: At the beginning, we have to note the difference between advertising of forms of exercising the profession and professional advertising. Law firms' advertising issues have not yet been fully solved, nor do I believe it ever will, at least in a manner in which all voices are 100% satisfied with the final result. However, the current regulations regarding this matter can be characterized as being moderate towards strict. It is a frequent topic of discussion at the UNBR [The National Association of Romanian Bars] in finding a moderate solution through which to ensure that exercising the legal profession, including marketing your successes, is made possible,

“Unfortunately there is no way of making a day longer so I depend on the people around me... I don't see myself as the type of Dean who will be running alone around town, trying to sort everything out by himself, the same way I couldn't imagine working alone at the law firm.”

ensuring, at the same time, that unfair competition concerns and professional norms are kept in mind. It is possible that my stance on the matter – as published in my electoral platform – might have had a big influence on the results, as well. I'm keen to promote moderate, non-commercial solutions.

Such things, however, are in a constant evolution and adjustment. Take by example the French market, which is starting to open up, while the US one is moving towards a more conservative, submissive approach. At the end of the day, I don't believe we can be honorable or noble as lawyers, if we run around with flyers or put up billboards with messages such as “fresh, good, and cheap lawyers,” like warm bread. But, at the same time, I agree that it is not needed for us, as professionals, to shy away from the spotlight, if a noteworthy accom-

plishment is achieved.

CEELM: Was there one particular issue that drove your candidacy or, having been part of the institution for so long, was it simply a natural step to run for its leadership position?

I.D.: I don't really agree with the idea of a natural step since it resonates with me as having any entitlement to the Dean position, independent of my peers' votes. Simply put, my decision to run was based on a practical drive. I thought that, as a lawyer myself, whatever the Bucharest Bar does influences my life directly, so I set my mind on the idea of running for and winning, in order to make every lawyer's professional life better – and, implicitly, my own.

CEELM: In your new role, what is the first point of business you aim to address?

I.D.: Being in the Council of the organization for 8 years now, I am already familiar with all the Bar's activities. At the moment, I am preoccupied with opening up the institution and making it as available and non-bureaucratic as possible. I wish to reach out to the rest of the country, and Europe, to show that we have a friendly face and that any input or suggestion about how this Bar can progress are more than welcomed.

CEELM: What are the main objectives you are keen to achieve during your mandate?

I.D.: As part of my election platform, I put forward an extensive list of directions I'd like to advance. The main points can be summed up as following: (1) protecting the profession against unnecessary and detrimental external control (I am including here the near-employment recent proposal of the Romanian state); (2) protecting it against considerable potential errors in the regulation of criminal procedure; (3) ensuring that lawyers are protected when in direct contention against representatives of the state (i.e. prosecutors) and that no

repercussions arise from their representation against them; (4) creating a culture of responsible lawyering, which requires an enhanced awareness and discipline towards the rules of conduct, which, in turn, will affect the image of the profession as a whole; (5) re-emphasizing the critical value of professional secrecy, which, unfortunately, seems to have been diluted in the legal profession's value system; (6) bringing the Bucharest Bar closer to the legal profession at a European level; (7) engaging young lawyers and offering them support in their professional development; (8) digitization of the Bar, enhancing the administrative efficiency of the institution and removing any unnecessary bureaucracy – the last thing I want is for our organization to be a simple hierarchical control institution; (9) overall, enhancing members' comfort and ensuring they freely practice the profession in a fair competition setting; and much more.

CEELM: It does sound like you will have your hands full. What do you foresee will be the biggest challenges in achieving these objectives?

I.D.: Stirring lawyers' interest on the multitude of projects I envision working on. Without the interest, the commitment and the involvement of the entire legal community, this will definitely be an uphill battle.

I hope that my peers will offer their support in facilitating professional trainings with minimal costs, in order to maximize the access for young lawyers; I hope that the digitization of the Bar will be supported by member lawyers and, implicit by law firms; and last but surely not least, I will need to ensure the support of several institutions in order to obtain the financial resources for some of the projects.

The other challenge is time. Unfortunately there is no way of making a day longer so I depend on the people around me. The same way that my partners support me immensely within Dragne & Asociatii law firm, I am surrounded within the Bar by excellent colleagues, as Co-Deans and Councilmen. I don't see myself as the type of Dean who will be running alone around town, trying to sort everything out by himself, the same way I couldn't imagine working alone at the law firm.

Radu Cotarcea

Czeching the Legal Market

Leading Czech Lawyers Discuss Client Service, Strategy, and Changes

On Tuesday, May 5, 2015, the editors of CEE Legal Matters met with senior partners from four of the leading Czech law firms at the Peterka & Partners office in Prague for a conversation about the Czech legal market and the different ways various Czech firms serve clients seeking to invest outside the country.

The four participants in the event represented firms with a variety of models.

Premysl Marek is a Partner at Peterka & Partners, which calls itself “The CEE Law Firm”, and has offices not only in Prague and Bratislava, but also in 7 other CEE capitals, including Moscow, Kyiv, and Sofia. The firm also expects to open its 10th office in Zagreb this year.

Arthur Braun, the Managing Partner at bpv Braun Partners in Prague, helped create the bpv LEGAL alliance of 7 independent law firms across CEE, all of which spun off from Haarmann Hemmeltrath when that German professional services firm broke up in 2006.

Daniel Weinhold is the Managing Partner of Weinhold Legal, which has offices in Prague and in Bratislava.

And **Pavel Kvicala** is a former Partner at Norton Rose Fullbright in Prague, who moved over to Havel, Holasek & Partners in 2014 when the international firm closed its office and withdrew from the Czech Republic. Havel, Holasek & Partners is far and away the largest firm in the Czech Republic, and it has a successful Slovakian operation as well.

Serving and Referring Czech Clients Cross-Border

The conversation started with a consideration of how the participants’ firms served clients seeking assistance outside the Czech Republic.

Premysl Marek of Peterka & Partners spoke first, pointing out that “at Peterka & Partners we have the advantage of having offices in multiple countries, so we can offer our assistance as an integrated law firm. And in countries where we are not physically present we can direct clients to colleagues in various networks.” He referred to his firm’s membership in the Terralex, ILN, and Euroadvocaten networks. According to Marek, the latter network in particular is focused on firms charging lower fees, which “allows us to assist clients who



“The first wave of investment came from abroad into the Czech Republic, as part of the wave of privatization, but after 15 years it has changed, and now Czech investors will go where the investments are, from France, to Germany ... it depends on the industry. For example, in energy, you will see this outward investment clearly.”

– Premysl Marek, Partner, Director for Czech Republic, Peterka & Partners

are asking for smaller work, and would not be able to afford the larger firms ... we are connected with.”

Marek reported “definitely” seeing an increase in Czech companies wanting to invest outside the country, describing the phenomenon as being “consistent with Czech history and the development of the economy.” He elaborated: “The first wave of investment came from abroad into the Czech Republic, as part of the wave of privatization, but after 15 years it has changed, and now Czech investors will go where the investments are, from France, to Germany ... it depends on the industry. For example, in energy, you will see this outward investment clearly. EPH [Energeticky a Prumyslovy Holding is a leading Central European energy group operating mainly in the Czech Republic, Slovakia, Germany and Poland – ed.] is a classic example of investors from [the former] Czecho-Slovakia investing into CEE.”

Whereas Peterka & Partners has offices across the region, the bpv network is an association of independent firms. Arthur Braun, the Managing Partner of bpv Braun Partners in Prague, explained that his model – which he describes as “thriving for 9 years” – allows them to be flexible. “We are an international law firm,” he said. “[But] we are a local firm when it comes to fee

structure.” One of the primary advantages of the network structure, he explained, is that “we have fewer conflicts when it comes to getting referrals from England, Germany, and France, but we still have joint trainings with our other offices, and cooperate very closely.” In short: “So we

say we are international, we are local, and we are regional. That’s how we are selling ourselves.”

Braun elaborated a bit more on the difference between a firm with multiple offices and a network like bpv’s. “We still work as one firm when needed. But profit distribution is local.” The former Haarman Hemmelrath Partner described this as a significant advantage to him in particular, “because compared to my prior firms, I don’t spend every fourth weekend at partner meetings discussing how much profit Moscow gets, or Shanghai, or Beijing, and why we’re so much better, and how much we should earn.”

Braun said more Czech clients come to him for assistance in other countries than in previous years, but suggested that the increase was modest, and was “not necessarily an enormous part of our business.” In his opinion, “the Czech economy is still very much more inbound investment-oriented than the British or American ones.”

In markets where no bpv member exists, Braun explained, they are able to refer clients to a number of firms with which they have strong relationships. “In Poland I would say there are 3 or 4 law firms we work with on a constant basis,” he said, by way of example. These relationships are informal, allowing him to tailor his refer-



“the potential is here because the big Anglo-Saxon law firms have left the market, or are leaving the market, because there are not so many of the big transactions which were their targets in the past.”

– Pavel Kvicala, Partner, Havel, Holasek & Partners



"I know that it's almost impossible for an international firm – say, White & Case here – to send a Czech client to its New York office, because that office is just too expensive. So it's actually better, for our Czech clients, that we don't have those established relationships, or that we don't have on our letterheads that we do, but rather say that we are able to choose for you, this large firm is better for you, or this boutique firm is better, or this firm for French competition law, or whatever."

– Arthur Braun, Managing Partner, bpv Braun Partners

rals to his clients' needs. "So if we have a huge transaction in Poland we would go to this one, if you need a German-speaking insurance law firm in Poland we would go to another one, and that's been quite successful for us."

Although Pavel Kvicala spent the first 12 years of his legal career at Norton Rose Fulbright, an international law firm with offices in countries all over the world, he's now at Havel, Holasek & Partners, which has offices in only the Czech Republic and Slovakia. He said, "one cannot have offices everywhere, so we do not have any plan to do anything like that – we think our focus is really on the Czech and Slovak markets, that's where we are strong."

He explained that his firm has a set protocol for clients needing "exporting," which involves not only in finding the right firm to refer them to, but also "project managing this process" after referral. Kvicala explained, "we know how this is done, so it's easy for us to do, and many times for clients it's cost effective to do it this way." Havel, Holasek & Partners has close relationships with law firms in many countries, Kvicala said – particularly the ones closest

to the Czech Republic – and he and his partners make regular trips to maintain and nurture those relationships. As a result, he said, "we've made several trips to Germa-

ny this year, several times in England, and other countries – France comes to mind – so we do keep very close contacts with our counterparts there." Like Peterka & Partners, the firm also maintains memberships in several referral networks.

Arthur Braun then returned to the subject Marek had addressed earlier: referrals to firms that may be too expensive for some clients. In particular, he said, the larger international firms in the Czech Republic may be bound to refer their clients to their much more expensive offices in foreign countries. "Having had 11 years in international law firms, I know that it's almost impossible for an international firm – say, White & Case here – to send a Czech client to its New York office, because that office is just too expensive. So it's actually better, for our Czech clients, that we don't have those established relationships, or that we don't have on our letterheads that we do, but rather say that we are able to choose for you, this large firm is better for you, or this boutique firm is better, or this firm for French competition law, or whatever."

Kvicala explained how his firm handles this challenge. "Sometimes what we do is actually make two proposals for a client to chose from. A reputable law firm in Germany or Spain, then two smaller law firms there, for instance, depending on how the clients actually wish to structure their team



"I think it's very clear that the presence of international firms here was extraordinary ... I would say the trend is – we can say – reverting back to normal."

– Daniel Weinhold, Partner, Weinhold Legal

and prepare themselves for running their project or transaction. Their choice.”

Daniel Weinhold of Weinhold Legal nodded in agreement. “From time to time we offer two proposals for the client, and say the advantage of this firm is this, and the advantage of this other firm is this. But we do not do it that frequently. I would not say it’s the preferred way. But we do it, to try and bring the advantages of two or even more options to the clients.”

Explaining his relationships with firms in other countries, Weinhold explained that, as a result of his firm’s origin as a part of Anderson Legal before the Enron debacle caused Anderson’s demise, “we have a lot of friends who are now in different law firms.” He clarified that “we call them ‘best friends’ – but more in terms of personal relationships than official and formal relationships.”

Despite those friendships, Weinhold continued, he and his colleagues are very cau-

“I don’t spend every fourth weekend at partner meetings discussing how much profit Moscow gets, or Shanghai, or Beijing, and why we’re so much better, and how much we should earn.”

tious about recommending other firms to clients, “as we are at least morally responsible for the quality of the service they get.” This is not a hard and fast rule, he conceded. “Obviously we do in some countries, or in the case of some specific projects, where we know that someone is really good at the specific kind of service needed.”

The Changing Czech Legal Market

At this point the conversation moved towards the changing nature of the Czech legal market. Premysl Marek of Peterka & Partners noted the increased opportunities for growth for Czech firms in recent years, and, referring to the recent departures of Eversheds, Norton Rose Fulbright, and Hogan Lovells from Prague, said that, “the potential is here because the big Anglo-Saxon law firms have left the market, or are leaving the market, because there are not so many of the big transactions which were their targets in the past.”

Kvicala believes that the exodus of inter-

national firms is not over, and suggested that it is “very likely that more firms will leave” in the next few years. He referred to his own experience with Norton Rose Fulbright, and said that “the economics of how the networks work simply make it very tough for any local presence which is not big enough to generate its business, especially with fee levels very different now.”

Kvicala suggested that “the market has changed in many ways,” and referred to the number of spin-offs from international firms and the “different fee levels now – much lower than before – than there were 15 years ago.” As a result, he said, “in the 90s there were not enough lawyers with international experience, equipped in terms with language,” but said “it has developed now. Over the years, it had to develop.” As a result, Kvicala, said, “the question the big international firms with a presence in the Czech Republic need to ask themselves is, how important is that presence for our clients? Do they have strong business interests in the country,

so that they would support the office, or not? How relevant is the office to the network? These international law firms grow and are successful, but they grow

in different parts in the world, and so the question is how relevant in the overall scheme of things is the Czech Republic and Slovakia?”

The participants in the Round Table all agreed that there were more international firms in the Czech Republic than the market really could justify, even during the profitable privatization years. Pavel Kvicala pointed out that similar-sized markets, like Austria and Switzerland had far fewer international firms. Daniel Weinhold said, “I think it’s very clear that the presence of international firms here was extraordinary.” Thus, he said, “I would say the trend is – we can say – reverting back to normal.”

Premysl Marek characterized the departure of several international firms as “just an evolution.” He elaborated: “The US and English firms are only adapting themselves to the situation which we have here. They had a lot of work here in the past, so it was worth it to invest in our countries, and once the business model stopped working, they adapted, they changed the situation a

little bit, changed their position, and now they would like to invest their money and time and human potential somewhere else, where they can get much more.”

One that he was happy to see, he conceded. “From our side, as a firm which has our own network, it’s only an opportunity. And I think it’s an opportunity for all of us here, because we can have clients now which before, primarily, went to Anglo-Saxon law firms.”

As for why some firms – Allen & Overy, CMS, Baker & McKenzie, and Clifford Chance, for instance – survived, while others left, Arthur Braun offered a theory: “You need a successful leader, and very strong local leadership and strong local Partners. You really need strong people in the equity on the local side, that’s the first thing. Because otherwise your quality lawyers will simply leave the firm and take their clients with them. You also must know the local market.”

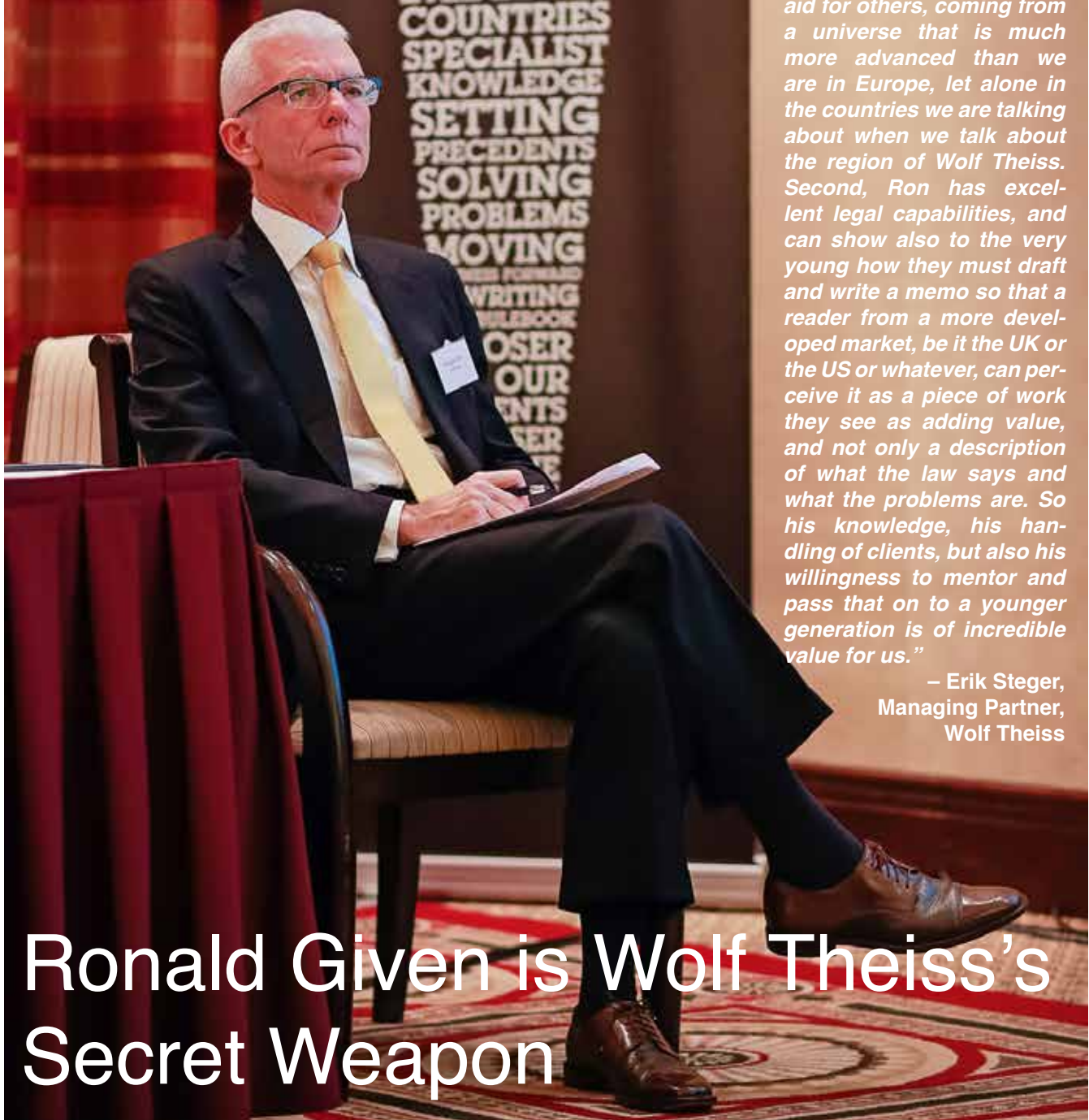
Finally, the conversation turned to changes within the Czech market. Arthur Braun said: “What I see, interestingly enough, is a lot of old and established Czech firms who are really losing position and not taking new partners. There’s a lot of names who maybe 15 years ago were very prominent but now aren’t so. It’s a generation change of law firms. We are all still very young, but there’s still a generation of lawyers 5-10 years older than us, who had golden years in the 1990s, and not all have managed the transition.”

Premysl Marek agreed: “Definitely. They are stuck in their teams for years, really. They are not growing. Some classic firms that were created in the first few years after the revolution had 15 people, or less, and they were first in the market, with quite a nice reputation, and right now they have 15 people, with nice reputation, but you will not see them among the top 10 law firms.”

Note: We wish to thank Premysl Marek of Peterka & Partners, Arthur Braun of bpv Braun Partners, Pavel Kvicala of Havel, Holasek & Partners, and Daniel Weinhold of Weinhold Legal for sharing their thoughts with us, to Peterka & Partners for hosting the event, and for Jirka Ernestova of Peterka & Partners for her assistance with it.

David Stuckey

The Ace In The Hole



“Ron Given comes from an environment that in terms of how law firms function, what they do, what they don’t do, how they approach many things, in terms of partner evaluation and partner contributions that are more necessary than others, he has done these things with Mayer Brown for years and years, so the main role Ron has is to be here as a learning aid for others, coming from a universe that is much more advanced than we are in Europe, let alone in the countries we are talking about when we talk about the region of Wolf Theiss. Second, Ron has excellent legal capabilities, and can show also to the very young how they must draft and write a memo so that a reader from a more developed market, be it the UK or the US or whatever, can perceive it as a piece of work they see as adding value, and not only a description of what the law says and what the problems are. So his knowledge, his handling of clients, but also his willingness to mentor and pass that on to a younger generation is of incredible value for us.”

– Erik Steger,
Managing Partner,
Wolf Theiss

Ronald Given is Wolf Theiss’s Secret Weapon

A Simple Plan

The original plan was simple. After a long and distinguished legal career in the United States, Ron Given would move to Europe, manage a small office of a regional law firm in Europe for a few years, then retire.

That's not how it worked out.

After three years in Croatia, and after the stylish silver-haired Given had turned Wolf Theiss's Zagreb office into a stable, profitable, and valuable part of the firm, he agreed to become resident Senior Partner in the firm's Kyiv and Prague offices, providing strategic leadership to each. And in April, 2015, having now strengthened those two offices as well, he agreed to move once again to recreate his magic in the firm's Warsaw office.

Altogether, since joining Wolf Theiss in 2008, Given has mentored many dozens of lawyers, from junior associates to Managing Partners, improved the firm's client service, generated millions of dollars of business, and demonstrated a geographic and professional flexibility that is, decidedly rare.

Background

Ron Given's plate is so full in Central Europe, and his role so extensive, that there's limited space to address his 30+ years as a lawyer in the United States. Suffice it to say he got his law degree from the Indiana University School of Law in 1978 – the same year he began his career as an international corporate lawyer (and, before long, as Partner, Corporate and Banking) at Mayer Brown in Chicago.

At Mayer Brown Given took lead roles in the firm's expansion into Asia and Mexico, and was lead manager with numerous financial institutions and manufacturing and technology companies in Asia, the United States, and Europe. He was remarkably successful, working on hundreds of complex and challenging deals and other client matters, and by the time he left the firm it had grown to approximately 1500 lawyers working in offices in 19 cities (though, ironically, none in CEE), and was by revenue one of the largest and successful firms in the world.

In June 2007 Given agreed to go in-house with one of his clients, accepting a position as Senior Vice President and General Counsel at Argo Group International Holdings, a Bermuda-based international

insurance holding company.

It turned out, however, he wasn't quite ready to settle down yet, however. "I had wanted to have an international experience," he recalls. "I had done international work my entire life, but traveling to Tokyo and staying in the Imperial Hotel, my wife would always tell me, is hardly having a real international experience." Thus, a little more than a year after leaving private practice, Given responded to a legal recruiter's contact, and in October, 2008, he accepted the invitation to become Managing Partner of Wolf Theiss's Zagreb office. Although he had never been to Croatia, and although his initial plan had been to move to Asia, Given smiles, "the opportunity from Wolf Theiss came up, and things just seemed to click."

Croatia

"Ron helped us through some really incredible, once-in-a-career kind of legal issues. Many of the things we accomplished there I don't think would have been accomplished as quickly but for his assistance and his advice. Having an American mentality mentoring good young bright Croatian lawyers gave us the best of people who understood the Croatian legal system and people who were wanting to be trained in a Western form of delivery of legal services, eager to learn, and were in the presence of a great mentor."

– Ann Bruder, former General Counsel of Commercial Metals Company.

In Zagreb, Given took over a struggling office hampered by a hostile bar association that was suspicious of international firms and that frowned upon advertising, marketing, and many modern forms of business development.

He remembers being initially knocked back by the challenges he discovered waiting for him in Croatia. "By the end of my first week," he says, "I knew I had gotten myself into something I had never dreamed of, ever. For many many reasons. But then you just commit, and learn to live with all the strange, interesting, ridiculous things that happen every day, and then you just have to have confidence in yourself."

One of his primary tasks was ensuring the office's competitiveness – a goal he achieved by focusing on the team's English skills, client relationships, and overall work product. Regarding the former, he laughs, he insisted that the lawyers in the office use

only English in emails – even internally – until the day came that it became clear that it was no longer necessary. "I told them, 'guys, you're good enough, you can write in whatever language you want.'"

In terms of work product, he says, "it's a day to day thing, you have to be there, you have to get down into a lot of the details like marking up people's written product by hand, so they had to make my connections themselves, which meant they had to go through them one by one."

Of course, he also provided guidance on how to interact with clients, both in person and in writing. He made a point of taking lawyers with him to client meetings, so they could see "how a more seasoned lawyer, and an internationally sensitive lawyer, behaves with clients. Things that you should say, and the approaches you should take." Ultimately, he reminded the office's young lawyers, "to live with the reality that the world doesn't revolve around the legal element of things. You're part of it, but it doesn't revolve around it. You have to be sure that you're playing the right role."

Within a few years he had significantly improved the office's work product, putting it at or above the level of the competition; improved the office's accessibility and dependability for work sent from Wolf Theiss's network; created a sustainable pipeline of independent revenues, and increased the cohesion within the office and integration with the firm's regional presence. All while remaining a hands-on, practicing lawyer, regularly depended on by high-profile clients.

Current Wolf Theiss Zagreb Managing Partner Luka Tadic-Colic – who Given hired and groomed as his eventual replacement as Managing Partner – says that: "Certainly working with somebody who's had so much experience with an international law firm and worked on so many major deals is something you can benefit from a lot. He adds a layer of strategic thinking that's very useful." Tadic-Colic added that, "Ron is very loyal. He was always back you up, and is always willing to offer his advice and support."

Other lawyers in the office praise Given as well. According to Associate Luka Colic (no relation to the similarly-named Managing Partner of the office), "the best way to understand is to look at the world before Ron and after Ron. Prior to his arrival, everything was a lot messier. His arrival

marked the beginning of the Zagreb success story.”



Luka Colic

Dalibor Valincic, Partner & Head of Dispute Resolution at Wolf Theiss in Croatia, agrees. “We experienced a quantum leap

“[Young lawyers must] live with the reality that the world doesn’t revolve around the legal element of things. You’re part of it, but it doesn’t revolve around it. You have to be sure that you’re playing the right role.”

in what we were doing. It was a clash of cultures in many ways but a positive one, which made us think of the legal profession in a different manner than before. He taught me to look at the profession from a more entrepreneurial view in which the client comes first and it’s not just a matter of the client coming in, typing something up, giving him the memo, and moving on.”



Dalibor Valincic

When asked to describe her American boss’s style, Dubravka Putanec, the Wolf Theiss Office Manager in Zagreb, says: “He had a strong coach approach. He was very open. He likes us to come forward and be proactive and give solutions and think ahead. He had an open door policy and I liked the fact that you did not need an agenda. You could just step in and discuss what you needed.”

The open door policy is part of Given’s commitment to supporting and encouraging the lawyers who work under him. For his part, Colic remembers one year, on his birthday, being asked to attend a dinner party at Given’s house for a client, with dinner cooked by Given’s wife (“he was very personal like that”), because Given believed the opportunity to interact with the client in that setting was a rare opportunity for the young lawyer. Despite the focus on the client, Colic recalls, Joan Given also baked him a birthday cake: “something you would never expect from a Croatian boss.”

This is consistent with Given’s identifiably American practice of praising the quality lawyers he works with. In Croatia, he recalls, “I kept telling everybody how good they were. “You tell everybody how good they are, and the theory is they will rise to the occasion. And I have to say, it worked. In Croatia, it worked better than I ever thought.”

Given’s successes in Croatia went beyond the personal, of course, and the evidence of his achievements goes beyond the anecdotal. Wolf Theiss is now consistently ranked as the leading international firm in Croatia, and Legal500 ranks them as top tier in all significant practice areas. In addition, Wolf Theiss reports that the office’s revenue per Full Time Equivalent almost doubled under Given’s leadership, rising from EUR 84,813 in 2009 to 153,417 in 2012.



Dubravka Putanec

Given looks back on his time by the Adriatic with pride. “It was a very, very closed market, and there are firms there that because of legacy reasons have been able to develop in ways and get a market position that is difficult to crack into. But as far as

Ron’s Rules

In our conversations with Ron Given’s colleagues a number of them referred to specific rules and instructions he repeated frequently. Given was kind enough to create a summary of his basic rules for young lawyers.

- If you don’t write your own story, someone else will write it their way for you.
- If you can’t express it simply, you probably really don’t understand it.
- Write English like you speak it.
- Don’t use Latin.
- If you want to use the word “respective”, don’t – you are probably using it incorrectly.
- Format for an iPhone world and multi-tasking clients: Be brief, practical, and put your conclusions first.
- Don’t take no for an answer (at least not the first no).
- Promptness trumps being exhaustively complete.
- You will not always be the center of a client’s solution. Size your role accordingly.
- Working with you should never be work for the client.
- Act like the lawyer you want to become.
- Over the course of time your lawyering will bring about good things that might not have otherwise happened. Be proud of what you do.
- The real reward for doing well is the opportunity to do better.
- Don’t stay too late.
- Things always work out at Wolf Theiss.



Ron Given and his wife, Joan, at a Zagreb charity event.

firms that are now 100% Croatian, which our operation now is, that someone could walk into and think, ‘you know, there may be a slight accent here, but I’m getting the same kind of service that I would in Dallas, or New York, or Chicago’ ... I think we’ve done it.” Even here, he’s careful to acknowledge the other members of his time. “I like to think I had something to do with that,” he says of the office’s growth. “But a lot of it is also the talent of the people and the opportunity.

Kyiv/Prague

“Ron was able to grasp the idea of our company and the particulars of the situation very well. He was able to balance the expectations of our company and the requirements of local law. He was really a very good negotiator, because he was very patient, and he was always easing the tension between our team and the employer, because it was sometimes very high, but he was able to calm everyone down. He was a very good negotiator. There were two associates who were helping us draft the text of the agreements, but in negotiations, and checking and reading every document, and the provisions and the articles in the contracts, he was actually working by himself, and he was working all the time.”

– Bora Kaya, former General Counsel of Ronesans Holding

The decision to move on from Croatia was initiated by Given himself, upon concluding that he had accomplished his mission in the country and that Tadic-Colic was ready to take over. He declared his plans to Wolf Theiss Managing Partner Erik Steger, who suggested that either Kyiv or Prague could

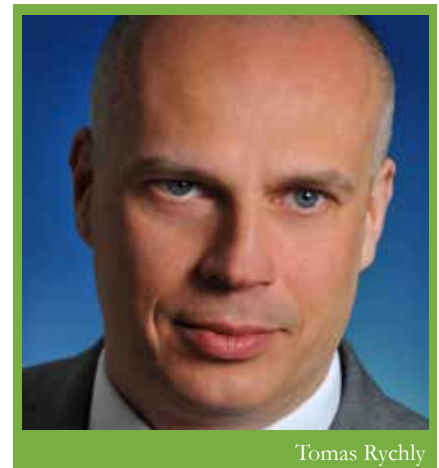
benefit from Given’s skills. “And I visited both places,” he says, “and talked to the Managing Partners, and I came back and said, ‘I can’t see either place alone, but I could do both.’” He laughs. “I think no-one saw that coming.”



Bora Kaya

In Prague he entered an office led by a new hire, Tomas Rychly, who had recently come over from Clifford Chance to help

the office stabilize after a number of senior lawyers – including the previous Managing Partner – had defected to DLA Piper. Rychly had not been a Partner at Clifford Chance before joining Wolf Theiss, and his previous management experience consisted of the three-person team he had led at the Magic Circle firm. Rychly says, “I’m not a natural-born manager. I could definitely benefit from help and experience. And when the management suggested that Ron – whose role in Croatia was coming to a natural end – and I work together, I welcomed this idea very much.”



Tomas Rychly

Rychly says Given’s focus on the importance of business development to a modern legal practice was particularly useful. “The natural tendency as a lawyer– and I admit it is mine as well – is that the client is king, and anything that isn’t client-related is rubbish. But there are many initiatives which ultimately help to get more clients. Your practice group calls, and you have brochures to prepare, and Chambers submissions, and things like that, and tradi-



Given enjoying Carneval at a Wolf Theiss party



Ron Given (center, with drum) with Tomas Rychly (far left) and the Czech office of Wolf Theiss on a team-building adventure.

tionally they are hugely unpopular. People hate it. It's burdensome. And the lesson from Ron here was, you should take it as a client job. You have deadlines, you have product, it should be first class product, and you shouldn't make any compromises. It must be the same as a memo you're sending to a client. It should have, generally speaking, the same priority as client work, because it helps to get clients later on. He was great in this kind of persistence."

Rychly also appreciates how free Given was with his time, and how dedicated he was to improving all aspects of the office.

"I'm trying to take what I found and make it better, which is what we should all be doing, right?"

"If he was free, he would read an email of a junior associate, and suggest how to improve it in terms of commercial-minded advice, drafting, and so on. But at the same time he would be willing to meet with me and a potential senior candidate we were considering hiring to shape the potential compensation package, and business case,

and things like that. It was a great help. ... During his tenure here, for two years, I must say, I learned a great deal."

In Ukraine, of course, Given entered a much more turbulent climate, with military conflict in the country, and rebellion, gunshots, and potential existential threats distracting his lawyers and scaring away potential clients. He says, speaking of the Maidan revolution, that "most of the protests took place on what had been my regular jogging route. I changed my route when I started seeing too many guys with guns. My apartment was the closest to the of-

office so in addition to checking the weather I would often look out my window in the morning to see if the streets seemed calm enough to open the office." Looking back on that time, he says, "I am very proud of the fact that our Ukrainian lawyers and staff kept the office running for the benefit of our clients through the worst of it."

Despite the mood in the country, Given focused on keeping the office looking forward and pulling together. He harkens back to last December's holiday party, which some of the lawyers in the office suggested should be skipped entirely, given the circumstances. He insisted that it go forward, and says the result "was actually the best such event I have ever attended." Instead of a traditional gathering, he recalls, the office "used half of our party budget to buy antibiotics that were needed by a local military hospital, [and] before the party, to which lawyers, staff, clients, spouses and children were invited, we stopped by the hospital and delivered the medicine."

According to Wolf Theiss Managing Partner Erik Steger, Given "proved to be very helpful in Prague. And in Ukraine, with the circumstances we've seen in this country, we hoped – and Ron delivered – that he could help them as well."

As in Zagreb, the firm's performance and profitability improved dramatically during Given's time assisting in the management of the Prague and Kyiv offices, as revenue per full-time equivalent grew from EUR 147,385 a year in Prague when he arrived in 2012 to EUR 173,385 when he left in 2014, and from EUR 154,143 a year in Kyiv to

EUR 188,185.

Poland and the Future



“The fact is, Ron is one of the guys who knows what he’s talking about – you can tell he knows what he’s talking about, he doesn’t lecture you, he just provides a good sense of comfort, to ensure that your rights are protected. He’s a good lawyer – he’s a good person, actually. Ron being in the region is a fantastic added value He was fantastic. He’s a fantastic person.”

– Andy Ballta, the CEO at Tranzit Ltd., an NCH Capital portfolio company

After two successful years in Kyiv and Prague – where Given assisted with the recruiting and hiring of new co-Managing

Partner Jan Myska from Allen & Overy – it was again Given himself who suggested a change, this time proposing that he help strengthen the firm’s Warsaw office, which was still working through the transition following its 2013 move en masse from Beit-en Burkhardt.

So in April of 2015 he moved to Poland, and he is now the office’s Co-Managing Partner. At this point, neither he nor the firm doubts his ability to get results. “I’m committed to making this work,” Given says. “I have three years in this office, and I expect you to write a story three years from now about our success here.”

After Poland? Given’s not quite sure. His wife Joan, who moved back to Chicago as a result of his never-ending travel for work the past few years, will be joining him in Poland shortly, and she remains eager for him to give Asia a real try. Given admits he’s also open to what Wolf Theiss may have in store for him as well – and he confesses to being especially intrigued by the prospect of opening an office for the firm in Turkey.

As far as Managing Partner Erik Steger is concerned, “if it were up to me, I’d send Ron anywhere he wants to go, because he will just do good, and I’m quite sure that from the experience he has gained and from the way he addresses whatever issues



Ron Given with friends from the international Red Noses ClownDoctors charitable organization.

come up, he can be helpful.”

In Conclusion

The last word necessarily belongs to the loquacious Given, who comments on the reality of his role. “I’m never sent anywhere where people are content with the status quo. Now, my problem with being labeled a ‘fixer’ is, I don’t want everyone to freeze up when they see me. But people are not dumb. When Ron Given comes it’s when we want to improve things. But I want to help people. If I leave here in three years and it’s not a place that you’re interested in writing a story about, that’s a failure, you know? I want to succeed. I’m not trying to steal people’s thunder. I’m trying to take what I found and make it better, which is what we should all be doing, right?”

David Stuckey

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

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

Market Spotlight

The Baltics

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Guest Editorial: A Quarter Century of Baltic Legal Market



During the Soviet era attorneys in Lithuania, Estonia, and Latvia worked in state-owned law firms and handled mostly criminal law matters. In 1990 and 1991 the first private law firms practicing business law – a practically unknown field of specialization until then – were established in the three Baltic States. Only a few attorneys understood then that focusing on foreign investors and business law at large was a way to achieve previously unimaginable success.

By 1995 the business law market was divided between approximately five law firms in each of the three Baltic States, and some of the law firms already had more than 10 lawyers.

It is quite surprising that one third of the leading law firms in the Baltics States from the mid-90's were not able to keep up with the competition, and are now much smaller than they were then – if they even exist at all. Perhaps the main reason for this is that even in the mid-90's several of the law firms had not yet sufficiently mastered leadership and management skills. The impact of the shortcomings in leadership and management was enhanced by the impatient crowds of associates who had learned English and the new market-economy based laws faster than the partners, and who therefore were enjoying the trust of the firm's clients while being unsatisfied with the speed of their career progression. Many spin-offs took place as a result, and new law firms emerged. In addition, some previously successful law firms were drawn into scandals, which probably shows that it was difficult for some lawyers to demonstrate higher business ethics than those common among regu-

lar businesses at the time.

The year 2004 marked a tremendously important milestone in the development of the three Baltic States, as they all joined both NATO and the EU that year, and thus were thus able to convince the world that political and even existential risks were no longer an issue. Foreign investments and liberalization of the financial markets pushed the economies to new heights year after year until 2008, and the legal markets kept on growing and prospering. The year 2004 also witnessed the birth of a new trend among leading law firms: establishing pan-Baltic alliances and thus rebranding old independent firms. The Lawin, RoschierRaidla, and Borenium networks were established that year, and a few years later TGS followed suit. Actually, this trend began as early as 1999, when Sorainen established its Vilnius office, thus completing its expansion across the three Baltic States. While others believed in alliances and networks, Sorainen had faith in the fully-integrated law firm approach, and initiated green-field operations in each country (and, in 2008, in Belarus as well).

In 2015 the Baltic market leaders are Sorainen and the network alliances TGS, Borenium, Ellex and Cobalt – a nicely diversified group, which certainly gives clients a sufficient selection to choose from. The latter two hit the headlines in May 2015 due to their swap of some of their old network members and their simultaneous rebranding – most of Lawin became Ellex, and most of RLN (RaidlaLejinsNorcouis) became Cobalt.

The Baltic legal market is already fairly sophisticated. Leading law firms have well-established practice groups; some of them also have industry-oriented sector groups and ISO 9001 certified quality management systems. Large numbers of lawyers have acquired LL.M. degrees abroad, often in the USA, UK, Germany, or the Nordic countries. An increasing number of lawyers also have MBA degrees, and some have even studied law firm management abroad.

In 2014 the total combined revenue of the five largest law firms in each of the three Baltic States was only around EUR 50-60 million. Perhaps the small size of the Baltic market, which consists of only 6.3 million inhabitants, combined with a high level of competition and sophistication, has rendered the legal market in the region unattractive for major international law firms. Most leading Baltic law firms generate about 2/3 or more of their revenue from foreign clients, either directly or through local subsidiaries of their foreign clients. The reason is that foreign corporations are still larger and more professional buyers of legal services than most purely domestic corporations.

*Aku Sorainen, Senior Partner,
Sorainen*

CEE Writ Small





Introduction

The countries of Central and Eastern Europe range in size, with the largest more than twice as large as the smallest, and many of them share similar (though never identical) histories, cultures, and investment opportunities. In large part because of these shared characteristics, a great many investors pursue opportunities in more than one. As a result, every business law firm of any significance in CEE has found ways of assisting its existing clients, as well as campaigning for new ones, in multiple markets.

The forms in which they do so vary, of course, from informal referral relationships, to formal networks, to one-brand alliances, to fully integrated operations with profit and equity sharing across multiple offices.

Lithuania, Latvia, and Estonia are small and neighboring countries that also share similar cultures, histories, and investment opportunities, although one of them has nearly double the population of another. And as in CEE at large, the best-known law firms in the three countries have regional – in this case pan-Baltic – presences. Recent developments indicate that the status quo in the Baltics is changing, however, and a number of the strongest firms are starting to consider moving beyond the alliance/association models towards full profit-sharing integration. Others still feel that they can offer the same “integrated” service to clients without sharing profits among offices and happily retain the alliance model.

In other words, the Baltic states represent CEE in a microcosm. As the changes in the Baltic legal markets play out, law firm consultants and business advisors would do well to pay close attention to the decisions firms are making by the Baltic Sea.

The Baltic Basics

“Investors tend to see the countries in the Baltics as more or less identical, but of course we are different in many ways.”

– Sandis Bertaitis, Partner of Fort Legal, Latvia

Lithuania, Estonia, and Latvia share much in common. All three states gained independence from the Russian empire in 1918, lost it in 1940, and regained it in the early

In This Article:



Gediminas Dominas,
Managing Partner,
Dominas & Partners, Lithuania



Kuldar-Jaan Torokoff,
Managing Partner,
Fort, Estonia



Sandis Bertaitis,
Partner,
Fort, Latvia



Eugenija Sutkiene,
Managing Partner,
Tark Grunte Sutkiene, Lithuania



Aivis Dzenis,
Managing Partner,
Skrastins & Dzenis, Latvia



Laimonas Skibarka,
Managing Partner,
Sorainen, Lithuania



Martin Tamme,
Managing Partner,
Varul, Estonia

1990s (Lithuania in 1990 and Estonia and Latvia several months later). The three countries had the highest growth rates in Europe between 2000 and 2006. All three are on the Euro.

But they're hardly identical. For one thing, Lithuania – which was, believe it or not, at one point the largest country in Europe – has more than twice as many people as Estonia (2.9 million to 1.3 million) and has a GDP almost twice as large as well (USD 48.2 million to USD 26 million). Despite their proximity, the three countries speak different languages. And they pursued separate paths to prosperity following their abandonment of Communism. According to Eugenia Sutkiene, the Managing Partner of Tark Grunte Sutkiene in Lithuania, for instance, “in the first decade Riga was building banks and financial institutions, while Lithuania was building factories and infrastructure. Lithuania took greater advantage of EU funding for infrastructure and development than Latvia.”

Thus, the sources of foreign direct investment and primary trading partners vary too (see tables, on page 47).

Not coincidentally, the mentality of the countries is noticeably different as well. Sutkiene laughs that, “our Estonian colleagues would say, ‘we definitely consider ourselves Scandinavian.’ Our Latvian colleagues would say, ‘well, I don’t know...’. But Lithuania is kind of in the crossroads. We have Scandinavian investors, of course,

but more from Central Europe, the US, Germany, and Poland.”

Of course, not everybody thinks the difference is so pronounced. Managing Partner Aivis Skrastins of Skrastins & Dzenis rolls his eyes when he’s asked whether Latvian lawyers consider themselves more Scandinavian or East European. “How we want to be? Everybody wants to be Scandinavian,” he smiles. “But in actuality of course we’re Eastern European.”

Gediminas Dominas of Dominas & Partners in Lithuania has the opposite take, noting that “due to the geographical (or even geopolitical) situation and the short post-Soviet history, our (Lithuanian, Baltic) cultural, social, and business relationships are stronger with the Scandinavian countries than with Central European countries such as the Czech Republic or Hungary (even though they are post-Soviet countries like Lithuania) ... and thus, culture and values.”

For the purposes of law firm business, however, few of these distinctions make much difference. Instead, many believe that the substantial similarity between the three countries – which share much more in common than, say, Lithuania does with neighboring Poland, or than Latvia does with neighboring Russia – essentially requires some form of regional coverage. And thus, in the early years of the 21st century, firms in each Baltic country began to look for ways of providing it.

The Emergence of the Pan-Baltic Alliance

Despite the recent growth of the Baltic economies (Irmantas Norkus at Cobalt in Lithuania claims that “the Baltic Markets have grown up to the level of Polish firms, in terms of revenue – approximately 15-20 million euros”), international and regional firms with presences in CEE – let’s call them “Foreign Firms” – have by and large ignored Lithuania, Estonia, and Latvia when opening new offices. There are, thus, only two Foreign Firms in those three countries at the moment – and both Eversheds (which picked up the former PriceWaterhouseCoopers offices in 2008) and bnt, the only regional CEE firm with a presence in the Baltics, operate with relatively low profiles.

And there’s no sign that’s going to change anytime soon, either. Despite abundant and inevitable rumors about international firms purported to be considering Baltic offices, when contacted by CEE Legal Matters, the three firms most commonly reported to be considering the region – CMS, Dentons, and Baker & McKenzie – firmly denied having any such plans.

To fill the gap, then, about ten years ago many of the leading law firms began tying up in one form or another with counterparts in other Baltic markets (See Timeline of Baltic Firms, on Page 44). Sorainen and bnt chose a fully integrated “one-firm” structure, with profit sharing in addition to

shared branding, marketing, and other back office functions, while the others tied up with existing offices in an “alliance” structure, sharing branding and other functions, but choosing not to share profits. Whether under the so-called “Sorainen Model” or as an alliance, pan-Baltic structures now dominate the top of the market, as all law firm brands ranked at or near the top of the market have offices in all three Baltic countries.

Of course, not everyone agrees that a formal pan-Baltic presence is necessary – and even some of the members of successful alliances believe the issue is still open to debate. Valters Kronbergs, the Managing Partner of Kronbergs & Cukste – the Latvian member of the Baltic Legal Solutions alliance (which lost its Lithuanian member to Tark Grunte Sutkiene in 2014) – is one such skeptic: “One wonders if the concept of the pan-Baltic structure has any significance now that we’re all part of the E.U. Is it really critical that we have a team sitting in Lithuania when we have good references there? I think the answer is clearly no. I think it’s a thing of the past. I think it’s outlived its usefulness.”

Still, with popular and internationally-known firms like Sorainen, Glimstedt, Varul, Tark Grunte Sutkiene, Cobalt, Ellex, Hedman Partners, Borenius, and yes, Eversheds and bnt having offices in all three Baltic states, as well as the recent appearance of the Red and Fort Legal alliances, it appears that Cobalt’s Irmantas Norkus’s claim that “no one argues that Pan-Baltic presence isn’t necessary” is not far off the mark.

The Magic Word: Integration

But the emergence of the pan-Baltic alliance is hardly the end of the story.

Laminas Skibaraka, the co-Managing Partner of Sorainen in Vilnius, says that even beyond the formation of alliances, the big trend in both Latvia and Lithuania, at least, is “consolidation” – a phenomenon that Eugenia Sutkiene, the Managing Partner of Tark Grunte Sutkiene in Lithuania, claims to have “kickstarted” in October 2014 when her office merged with the former Lithuanian office of the Baltic Legal Solutions alliance.

Whether it can be considered part of a “consolidation” phenomenon or not, the surprising news in May, 2015, that the highly regarded Raidla Lejins & Norcous

(RLN) alliance and the similarly highly-regarded Lawin alliance would, in essence, be swapping Estonian members is another major development. (See “Reshuffling the Deck”, on page 46.) According to Skibaraka at Sorainen, the Lithuanian TGS/BLS merger and the RLN and Lawin shift reveals a fatal flaw at the very root of the alliance structure: “These maneuvers show that it is quite difficult to build regional alliances, and they tend to be rather unstable.”

Thus, many feel, the time is coming for firms to merge their alliance offices into one firm – as Sorainen is – with profit and equity sharing among partners. According to Martin Tamme, the Managing Partner of Varul in Estonia, “integration is definitely the buzzword these days.”

Indeed, the new Cobalt alliance – consisting of the former Latvian and Lithuanian members of RLN and the former Estonian member of Lawin – has publicly announced its intention to integrate, and says it will adopt the Sorainen Model as soon as 2016.

In addition, with the January, 2015, appointment of Janis Zelmenis as the firm’s first Chief Executive Officer of Baltic operations, specifically to facilitate “the firm’s cross Baltic integration,” it appears that Varul may be among those moving towards integration as well. Robert Juodka, Varul’s Managing Partner in Lithuania, has also used the magic word in explaining Zelmenis’s role: “Appointment of a common CEO for Varul Baltics is a strategic step towards full integration and therefore an important landmark in lifting our whole business to a new level.”

Of course, many contest the notion that “integration” requires profit sharing, or that adoption of the Sorainen Model is necessary to achieve superior client service. For many, such as Filip Klavins, the Managing Partner of Klavins Ellex in Riga, the alliance model works just fine. “It just comes down to the best service for a client,” he says. “The client doesn’t care if the offices are sharing profits or not.” (See also “Sutkiene’s Take on Integration,” on this page.)

Still, while not all strong Baltic firms have entered into alliances, and not all strong alliances will pursue the Sorainen Model and merge into one firm, it appears likely that the process from independent office to network to multi-jurisdiction law firm

that has become so familiar elsewhere in CEE will find adherents in the Baltics as well, with or without international firms to push it along.

The first lasting firms appeared in Lithuania, Estonia, and Latvia in the 1990s, and many of them established strong alliances among themselves in the first decade of the 21st century. Now, it appears, firms are consolidating, growing, and starting to integrate. It’s getting interesting in the Baltics.

David Stuckey

Sutkiene’s Take on Integration

Eugenia Sutkiene of Tark Grunte Sutkiene in Lithuania has a great deal to say about the purported necessity of “integrating” an alliance into one pan-Baltic firm. She writes:

I have only one comment in relation to the definitions of integrated law firm and alliance. There is a lot of confusion and speculation regarding the categorization of pan-Baltic entities. Most of the talking heads in [Baltic] law firms define a law firm as an alliance [instead of an integrated law firm] if the three Baltic offices do not participate in profit sharing, and [they] completely ignore other features that are common to integrated law firms, such as: i) a common brand; ii) a common image; iii) common quality standards; iv) standardized products; v) a common management structure (the board, general manager, etc.); and vi) a common organization structure (practice areas, departments, etc., and the existence of pan-Baltic departments and heads of departments responsible for the operation, marketing, and training of all three units). Tark Grunte Sutkiene doesn’t share profits but we have absolutely all the ascribed features and position ourselves as an integrated law firm. Our mission is to provide outstanding and innovative service and to create added value to the clients, [and] profit sharing was not a decisive factor in integrating our three Baltic offices. That is exactly how our clients view us too. ... Clients care and appreciate only about the organization of service provision and a common approach and common standards of Baltic offices – but they care little about profit sharing of the partners and relationships between the partners as long as they manage to maintain the firm’s stability and act as a driving force and strategic speaking voice of the firm.

I am not sure whether my insights are important, but for me it is hard to stand the speculations which are circulating around the three Baltic countries in relation to the recent developments: the change of the trademarks of two pan-Baltic firms.

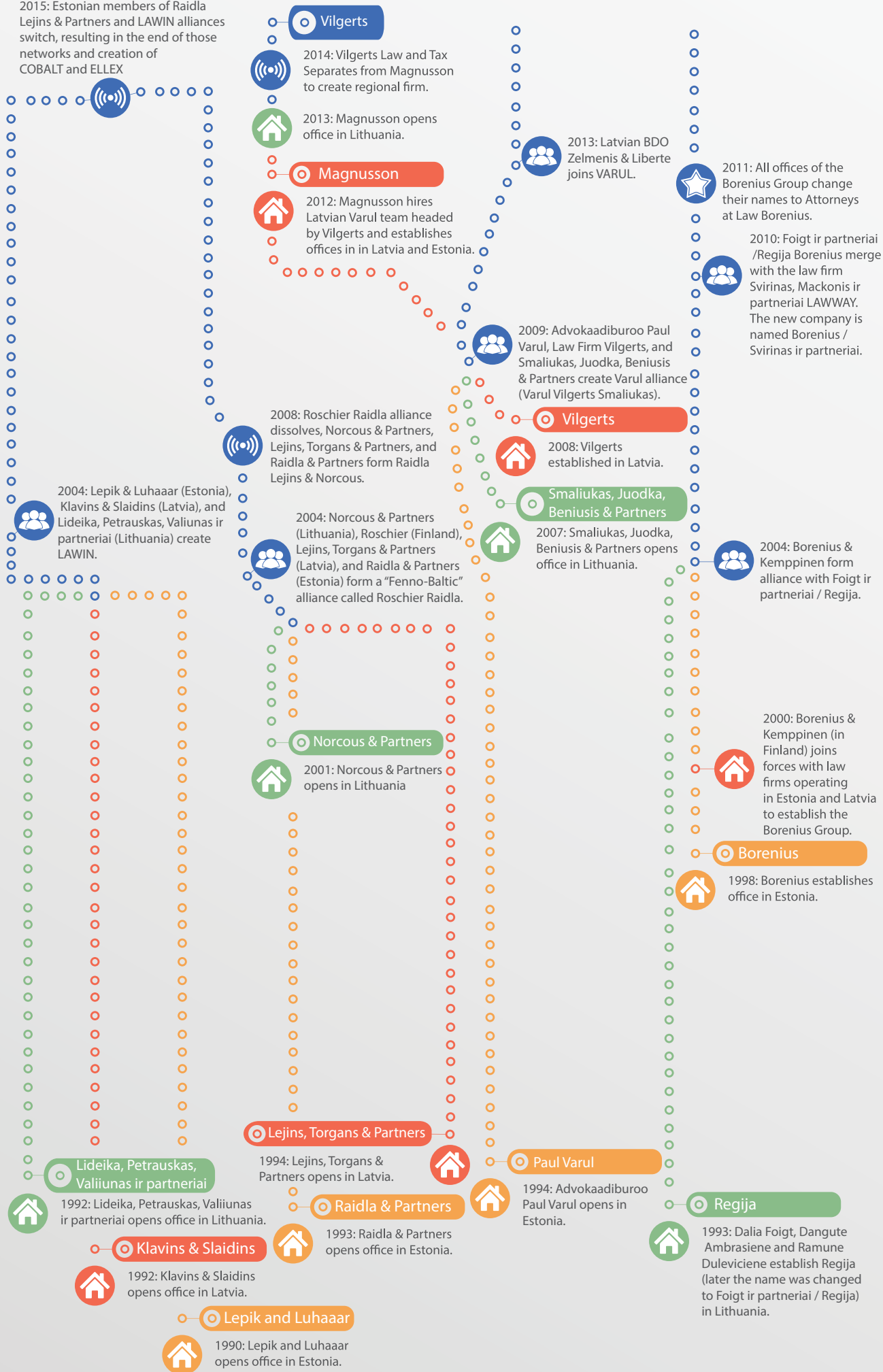
Legend:

-  Office/Firm Opening
-  Alliance/Merger
-  Name Change
-  Alliance/Office/Team Splits
-  Lithuania
-  Latvia
-  Estonia
-  Regional



Mapping Out The Baltic Legal Market

2015: Estonian members of Raidla Lejins & Partners and LAWIN alliances switch, resulting in the end of those networks and creation of COBALT and ELLEX



Reshuffling the Deck



On May 18 and 19, 2015, separate press releases came across the wire, announcing that the Lithuanian and Latvian offices of two of the top pan-Baltic alliances – Raidla, Lejins & Norcoux (RLN) and Lawin – had, in essence, dissolved, traded Estonian offices, and reorganized. The former Lithuanian and Latvian members of RLN and the former Estonian member of Lawin re-formed as Cobalt, while the former Lithuanian and Latvian offices of Lawin and the former Estonian office of RLN re-formed as Ellex.



Irmantas Norkus, Managing Partner, Cobalt, Lithuania



Dace Slava-Tomsone, Managing Partner, Cobalt, Latvia



Filip Klavins, Managing Partner, Klavins Ellex, Latvia



Jaurius Gumbis, Partner, Valiunas Ellex, Latvia



Zilvinas Zinkevicius, Partner, Valiunas Ellex, Latvia

Complicated? Well, confusing, at least. And despite the curious names (Ellex stands for Estonia Latvia Lithuania EXcellence, and as for Cobalt, Dace Slava-Tomsone, the Managing Partner of Cobalt Latvia, laughs that “we had to explain to certain people that no, this is not a mining organization”), the news that two of the best-known and most successful legal alliances in the Baltics would be exchanging offices and abandoning two of the strongest brands in the region continues to reverberate.

So Why the Reshuffling?

Eugenia Sutkiene, the Managing Partner of Tark Grunte Sutkiene in Vilnius, believes that the reason can be found in the merger of Baltic Legal Solutions’ Lithuanian office with her own firm back in October, 2014. Although the markets had been quiet for several years before that, she says, “our merger kickstarted the consolidation of the market.” And she claims that her firm’s success since the merger forced her competitors’ hands. “They couldn’t sit on this situation any more,” Sutkiene says. “They had to react.”

Maybe. Unsurprisingly, both Cobalt and Ellex offer different – though separate – explanations for the change.

Cobalt’s Integration Vision

Irmantas Norkus of Cobalt in Lithuania explains that the re-formation was necessary because financial integration – including sharing of equity between partners – is “the only way to go, [and] is the ultimate goal we want to achieve.” He notes that, although Sorainen is currently the only integrated pan-Baltic firm at the top of the market, “the Big 4 accounting firms are integrated, our clients – the banks and insurance companies – are integrated, [and] the international firms outside the Baltics are integrated.” Norkus believes the analysis points only one direction: “There’s no way you can be efficient and compete without being integrated. That will become the prevailing practice in 2-3-4 years. To me, integration is a must.” Norkus explains that he and his colleagues in Riga saw the writing on the wall several years ago and concluded that “the obvious solution to us was to merge our offices into one and con-

solidate our services into one, leading to more efficiency.”

Unfortunately, not everyone in his previous alliance agreed. “Riga and Vilnius wanted to move towards integration, while Tallinn preferred the status quo.” As a result, “it became impossible to reconcile these views, and it became clear we had to separate and pursue our own strategies. So we peacefully agreed to terminate the RLN alliance.”

And indeed, Norkus’s enthusiasm for full integration is shared both by new Estonian Managing Partner Martin Simovart (who took that role over from former MP Peter Lepik – who remains on board as Counsel – simultaneous with the alliance re-formation) and Latvian Managing Partner Dace Slava-Tomsone, who took over the reins of that office from Founding Partner Girts Lejins two years ago.

In other words, the analysis of Kuldar-Jaan

Torokoff, Managing Partner at Fort Legal in Estonia, seems directly on-point: “When it comes to integration, one of the critical first steps is firm founders letting go of the management of their firms. You need this generation swap before real integration happens because you need to be young enough to see the long term benefits of the integration rather than the autonomy you are giving up, which you enjoyed for so many years.”

Ellex Prefers the Alliance Model

While Cobalt says they initiated the change to facilitate their pursuit of the “Sorainen Model” (profit sharing across Baltic offices), the partners at Ellex say that in fact it was they who initiated the change, as a means of improving their service to clients by joining with their new partners in Tallinn, who many experts agree are among the best in the region. According to Partner Zilvinas Zinkevicius at Valiunas Ellex in Lithuania: “The goal is to provide seamless Pan-Baltic service, with a new and improved level of service.” And Filip Klavins, the Managing Partner of Klavins Ellex in Riga, says the purpose of the change was simple: “We were seeking greater quality.”

Partner Jaunius Gumbis of Valiunas Ellex in Lithuania agrees that, “the goal has always been to provide the best service to clients.” He refers to that goal in explaining the change: “We felt a little bit that we had to improve. We are thankful for our Tallinn partners during these 10 years. We achieved a lot, and we enjoyed it. But sometimes, even when everything is fine, you need to move from good to great.”

In contrast to their counterparts at Cobalt, the Partners at Ellex say they have no interest in pursuing what’s known as the Sorainen Model. Filip Klavins says, “It just comes down to the best service for a client. The client doesn’t care if the offices are sharing profits or not.”

Conclusion?

Unsurprisingly, both of the new alliances (Ellex refers to itself as a “circle”) claim it was their side that initiated the change, putting forward competing explanations in support. At the end of the day, however, Irmantas Norkus prefers to keep the conversation positive. He says that everyone got what they wanted: “We had differences of opinion [among the offices in our alliance], and they did as well – so now it’s a happy ending for everybody.”

David Stuckey

Table 1: 2014 GDP in US Dollars

World:	77.3 billion
European Union:	18.5 billion
United States:	17.4 billion
Russia:	1.8 billion
Turkey:	806 million
Slovenia:	49.5 million
Lithuania:	48.2 million
Serbia:	43.9 million
Latvia:	32.9 million
Estonia:	26.9 million
Bosnia and Herzegovina:	18 million
Macedonia:	11.3 million
Montenegro:	4.5 million

Source: International Monetary Fund

Table 2: Mid-2014 Population in Millions

China:	1,364.1
European Union:	507
Russia:	143.7
Turkey:	77.2
United Kingdom:	64.5
Poland:	38.5
Czech Republic:	10.5
Belarus:	9.5
Bosnia-Herzegovina:	3.8
Lithuania:	2.9
Latvia:	2.0
Estonia:	1.3
Montenegro:	0.6

Source: Population Reference Bureau

Table 3: Estonia: Main Trade Partners in 2014, As a % of Total Trade

Country	Exports	Country	Imports
1. Sweden	18	1. Finland	15.3
2. Finland	15.3	2. Germany	11.5
3. Latvia	10.7	3. Sweden	10.7
4. Russia	9.4	4. Latvia	8.5
5. Lithuania	5.3	5. Lithuania	8.3
6. Germany	4.9	6. Poland	7.6
7. Norway	3.9	7. Russia	6.2
8. USA	3.7	8. Netherlands	3.5
9. Netherlands	2.7	9. China	3.5
10. Denmark	2.6	10. UK	3.2
Others	23.1	Others	21.5

Source: Statistical Office of Estonia

Table 4: Lithuania: Foreign Trade Partners, January–December 2013 (% of Total Trade)

Country	Export	Country	Import
1. EU	55.4	1. EU	60.3
2. Russia	19.8	2. Russia	28.1
3. Latvia	9.9	3. Germany	10.5
4. Poland	7.4	4. Poland	9.5
5. Germany	7.1	5. Latvia	6.2
6. Estonia	5.5	6. Netherlands	5.2
7. Belarus	5.1	7. Italy	4.1
8. UK	4.9	8. Belgium	3.2
9. Netherlands	4.3	9. Sweden	3.2
10. Ukraine	3.4	10. Belarus	2.9
11. Sweden	3.2	11. Estonia	2.8
13. United States	2.7	12. France	2.7
France	2.3	UK	2.3

Source: Department of Statistics, Lithuania

Table 5: Latvia: Main Trade Partners in 2014, As a % of Total Trade

Country	Exports	Country	Imports
1. Lithuania	18	1. Lithuania	18
2. Estonia	12	2. Poland	11
3. Russia	11	3. Germany	11
4. Germany	7	4. Russia	8
5. Poland	6	5. Estonia	8
6. Sweden	6	6. Finland	6
7. United Kingdom	5	7. Netherlands	4
8. Denmark	4	8. Italy	3
9. Norway	2	9. Sweden	3
10. Finland	2	10. China	3
Others	27	Others	25

Source: provisional data from Central Statistical Bureau of Latvia, 2015

Market Snapshot: The Baltics



Baltics: Competition



Elo Tamm, Partner,
Cobalt Estonia

Elo Tamm, Partner, and Ieva Sodeikaite, Senior Associate, Cobalt

The Baltic markets have matured over the past 25 years of market economy. The players that survived recession have been expanding their businesses and have strengthened their positions. They have achieved this either by natural and organic growth or by acquiring competitors.



Ieva Sodeikaite, Senior Associate,
Cobalt Lithuania

The markets in the Baltics are increasingly consolidated. Lithuania, for example, has seen this phenomenon in the financial services, insurance, media, telecommunications, retail trade in medicines,

books, luxury goods, and fuel markets, to name just a few. In Estonia, cinema operations, waste management, retail trade in medicines, media, and certain food markets have been under close watch by the Estonian Competition Authority (ECA) due to the high market shares of the concentrating parties.

Indeed, Competition law advisers have seen a number of clients approaching with contemplated acquisitions of businesses which raise red flags – the strength of the concentrating parties is such that the road towards clearance may be not an easy one.

Last year was a very robust year in Lithuania – perhaps the most productive of the past five years in terms of the number and value of M&A transactions.

Since 1999 the Lithuanian Competition Authority (LCA) has received 838 notifications of concentrations (including 51 in 2014), and has adopted 31 conditional clearance decisions (including 2 in 2014), accounting for approximately 3.7 per cent of all notified transactions. However, due to an increasing level of concentration in individual Lithuanian product markets, the coming years are likely to see higher numbers of conditional clearance decisions in Lithuania.

In the majority of conditional clearance decisions the LCA imposed behavioral remedies; in a few cases Lithuania's competition watchdog imposed structural remedies. However, recent practice suggests that the LCA's preference is shifting from behavioral towards structural remedies – such as the commitment to sell a business unit – which generally are considered to be more appropriate for solving competition problems arising out of concentrations. This is in line with EU merger control practice.

For example, in October 2014, the LCA cleared the acquisition by the Polish insurer PZU S.A. of its Lithuanian competitor Lietuvos draudimas. Having assessed the intended merger, the LCA found that the merger would restrict

competition within two markets: the market for insurance of land vehicles other than railway vehicles, and the market for property insurance. Consequently, the merger was cleared subject to the condition that PZU S.A. sell the part of its business related to its activities carried out in Lithuania within the two markets.

In December 2014, the LCA cleared the acquisition of ALITA by Mineraliniai vandenys. Both companies are engaged in the production and sale of spirits and wine. The LCA found that the merger would restrict competition within certain relevant markets for spirits. Thus, merger clearance was made conditional on the transfer by ALITA of the part of its business related to its activities carried out in Lithuania within the market for production and sale of vodka and the market for production and sale of bitters.

The story with Estonia is not quite the same as that of Lithuania, but the trends are clearly similar. It is similarly true that in the majority of conditional clearance cases behavioral remedies have been imposed by the ECA. Structural remedies remain quite unique in Estonia, however, the alternatives being prohibition of the merger or withdrawal of the decision to concentrate. Two examples from the recent past illustrate this trend.

First, at the end of 2013, Forum Cinemas and Solaris cinema – two large cinema operators in Tallinn, decided after almost half a year of concentration proceedings to withdraw the decision

to concentrate due to strong opposition to the merger from the ECA. Solaris cinema was later acquired by the bookstore operator Apollo.

Second, in February 2015, the ECA cleared the acquisition by Orkla ASA of various companies belonging to Nordic Partners Food Limited. Both merging parties are suppliers of branded food products in the Baltics. The ECA established competition concerns in the chocolate markets. The joint market share of the merging parties exceeded 50% with respect to chocolate

tablets and small bites and was between 40–50% in the market for gift boxes. Such high market shares led the ECA to oppose the concentration as it would significantly restrict competition. ECA's major concern was the opportunity and motivation for Orkla to raise prices. Nonetheless, the ECA cleared the concentration after accepting Orkla's behavioral commitment not to raise prices for two years after the clearance.

In conclusion, we see a clear trend towards more concentrated markets in the Baltics. This

poses a challenge for local competition authorities and competition law advisors. It is clear that we will be seeing more concentrations cleared with remedies. While in Estonia behavioral remedies appear to remain a choice on the table, Lithuanian competition law advisors will need to work hard to convince the LCA that behavioral remedies deserve their place among the solutions to the competition concerns that the LCA has detected.

Life Sciences Market Overview in the Baltics

Andrej Rudanov, Senior Associate, Tark Grunte Sutkiene



Andrej Rudanov, Senior Associate, Tark Grunte Sutkiene

Life Sciences businesses have always been interested in the Baltic States. The three countries' developing markets, unusual synergy between business and science, abundance of innovations, and the active participation of business in programs financed by EU Structural Funds in creating new products and services has led to a substantial increase in market presence. Many companies on the pharmaceutical market have become subject of major international transactions: (i) The Canadian pharmaceutical giant Valeant acquired the Lithuanian pharmaceutical company Sanitas in 2014 (transaction value: EUR 272 million); (ii) The American scientific research company Thermo Fisher Scientific acquired the major Lithuanian biotechnology company Fermentas (which generated revenue of USD 54 million) in 2014 (transaction value: USD 260 million); (iii) According to data from Q3 2014 – the most recent results available – the Latvian pharmaceutical company AS Olainfarm experienced its most profitable quarter so far, as it made a net profit of EUR 6.7 million and sales of EUR 27 million. Major sales markets of AS Olainfarm during this period were Russia, Latvia, Ukraine, the Netherlands, and Belarus.

General Conditions

The concept of "Life Sciences" in the Baltic States is defined broadly to include the medical, pharmaceutical, food, and beauty and cosmetics industries. All the industries share common regulatory characteristics: (i) Professionals who provide services (doctors specializing in all branches of medicine, nursing staff, physiotherapists, pharmacists, their assistants) must hold licenses. Other specialists (food operators, beauticians, etc.) need not be licensed. Licenses obtained by doctors and pharmacists from other EU Member States are recognized in all three Baltic countries; (ii) Before entering the market products must be either: (a) registered in the EU on a centralized basis (biotechnological medicinal products) or with national authorities (chemical, traditional herbal, and other medicinal products) or (b) notified to EU authorities (cosmetic products) or national authorities (food supplements, medical devices); (iii) A relevant license or permit is required to carry out the activity (provision of medical services, manufacture of medicinal products, food handling, production of cosmetics); (iv) Service providers

or product manufacturers must maintain quality assessment and management systems; (v) EU legislation regulates product advertising and safety, while supervision is subject to national requirements.

The application of these rules has led to different Life Sciences business development regimes in each of the Baltic States, with different case law, lawmaking, and institutional approaches.

Specific Features of Providing Medical Services

In Lithuania, medical services to patients may be provided only by legal entities that hire doctors and nursing staff, as – unlike in Latvia and Estonia – a licensed doctor may not supply medical services to patients in his own name.

In Latvia and Estonia, doctors insure their professional liability for damage to patients, while in Lithuania a medical treatment institution as a legal entity must insure its liability. In Lithuania, the doctor is not directly affected by damage caused to the patient, except in criminal prosecution cases.

Pharmaceutical Wholesale Business

Latvia recognizes wholesale medicinal product distribution licenses issued by other EU Member States, while in Lithuania and Estonia it is necessary to obtain national licenses for the relevant activity. Therefore, if a holder of a German wholesale distribution license wishes to operate in the Baltic markets, he/she would have to apply for recognition of its German license in Latvia and obtain additional licenses for branches in Lithuania and Estonia.

To obtain a license, the applicant must have a warehouse (either own or leased), committed personnel (employees with employment contracts), and operational documentation. Factual activities would be checked after obtaining the medicinal product distribution license.

Product Placement on the Market

Lithuania provides certain exemptions for trade in non-registered medicinal products if the medicinal products are indispensable for the pa-

tient and the latter assumes full responsibility for their use. Such medicinal products may be meant for both a single patient or a group of patients (in most cases a group is treated in a hospital).

The composition and name of food supplements is examined and assessed in Lithuania. During the examination, the relevant authority may decide that the food supplement submitted for notification should be regarded as a medicinal product or simply a food product, thus refusing its notification and recognition as a food supplement. The status of a food supplement in other EU Member States is not a relevant factor for the Lithuanian national authority. Currently a few judicial proceedings with respect to the decisions taken by the relevant authority are pending in courts. Neither Latvian nor Estonian authorities impose similar control.

Product Advertising

Regulation of product advertising is transposed from EU legislation to national legal acts of the three Baltic States; however, the implementation of advertising control differs. Particular attention is devoted to health properties of food products and their presentation.

In Latvia and Estonia, it is established practice that health properties of food products are understood as a direct claim on a relationship between the product and health. For example, that calcium builds stronger bones. Lithuania has chosen a bright-line rule, however, and as a result prohibits many health claims that are permitted in Latvia and Estonia. For example, the claim that "a mineral water removes what is unnecessary" is regarded as complying with national and EU statutory requirements in Latvia and Estonia, whereas the competent authorities in Lithuania concluded that the claim was an indirect statement on slimming and prohibited its use.

Baltics: Data Privacy



Ingrida Karina-Berzina, Partner, Cobalt Latvia

Ingrida Karina-Berzina, Partner, Pirkko-Liis Harkmaa, Partner, and Liudas Karnickas, Senior Associate, Cobalt

During the employee selection process, candidates put their best foot forward. Meanwhile, employers try to learn the real story behind the facade. We review the rules governing background checks in Estonia, Latvia and Lithuania.

Legal Framework

In all three countries, there are no specific rules governing candidate background checks, and the permitted scope of data collection is guided by general data privacy principles such as the necessity of a legitimate purpose for data processing, the minimization of collected data, and the requirement to maintain accurate and up-to-date data. Once the candidate is hired, the contractual relationship created by the employment agreement serves as the legal basis for the processing of personal data. Employers and the HR consultancies and background verification services acting on their behalf are subject to the same rules.

A number of activities are forbidden in all three Baltic countries. For instance, employers may not communicate with a previous employer without the candidate's consent, and employers may not seek data on credit ratings, financial situation, and bank accounts. Also, across the Baltics, employers may not seek sensitive personal data on candidates such as information about gender or sexual orientation or genetic or medical information, nor may they require a candidate photo.

With regard to other types of personal data, the rules and the degree of enforcement differ across the Baltics. Generally speaking, Estonia is less restrictive, while Latvia and Lithuania are, at least formally, quite restrictive.

Collecting Personal Data from Public Sources

In Estonia, public sources (i.e., blogs, online photo albums, Youtube videos, online newspapers, Facebook, LinkedIn, Twitter, Google, third party credit information databases) may be used freely, as long as information available on the public sources was disclosed by the can-

didate voluntarily, but the employer must notify the candidate, who may request information about the data collected and the sources.

In Lithuania, information on publicly available professional social networks (such as LinkedIn), may freely be sought by the employer without the prior consent of the candidate, and the candidate's ignorance of the search is often tolerated. However, information posted on private, non-profession related social networks (such as Facebook and Pinterest) may not be sought by employers, regardless of whether consent is given.

In Latvia, information on both private and public networks may be sought, but only with the candidate's knowledge and consent.

Collecting Data from Non-public Sources

In all three Baltic countries, obtaining data from non-public-sources (i.e., private registries, previous employers, co-workers, credit institutions, etc.) requires the informed consent of the prospective employee, and the permissible scope is narrowly limited. The candidate or employee may ask the employer to correct inaccuracies and/or to stop processing such data.

Criminal Background Checks

The Estonian Punishment Register, a publicly available database containing punishments for misdemeanor (save for very minor ones) and criminal offenses facilitates criminal background checks. Data on any expired punishments can only be accessed by the person who is the subject of the data, or by an employer filling a vacancy in which the absence of criminal record is required by law. Employers may ask job applicants to submit their own criminal records if there is a justified interest.

Unlike Estonia, where criminal record registries are publicly accessible, both Lithuanian and Latvian laws permit employers to check criminal records only when required by law: for public official positions. In Lithuania, criminal records may also be requested for private sector C-level positions, but consent of the candidate is required.

In both Latvia and Lithuania, the common practice of checking criminal backgrounds through public media records is formally prohibited.

Collecting Data Made Public by Law

Data that is made public by law (i.e., court decisions, public registry data, company registry, land registry data, and official notices) may also

be sought freely in Estonia, but the employer must notify the candidate, who may request information on the data collected and the sources.

In Latvia and Lithuania publicly available personal data may be sought only with the candidate's explicit consent.

Processing Candidate and Employee Data

In all three countries, candidate data may be processed during the selection period and for a stated period thereafter. In Lithuania, unsuccessful candidate data may be kept for 2-5 years, in Latvia for 3 months, and in Estonia for one year. Any longer retention period is subject to candidate consent. The required terms of processing and storage of employee data differ in each country: In Lithuania for the term of employment + 10-50 years; in Estonia for the term of employment + 10 years, and in Latvia for the term of employment + 75 years.

Enforcement

In Estonia, the employer may not request data in which the employer has no legitimate justified interest, that intervenes excessively with the private life of the job applicant (or employee), or that is not directly related to assessing the suitability of the candidate to the job vacancy. The employer may not carry out a background check simply to check trustworthiness. In case of a dispute, the employer has to prove that a legitimate justified interest exists, and the scope thereof is interpreted narrowly.

In both Latvia and Lithuania, the local Data Protection Authority has a strict stance. Only data that is essential for a particular vacancy may be required, collected, or reviewed. Also, in line with recent pan-European guidance (Council of Europe recommendation CM/Rec(2015)5) the Data Authority considers the applicant him or herself as the primary data source for background checks, and the applicant's prior knowledge or consent is always required.

In practice, however, employers in both Latvia and Lithuania commonly seek public data about the candidate through Internet searches, public social network profile reviews, and from references by previous employers obtained without the knowledge or consent of the candidate. So far, the respective Data Protection Authorities in those countries have not targeted such practices.

Employers in all Baltic countries should be aware that, regardless of enforcement by the regulator, any collection of data that runs afoul of the rules could be subject to civil liability in an action brought by a candidate or employee.

Energy Markets in the Baltics



Vilius Bernatonis, Partner, Tark Grunte Sutkiene

Vilius Bernatonis, Partner and Head of Pan-Baltic and Lithuanian Energy Practice, Linda Strause, Partner and Head of Latvian Energy Practice, Aare Tark, Senior Partner and Head of Estonian Energy Practice and Eugenijus Filonovas, Senior Associate, Tark Grunte Sutkiene

Three Baltic countries are often viewed as a unified region, forming a single market. Even though Estonia, Latvia, and Lithuania are not as similar as they are believed to be, at least the energy markets of the three countries are slowly but steadily becoming united. Energy is a strategic sector for the Baltic countries, which are exploring ways to integrate their energy networks with European networks to increase their energy independence and security and to create alternative energy supplies.

Despite the common history and geographical proximity of the Baltic countries, their energy markets and policies are different. While Estonia is a net exporter of electricity due to oil-shale power plants, Latvia and Lithuania are dependent on importing electricity. The recently built Klaipeda Liquid Natural Gas (LNG) terminal has provided Lithuania with an alternative to buying gas from Gazprom. Although Latvia still remains dependent on gas imported from the Russian Federation, the Incukalns gas storage facility in Latvia stores enough gas to ensure short-term energy independence. Estonia, by contrast, is dependent on importing gas from other neighboring countries, including Russia. All of the three countries are importers of liquid fuel, but Lithuania has the only oil refinery in the Baltics. While Estonia and Lithuania have by now fully implemented the Third Energy Package, Latvia is still in the process of doing so – although the electricity market is fully liberalized, Latvia was granted a derogation from the Third Energy Package as an emergent gas market, thus the gas market in Latvia will not be opened before April 2017.

Nevertheless, the countries face similar struggles. Baltic countries were closely tied to the Russian energy infrastructure, lacking connections to Europe infrastructure. This has made the three Baltic countries essentially an energy island in the European Union. The countries have decided to cooperate as much as possible to solve the problem. As the most prominent effort, the countries have signed the Energy Security of Supply Declaration, committing to improve the interconnections amongst themselves and with the Scandinavian countries to make the region a part of the European energy

area. This is a dominant trend in changing the Baltic energy markets.

The process of building these interconnections is slowly unifying the Baltic energy markets. The Klaipeda LNG terminal and the Gas Interconnection Poland-Lithuania (defined below) are projects that will change the value chain of the natural gas industry in the Baltic region from a concentrated market dependent only on a single gas source due to technical limitations to a fully integrated gas market, allowing greater choice. Estonia has historically been dependent on imported gas from Gazprom. However, after the completion of the Klaipeda LNG terminal in Lithuania, the reliance on Russian gas is decreasing. In April 2015, only a few months after the completion of the LNG terminal, approximately 27% of gas consumed in Estonia was imported from Lithuania. Latvia also benefits from importing gas through Lithuania. In addition, the Klaipeda LNG terminal is planning to launch a small-scale LNG activity, which will provide access to LNG even to users that are not connected to the natural transmission and/or supply system. This project will allow reloading LNG in a small scale on vessels or vehicles and delivering it to users not connected to the grid. Moreover, this project – known as the Gas Interconnection Poland-Lithuania – will diversify the gas supply to Lithuania and enable the integration of the Baltic States into the EU gas market. Together with the Klaipeda LNG terminal, it will create a competitive gas market in the Baltic region, which should result in consumer friendly prices.

Interconnections also lead to lower prices. Following the completion of Estlink 2, a power cable between Estonia and Finland, electricity prices in the two countries are essentially equal. The positive effect of the cable was ironically proven in the beginning of May 2015, when, during an 18-day period in which the cable was

broken, the prices in Estonia and Finland differed, resulting in approximately EUR 3.6 million in losses for Estonian consumers. Latvia and Lithuania are also members of the Nord Pool Spot market, but neither of them is interconnected with the Nordic market. If the countries had better connections to the Nordics, their consumers would enjoy similarly lowered prices.

There are currently no bottlenecks between Latvia and Lithuania. However, the interconnector between Latvia and Estonia is regularly congested. In order to eliminate the shortage of electricity transmission capacity on the border between Estonia and Latvia, the countries have agreed to build a 330 kV overhead line from Sindi in Estonia to Riga in Latvia.

The Baltics will have even better links with the Nordic electricity markets in a few years time. As part of the NordBalt project, the interconnector between Lithuania and Sweden is in progress and the transmission networks in Latvia and Lithuania have been reinforced, improving the supply reliability in the region.

Likewise, the LitPol Link is a strategic cross-border electricity link between the Lithuanian transmission system and the Polish transmission system. The NordBalt and LitPol Link interconnections are projects of vital importance not only for Lithuania but also for Latvia and Estonia.

The ongoing electricity and gas interconnector projects are prerequisites for the common Baltic-Nordic and Baltic-Western Europe electricity markets. The interconnections will provide an alternative channel for electricity import and export in the Baltic countries.

Helpful Tips

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

Lithuanian Tax Policy: Stable v Stagnant



Karolis Racevicius, Attorney at Law, Dominas & Partners

Karolis Racevicius, Attorney at Law, Dominas & Partners

This year has brought substantial changes to the Lithuanian economy, as the country joined the Eurozone on January 1, 2015. By contrast, however, the Lithuanian government's tax policy has seen very few changes. In 2012, the newly elected Social Democrats promised to refrain from the fast and opaque changes that had led to the so-called "nocturnal" reform of 2008, in the middle of the crisis. However, this promise now seems to have turned into a de facto refusal to endorse any tax reforms.

The IMF has long observed that the Lithuanian budget is overly dependent on consumer and labor taxes. It also lacks progression – one of the reasons the Lithuanian income inequality index has become one of the highest in the EU. The IMF has always advised Lithuania to adopt universal real estate and vehicle taxes to tackle these problems. Although the threshold of the residential real estate tax base was lowered from EUR 290 thousand to EUR 220 thousand in 2014, this did not have much effect, as most real estate tax value is below this threshold and taxpayers found other ways to circumvent the

provisions.

Contrary to their promise to consult social partners on all fiscal policy matters, in 2013 the Lithuanian Parliament unilaterally passed a law allowing a deduction of only 70% of profit from the previous year's losses – i.e., 30% of profit is always taxed even if the company still has loss carry-forwards. The banking industry triggered this by using the huge loss carry-forwards accumulated during the crisis years to reduce their tax bill. Nevertheless, it affected all sectors.

In the beginning of 2015, the government introduced its so-called "New Social Model." This proposal mainly addressed the long-awaited liberalization of labor relations, but also touched upon certain aspects of tax and social security contributions policy. The government proposed to introduce a ceiling to social security contributions similar to the ceiling for social security payouts. It proposed starting to tax per diem allowances, which are frequently used by logistics companies and often comprise a significant part of drivers' salaries. The model additionally proposed incorporating certain self-employed individuals (specifically farmers, artisans, etc.) even deeper into the social security system (i.e.

to raise their contributions), as under the current system they would receive only the basic pension of EUR 150. Last, but not least, the government advocated paying basic pensions from the state budget, as opposed to the social security fund, within 10-12 years. This, in turn, should reduce the pension contributions' tariff by 12 points.

The "New Social Model" generated great controversy. The President, Ms. Dalia Grybauskaitė, stated that this model could become another new "nocturnal" tax reform if not discussed properly between all social partners. Left-wing politicians view the model as a substantial clampdown on labor rights, whereas liberals say the model does not go far enough. Most experts view it as a move in the right direction and encourage further discussion.

The Social Democrat-led government, in power since 2012, has not made any significant changes in tax policy. The "New Social Model" proposed just before the end of their term received controversial assessments and it is doubtful that it will be passed by Parliament before the end of 2016. Whether this government will be remembered in history as stable reformists or stagnant un-deciders lacking political will is yet to be seen.



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Inside Insight: Jurate Kuzborska-Girce

Head of Legal – Baltic States at Phillip Morris



Based in Vilnius, Lithuania, Jurate Kuzborska-Girce is the Head of Legal for the Baltics at Phillip Morris. Prior to joining the international tobacco company in 2013, she worked as a lawyer with Bite Lietuva for over 5 years. Before that, Kuzborska-Girce worked as a Legal Adviser for Baltics for Avon Cosmetics.

CEELM: Let's start with a few words about your career leading up to your current role at Phillip Morris.

J.K.G.: Immediately after my studies I started as a legal assistant in one of the largest household retail chains in Lithuania: Senukai. Ours was a relatively large legal department, consisting of six people. Everything was quite new to me but I was excited about everything that I was doing there: business meetings, reviewing contracts, advising colleagues, and more. I acquired basic knowledge in different legal areas, such as employment law, contracts, corporate governance, and others. To further grow professionally, I decided to join Avon Cosmetics as an in-house lawyer responsible for all three Baltic countries, and later for Finland as well. This role gave me the chance to broaden my knowledge of law and to enhance my skills as a lawyer. Avon was a great place to work and to grow professionally. However, after two and a half years in this company, I felt that I was not progressing much. My next position was in Bite Lietuva, one of the leaders in the telecommunications sector – a very new sector for me. I was responsible for employment, corporate governance, financing agreements, and the management of different M&A projects, which I enjoyed the most. Working in Bite was an extremely enjoyable and rewarding experience, not only providing me with ample opportunities to learn many new ideas, but also to try out these ideas in practice. These

opportunities helped me to develop my legal expertise considerably. It took me five years to master all new areas and to reach the top of my potential as a legal professional. And then came the proposal from Philip Morris, which I found to be very challenging and intriguing professionally, so I took it. I heard lots of impressive things about this company before I joined and my decision to accept the offer was an easy one. I feel now that I am living my dream.

CEELM: You are responsible for the Baltic states. While many tend to cluster the countries together, how similar do you find they are in practice when it comes to your role?

J.K.G.: Although the people and cultures differ in many ways – for example you would find different “average consumers” in each country – most of the legal principles are quite similar. For example, similarities exist in how competition laws or contractual relationships are viewed. Furthermore, such areas as data protection, temporary agency workers, and others are regulated in accordance with EU directives. The differences exist at the “execution stage,” as I call it. For example: Do you need to report a certain activity or not? Do you need only to register the activity or to receive a license as well? And so on. But in general, in terms of what concerns the legal environment, I really think that there are more similarities than differences.

CEELM: When you need to work with external counsel, do you tend to prefer firms that are present in all jurisdictions in the region or do you prefer to cherry-pick local teams?

J.K.G.: Actually, I prefer to work with people and not the firms. In other words, when I choose a certain law firm, I choose it not because of its name or presence in all three markets but because of the people working there. And that a certain law firm has a pan-Baltic network is not the key factor for me to choose them. Expertise, professionalism, efficiency, and customer focus are the deciding factors.

At the time I joined Philip Morris Baltic, they were working with many different law firms. There were some changes in this cooperation and the firms which we retained are reliable and have been a pleasure to work with. Due to the need of very specific expertise, we have also worked with some so-called “boutique” law firms, which are present only locally.

CEELM: You mentioned “customer focus” when it comes to law firms. What does that translate to in practice for you?

J.K.G.: Firstly, it means that the law firm lawyers are interested in and keen to further their knowledge about the business they represent, the client's products, and the competitive environment. Such knowledge brings great value to their legal advice. I really appreciate when the law firm updates and informs me about any case or even a current public dispute which could be of relevance to our business. I especially appreciate receiving such information from Latvia and Estonia, as I cannot always find out this myself. And finally, it also means that in an emergency, you can get things done overnight.

CEELM: The Baltic region has seen a number of reshuffling of law firm alliances. How, if at all, do such changes affect you as a potential client?

J.K.G.: These changes affected us a bit as well. We had to change some law firms because we followed the people we were working with. But this only required some additional administrative resources without any impact on how we work with them. I see the reshuffling of law firm alliances as a healthy practice and a very natural move in this competitive market.

CEELM: Can you elaborate on that? Why

do you believe they are healthy?

J.KG.: I see great opportunities in any change. Change is a life-force enabling us to learn new things and develop further. As for the law firms, reshuffling can encourage them to look at the same legal issues from a different angle and to come up with new ideas and possibilities. It can also bring new possibilities in client relationship. Recently, the partner of one law firm which went through this reshuffling told me that they would be able to provide even more qualitative services to the client. The future will show if that materializes, but at least it looks auspicious.

“Actually, I prefer to work with people and not the firms. In other words, when I choose a certain law firm, I choose it not because of its name or presence in all three markets but because of the people working there ... Expertise, professionalism, efficiency, and customer focus are the deciding factors.”

CEELM: According to a Philip Morris press release recently, “the scale of the illegal trade in cigarettes remains sizable in the European Union, with a total of 56.6 billion illegal cigarettes consumed in 2014, representing 10.4% of total consumption.” What does your team do to meet this challenge?

J.KG.: All the three Baltic States are among the highest illicit cigarette trade countries in the EU, and this is mainly due to their geographical location. In fact, the Baltics suffer not only from illegal cigarette trade, but also from illegal transit to other EU countries. Therefore, we should consider the impact of extreme regulation not only in Lithuania but across Europe that could inadvertently lead to an increase in the illicit trade, as the market for cheaper, branded, or fake cigarettes becomes more profitable for criminal gangs.

Therefore, this is a big issue and one of the focal points of our organization. As the Legal Department, we support our colleagues working on different projects to tackle the illicit trade issue. For example, several years in a row we have initiated anti-illicit campaigns to address the problem of illicit trade in cigarettes and the Legal Department contributed to this as well. We also help to identify the gaps in legislation which, when improved, could also contribute to the reduction of the illicit trade in the Baltic States.

CEELM: Advertising requirements in the

tobacco industry are particularly challenging to maneuver, and any slip stands to cost the company a great deal. What kind of systems have you set up internally to coordinate with your other business functions in order to mitigate these types of risks?

J.KG.: We believe in the value of reasonable regulation and support this idea in various ways. For example, we think that warning smokers and non-smokers about the serious adverse health effects of smoking is a fundamental objective of tobacco regulation and we support it. We do not, however, support excessive or unreasonable regulations.

When it comes to advertising itself, as in most of the EU countries, we do not have absolute freedom of advertising of our product and we have very limited possibilities to inform adult consumers about any changes we have made to the product (i.e., to provide factual information). Any such an attempt might be challenged by the authorities. Therefore, each item, article, job advert, or other material distributed internally or externally is reviewed by the legal department. While such a control often creates huge workload for our department, this nonetheless pays off, leading to a decrease in the risk of legal disputes with controlling institutions.

CEELM: From a regulatory standpoint, what do you believe is the biggest challenge for you and your team in the Baltics?

J.KG.: Currently the biggest challenge for our industry is timely transposition of the new Tobacco Products Directive (“TPD”) into local laws. While a little progress has been made to transpose the TPD in Lithuania, the process of TPD transposition has been significantly delayed in Latvia and Estonia. Having in mind the necessary lead times and the deadline of May 20, 2016 for the transposition, our industry has already incurred some investment and running costs in order to start the preparation of the manufacturing process. Furthermore, the lack of clarity on several critical elements makes it difficult for us to ensure timely compliance with the new requirements of TPD.

Apart from the above, we have been faced with similar challenges as, I think, any other regulated industry would face, such as – for

example – ambiguous regulations, and their uncertain interpretations by regulators.

CEELM: In many CEE jurisdictions, General Counsel and Head of Legal commonly complain about the accelerated rate of regulatory changes making it difficult to stay apprised of all developments. Do you find that to be the case in your markets?

J.KG.: This is true in fiscal and social area regulations, as these are very political topics. You can expect changes in these areas with every new government or with any turbulence in the budget. There were some noticeable changes in labor law in Latvia; there are also current discussions on the new Labor code in Lithuania. However, apart from that, I would say that the situation is quite stable and manageable.

CEELM: What tools do you tend to use to keep apprised of regulatory changes and which do you find to be the most effective? Do you tend to follow the official gazette, consult with external counsel regularly, work directly with regulators, etc?

J.KG.: In Lithuania, I try to follow the official gazette, as I think this is the most efficient tool to inform myself of any regulatory changes. However, due to the language barrier, I cannot do the same in Latvia and Estonia. In these countries, I rely on the law firms a lot. Some of them, on their own initiative, inform me of any significant developments in the laws or case law related to our industry. Regular updates from law firms on different legal matters are quite helpful as well. In any case, as concerns important and sensitive areas (e.g. labor law), I regularly update myself by asking the law firms if a certain provision is still valid or applicable in our context.

CEELM: On the lighter side, if you were to start all over and pick a different profession, what would it be?

J.KG.: When I was a child, I dreamt of being an actor and winning an Oscar. This however remained only at the stage of a nice childhood dream. When I look back, I think that my choice to become a lawyer was wise, and, if I had to choose again, I would undoubtedly choose to be a lawyer again. I like my job enormously and appreciate being able to contribute to the company by providing my extensive knowledge and experience in business problem solving, the interpretation of sometimes complex legal matters, and the explanation of them into an everyday language, or as I say, “the human language.”

Radu Cotarcea

Inside Insight: Priit Lepasepp

General Counsel at Nelja Energia



Priit Lepasepp is the General Counsel at Nelja Energia AS – the leading wind energy company in the Baltics, with an operational portfolio of 220 MW. He has been with the company since November 2011. Previously he worked as an Associate with Sorainen in the firm's Tallinn office.

CEELM: Can you tell our readers a bit about your career leading up to your current role?

P.L.: My career started in 2007 with a summer traineeship with the Sorainen law firm, where I was offered an entry position as a legal assistant for the real estate team in Tallinn. After obtaining my master's degree in law, I started working as an Associate in the same team. Although I was working on the real estate team, I started to build up my knowledge in environmental law and serve clients who had problems or questions which needed to be solved in that field. At a certain point I understood that to learn faster and gain more experience in that field, I need to work as an in-house counsel. Just my luck, a renewable energy company was looking for an in-house counsel, and without any hesitation I sent them my cover letter and CV. By now, I have

worked for Nelja Energia for almost 4 years, during which time the company has grown rapidly to become one of the biggest wind energy producers in this region. Today I am the General Counsel of Nelja Energia.

CEELM: What does a regular day in the office look like for you – what ends up taking most of your time?

P.L.: Before my regular work day starts I usually go through my e-mails, list of projects, cases, and tasks that I am responsible for. Among other things there is always a list of issues that needs to be handled during that day, the tasks which I know mean I can not leave the office before they are done. This means that my working days are not brothers – most days do not look similar at all. In addition, Mondays (for some hours) and Wednesdays (for half a day) are for internal meetings,

where day-to-day, development, and technical issues are analyzed and discussed.

Most of my time is related to legal work outsourcing, e.g., finding the suitable team, managing and leading the legal team, and helping the project managers to reach their goals and succeed in their tasks. This also means reviewing drafted documents and keeping the management of Nelja Energia up to date.

CEELM: Since you mentioned legal work outsourcing, when you need to externalize legal work, what are the main criteria you use in selecting the firms you will work with?

P.L.: External legal advice is mainly procured in new projects or bigger disputes. Nelja Energia uses different law firms and the main criteria are the experience of the lawyers and the size of the team.

CEELM: You mentioned that a great deal of your time is spent on managing external counsel. Have you set up a permanent panel of firms to minimize the time spent on identifying the right teams? If yes, how many firms does it include and how often do you revisit the composition of the panel?

P.L.: We have established a panel of law firms we use on a daily basis, but in case of bigger projects/disputes we always procure from among several reputable law firms. In that sense the list is always open. If a law firm is already chosen, we usually use the same law firm or the lawyers until the project is ready and/or concluded.

The panel is reviewed as often as necessary, and when an external advisor provides excellent service, we will most definitely try to give them the opportunity to assist us again in the future.

CEELM: In light of Nelja Energia's focus on renewable energy, in what ways would you say your role is different from GCs in other energy companies?

P.L.: Although Nelja Energia has only 40 employees due to the fact that we are mainly a wind energy company, it manages assets with a value over EUR 400 million. Nelja Energia is always looking for new investment opportunities and the goal is growth. Sizes of energy companies differ, but the GC's role remains more or less the same. In general the GC role is to manage the legal risks of

the company and provide diligence for the business. Usually, external lawyers see the risks and obstacles, but the GCs task is to understand the obstacles, get over them, and if possible then use the obstacles in favor of the company.

CEELM: The EBRD has recently exited its minority shareholding in the company. In what ways did its past ownership impact your work? Were there specific compliance requirements you had to handle, or reporting, for instance?

P.L.: When I started at Nelja Energia, the EBRD was already a shareholder of the company (doing business as Freenergy at that time) and by that time the compliance requirements were already in place. After the EBRD exited, the reporting and the compliance regulations remained the same – or even increased. So, reporting definitely has been, is, and will be an important part of Nelja Energia.

CEELM: The company also owns SIA 4Energia (100%) in Latvia and UAV 4Energia (84%). Did you opt to build local legal teams in these jurisdictions or did you decide to rely primarily on external counsel for legal matters there?

P.L.: Nelja Energia's structure is simple. Assets are owned by the Nelja Energia AS and

SIA 4Energia and UAV 4Energia are the management companies. Due to this fact the overall in-house legal capacity is in Tallinn. In cases where the Latvian and Lithuanian management companies need legal advice these issues are settled through external experts. The same applies for Nelja Enegria AS. Even though the company has an internal legal capacity, some issues still have to be procured from external legal advisors.

CEELM: Since you require external legal support (presumably) fairly frequently in Latvia and Lithuania, do you tend to prefer working with regional firms or alliances that have a presence in all of the three markets as a one-stop-shop solution?

P.L.: We tend to use law firms that are present in all Baltic states, but this does not mean that we automatically prefer one-stop-solutions. In almost all cases we prefer long-lasting relationships with our external legal advisors. This means that we go to professionals with whom we have had a good track record and usually a long lasting problem-free co-operation. Through long term collaboration it is easier to manage the costs and risks related with external advisors.

CEELM: The main shareholder of your company is a Norwegian company. Do you notice any cultural influence in the manner the legal function is run as a result of this?

P.L.: Yes, the cultural influence is definitely there, but I think that I am the wrong person to ask about the particularities. Before joining Nelja Energia I worked in a law firm which had Scandinavian origins. I have enjoyed working with Finns and Norwegians and their style of business is rational and comprehensible.

Any owner wants to have a valid overview about his/her investment's well-being (which in our case means a monthly reporting system), test each investment before executing a decision, and provide reasonable surveillance over the business.

CEELM: What, if anything, do you believe the regulators could do to further facilitate renewable energy projects in the country?

P.L.: In Estonia the main concern is the possibility that the subsidy scheme will be changed. This issue has been coming since 2010. This has had a big impact on foreign investors' confidence into investing to Estonia. The main goal should be deciding how to continue, and if – and how – the system should be changed so that the existing investors do not feel betrayed and new investors have some assurance to make new investments.

Radu Cotarcea

Inside Insight: Ilze Slakota General Counsel at UralChem, Latvia



Ilze Slakota is the General Counsel of UralChem – a leading producer of nitrogen and phosphate fertilizers in Russia/CIS – in Latvia, a position that she has held for over 5 years. Prior to joining UralChem, she worked as a Legal Counsel for Alta Capital Partners for over 2 years and as a Senior Lawyer with SEB Banka Latvia for 4 years.

CEELM: Please describe your career leading up to your current role with UralChem.

I.S.: After the end of my first year at the university where I chose to study International Law, I joined a law office that was led by the former Minister of Justice of Latvia, attorney Gaidis Berzins. I joined the firm as a trainee. I was successfully able to attend most of my classes at the university and juggle between both work and studies, but I have to admit, unfortunately, there was not so much time left for parties.

The next step was joining the team at SEB Banka (the former Unibanka), where I primarily dealt with corporate crediting and legal support for corporate client deals. After spending 4 years at the bank I accepted the biggest challenge to date for me at the time and joined the private equity investment company Alta Capital Partners, holding the posi-

tion of sole Legal Counsel in Latvia. Then I was offered a position of General Counsel in UralChem Trading and I have been here since 2009.

CEELM: Your previous experiences tended to revolve around banking. Why did you opt to change sectors?

I.S.: I must admit that my father, who was a banker for many years and was a great source of professional inspiration for me, was the one who got me interested in the banking field. As time passed, however, I came to re-

“I understood that you learn much more in such intense and difficult conditions than when calmly spending the days in everyday routine work at the office”

alize that I was too young for such a peaceful life, where all is set, structured, and stable, and I needed some fresh air and cold water to take me out of my comfort zone. Therefore, I turned my professional life around 180 degrees and have never regretted it.

This decision led me to the next opportunity that, once offered to me, I gladly accepted. Starting to work for such an impressive company as UralChem was one of my life's turning points. Since I left the banking sphere my working life has been fast-paced – and that's putting it mildly. But one should never say never, and I would not be surprised if, at some point, I would get back into the banking sector again, but now with more extensive knowledge to share and diverse views on relevant processes.

CEELM: What types of legal work keep you the busiest as a GC of a producer of nitrogen and phosphate fertilizers?

I.S.: Everyday routine is very well organized so I do not have to participate in these processes that much – the traders and their assistants are great professionals and do their jobs more than well. I am involved in different kinds of new projects led by our holding company that involve opening new markets and implementing management's new business ideas. For instance, our group recently acquired a controlling share in Ventamonjaks – the largest liquid ammonia transshipment terminal in the Baltic Sea. Before that, we, with our partners, built the Riga Fertilizer Terminal: the most advanced and safest terminal in Northern Europe for transshipment and temporary storage of bulk fertilizers. Such projects, among others, keep me busy.

CEELM: Since you mentioned this, your

company has invested EUR 60 million in developing its own transshipment terminal. Setting it up, undoubtedly required a great deal of legal work as well. What were the main challenges for your legal team in the project?

I.S.: That is true, developing our transshipment terminal did require a huge amount of legal work, but I must say that the legal team was run from our headquarters. We all had our part of the job to be responsible for. The challenging part was the diverse nature

of this impressive and complicated project that required the ability to learn fast and react proactively.

CEELM: Can you give us some specific exam-

ples of the range of legal work this project included?

I.S.: For instance, different legal research had to be carried out since specific permits had to be acquired on several stages of the project. Legal research had to be done very carefully and in-depth as one incorrect opinion could result in the refusal to obtain one or another permit. Thanks to our headquarters, all steps were taken with the utmost responsibility.

CEELM: You mentioned needing the ability to learn. What were the main areas you feel you developed during this project?

I.S.: I understood that you learn much more in such intense and difficult conditions than when calmly spending the days in everyday routine work at the office and not challenging yourself. I developed the ability to work together with a very big team both here and overseas, planning every step, and making sure that nothing was overlooked. I gained insight into the port's life, how such projects are led, and structured.

CEELM: Operating its own port terminal undoubtedly provides for improved efficiency of the company's logistics group, but it must also generate recurring legal work for your team. What kinds of work has it generated for you, and have you opted to assign a person to be in charge of these aspects?

I.S.: Until the start of full operation of the terminal we supported it both from the legal and logistics side. Currently, as the terminal is fully operational and functions as intended, the terminal has its own team of profession-

CEELM: And does this team of legal professionals for the terminal report to you directly or someone else? Why did it make sense to structure it this way?

I.S.: They report to our holding company and their management. I think it makes lots of sense to have a legal team on the spot for such a terminal because the business is quite specific and requires continuous presence to understand the processes and necessities of the terminal better.

CEELM: As a Russian company in Latvia, have recent sanctions impacted your work in any manner?

I.S.: Looking back to the last year's good results of ours – no, sanctions have not impacted our work in a bad way. Yes, we had some minor issues with re-planning at some points, but that was not significant.

CEELM: What type of legal work do you tend to outsource to law firms and which do you prefer keeping in-house?

I.S.: We usually outsource projects that involve foreign jurisdictions, specific knowledge in narrow fields, obtaining objective views from outsiders, and big projects to law firms.

CEELM: On a personal side, you are a board member of the UralChem Charity Foundation. What is its objective and why did you become involved?

I.S.: Considering that UralChem is a socially responsible company and we take care of those who are in need, particularly children, and their health, education, and sports, not to mention cultural events, establishing our own charity foundation was just logical. Our main focus is still on children. My involvement into this unexplored field happened naturally and for me imperceptibly, step by step.

Radu Cotarcea



Want to learn more about other practice areas or gain insight into specific jurisdictions or industries? CEE Legal Matters has compiled all deals reported on and submitted to us throughout 2014 in one indexed, sortable, and easy to search online list.

Readers can access this list at www.ceelm.com/2014-deal-list

Expatriate on the Market: Matthias Strohmayer of Varul in Latvia



Matthias Strohmayer is an Austrian lawyer currently practicing as an Associate with Varul in Riga, Latvia, where he focuses on real estate, unfair competition, and intellectual property law. Before joining Varul he worked at the Hobne, in der Maur & Partner and Emberger law firms in Vienna as well as at the Austrian Supreme Court of Justice and the Court of Commercial Matters.

CEELM: How did you get to your current role in Riga?

M.S.: Until September 2014, I worked as a lawyer in Austria, specializing in real estate, unfair competition, and intellectual property law. Around the time when I passed the bar exam in 2012, I decided that I want to go to Latvia. I started looking for a law firm where I could immediately be put to good use (even before knowing how to speak Latvian). I looked for an “international” firm. Varul, with offices in all the Baltic states and many international clients, was the best fit.

CEELM: Did you have any previous connections or experience with Latvia? Why did you want to go there instead of, say, Poland, Germany, or Brazil?

M.S.: I spent a lot of time here before and I have Latvian acquaintances in Austria. I love the country and I see more potential here than elsewhere. Furthermore, Latvia is not too far away from my home country and it’s easy to keep in touch.

CEELM: Was it always your goal to work

abroad?

M.S.: The possibilities of the Baltic markets have always been of great interest to me. I want to use my knowledge to foster business from abroad – to provide better solutions for existing demand.

CEELM: Has being an expatriate been an asset or a disadvantage in your career so far?

M.S.: At Varul I focus on clients that need my foreign law/language skills. These skills as well as my foreign approach to domestic legal matters turned out to be of high value.

CEELM: Does Varul make particular use of you as an expatriate, either in business development, or marketing, or anything else? Or are the expectations for you exactly the same as the firm’s non-expatriate associates?

M.S.: I have the best of both worlds: Since coming to Latvia I have spoken about Germany’s and Austria’s legal systems at various

events. Next month I am going to attend the 2015 Public-Private-Partnership summit in Vienna as the official representative of the Latvian PPPA (“Public and Private Partnership Association”). These assignments were born out of my role as an expatriate. But when I am dealing with international cases at the Varul office, I often act in the same role as the firm’s non-expatriate associates.

CEELM: There are obviously many differences between the Austrian and the Latvian legal markets. What idiosyncrasies or unique elements (challenges, opportunities, or anything else) involved with the practice of law in the Baltics stand out the most?

M.S.: One striking difference is that in Latvia, representation by a lawyer is not required in civil cases (except in front of the highest court), whereas in Austria representation by a sworn attorney-at-law is required almost universally. This might seem like a disadvantage of the Latvian market. In my opinion it is an opportunity to make the case for our added value. Another prominent difference in day-to-day life is that in Latvia, sworn attorneys-at-law are always required to provide a notarial certified power of attorney. In Austria, by contrast, sworn attorneys-at-law are not required to show such a document. A power-of-attorney can even be given orally. The sworn attorney-at-law then merely refers to it.

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

M.S.: Having connections to foreign countries is valuable in today’s globalized world. Expats furthermore add different (foreign) view-points and insight to existing cases and can establish additional trust.

CEELM: Other than Latvia and Austria, which CEE country do you enjoy the most?

M.S.: It’s hard to rank them. But I definitely enjoyed sailing in Croatia last summer.

CEELM: What one place in Riga should visitors make sure not to miss?

M.S.: We would love to give you a tour of our office anytime. Feel free to drop by.

David Stuckey

Next Issue's Market Spotlights



Austria

Serbia

Experts Review: Life Sciences

Summer is here! The ice is off our rivers and lakes and into our teas and coffees, and the chill is out of our bones and into our lifestyles (warning: advanced English vernacular needed to understand reference). So, to celebrate the arrival of the most relaxed, laid-back, happy time of year, we're going to organize this issue's Experts Review articles – focusing this time on the subject of Life Sciences – in order of average national temperature. Turkey, which leads CEE with an average temperature of 12.4 degrees, is first. And Estonia, one of our Market Spotlight countries this issue, is last, at 5.5 degrees, per average.

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The Inside Insight Scoop

We asked two of our General Counsel friends in the Life Sciences sector to give us some insight on the particular regulatory challenges they face the course of business.



“Many authorities in the emerging markets are increasing their regulatory requirements. Some regulatory authorities, however, do not put in place the necessary resources to implement these new and increased requirements, which can lead to delays in getting new medicines on to the market, and may create challenges in respect to ongoing regulatory requirements, for example renewal of licenses and label changes. At the extreme end, some authorities are unable to accept renewal applications, for example. The high level of ambiguity that sometimes exists in the laws and regulations is another challenge which can lead to a high level of legal uncertainty. One way to address this challenge is to have an open dialogue with the authorities in question, to address these challenges and get clarification on their approach, either on an individual company level or via an industry association.”

– Roswitha Reisinger, General Counsel in Emerging Markets at Eli Lilly



“The pharmaceutical and life sciences industry is among the most heavily regulated in Hungary, as it is elsewhere in the world. The regulatory compliance challenges are unlikely to abate anytime soon. We must adopt our local business to rapidly evolving regulatory and market-driven pressures. We face greater transparency expectations, complex supply issues, increasingly strict reporting obligations, and heightened regulatory scrutiny.

Bayer has always strived to ensure that compliance is considered a competitive advantage. We seek not only to avoid fines and other negative consequences, but we incentivize compliance and feature its positive aspects. Therefore in 2014 Bayer launched a new project to foster compliance management: the identification of potential risks and ways of mitigating them by implementing appropriate preventive strategies. Our program helps employees to understand exactly which compliance risks they may encounter at work, and it ensures that no regulations are breached as long as staff adheres to normal business and administrative processes. By moving beyond regulations towards a systematic integration of specified processes and monitoring, Bayer employees and representatives may benefit from greater clarity and a clear set of standards.”

– Szilvia Bognar, General Counsel, Corporate Compliance Manager at Bayer Hungaria

Turkey

Turkey Moves Towards a Protectionist Pharma and Medical Devices Industry



With both legislative changes and policy declarations, the Turkish government recently initiated a major shift in the Turkish pharmaceuticals and medical devices industries in favor of domestically manufactured products.

Preferential Treatment for Domestic Products; Localization and Technology Transfers

In mid-2014, Turkey changed the rules for public procurement, granting a 15% price advantage for domestically produced goods. Previously, Turkish law had permitted, but did not require, a 15% price advantage for local suppliers. The law also permitted a price advantage of up to 15% for domestic products. The 2014 legislative change, however, made it compulsory for procuring governmental entities to provide a 15% price advantage for “hi-tech” domestic products, including many pharmaceuticals and medical devices.



A new Off-Set Regulation also introduced new rules on large-scale procurements. For public procurements of more than USD 10 million, the government can require participants to provide innovation, localization, and technology transfer in the relevant industry. The aim is to balance the negative impact of large scale foreign

product procurement on the country’s current account deficit. In the healthcare industry, this mostly applies to recurring pharmaceutical and medical device procurements. Participants may be required to manufacture locally through existing facilities, invest in Turkey to build new manufacturing facilities, establish technological cooperation in the local industry, or agree to export a certain quantity of the products.

Upcoming Changes Favor Domestic Products Beyond Public Procurement

Even more significant protectionist legislative changes are on the horizon. In November 2014, Turkey unveiled its Action Plan for Structural Reform in the Health Industry (the “Action Plan”). The Action Plan, a component of Turkey’s tenth five-year development plan (2014-2018), focuses on developing local manufacturing of pharmaceuticals and medical devices with the aim of helping reduce Turkey’s current account deficit and budget deficit, as a vast majority of these products are imported and paid for by the government through the public

health insurance program. The actions include, among others, financial incentives for public healthcare institutions to procure locally-manufactured products; prioritizing domestic products through licensing, pricing, and reimbursement procedures; preferences for exported products in reimbursement applications; and incentives for R&D and clinical trials.

Criticism of the New Policy

Free market advocates criticize the Action Plan. Criticism focuses on the risk of harming the Turkish pharmaceutical and medical device industry’s international competitiveness by favoring domestically produced products. With no competitive pressure in the Turkish market, domestic products will enjoy a level of safety in Turkey, but their competitiveness abroad will be reduced. The policy shift is also criticized for potentially reducing patients’ access to better quality medicine as a result of delays in access to imported medicines.

Critics also accuse the Action Plan of violating international conventions. The WTO’s General Agreement on Tariffs and Trade (“GATT”) prohibits discrimination against foreign products, except for public tenders. Turkey, as a party to GATT, would likely violate the multilateral agreement if it puts in place a regulatory framework prioritizing locally-manufactured products through licensing, pricing, and reimbursement procedures.

GATT, however, does exempt public procurement laws from the non-discrimination rule. Therefore, recent and upcoming changes favoring domestic products in public procurements would not violate the agreement. While the WTO Agreement on Government Procurement prohibits discriminating against foreign products even in public procurements, Turkey is not a signatory.

Conclusion

Turkey has long suffered from a high current account deficit caused, in part, by the import of pharmaceuticals and medical devices, which are high value-added products for national economies, particularly if the core research is conducted locally. The means to achieve an advanced healthcare-products industry, however, remains a question mark for Turkey. Choosing the wrong path could lead to a less competitive industry and do more harm than good. Healthcare companies should examine the potential implications on their business of this policy shift and upcoming regulatory changes.

Daniel Matthews, Managing Partner, Baker & McKenzie, and Hasmet Ozan Guner, Attorney, Esin Attorney Partnership, a member firm of Baker & McKenzie

Next Issue Experts Review:

Technology, Media, and Telecommunications



Bulgaria

Bulgarian Constitutional Court Declared Monitoring Mechanism of Parallel Trade of Reimbursed Drugs Partially Contrary to Freedom of Commerce



On March 4, 2014, amendments to the Bulgarian Medicinal Products in Human Medicine Act of 2007 (the “2007 Medicinal Products Act”), creating a notification regime for exports of reimbursed drugs, entered into force. Those amendments impose a new obligation on wholesalers to notify the Bulgarian Drug

Agency (BDA) in advance of any export operation of drugs included in the Positive Drug List (“reimbursed drugs”), including exports to other EU member states. According to the explanatory memorandum to the enacted amendments, their aim was to introduce a monitoring mechanism of parallel trade of reimbursed drugs that would allow the relevant institutions to intervene in case of drug shortages with the potential of putting public health at risk.

Only holders of a wholesale drug license or a drug manufacturing license were allowed to engage in drug export, with the allowance for manufacturers applying exclusively to drugs they produced. Where reimbursed drugs were exported by a holder of a wholesale drug license, the wholesaler was under the obligation to provide the BDA with information regarding the quantities and destination country of every separate export operation.

Under the 2014 amendments, upon receipt of this notification, the BDA had to obtain information from the holder of the drug use license on the sales of the given drug – apart from drugs of the same group used to cure the same disease(s) – for the 6 months preceding the notification, because it was the holder of the license that was required to ensure that sufficient quantities of the drug were available. Then the BDA had 30 days to object to the export, with non-objection considered a tacit authorization of the export. The BDA was allowed to ban the export on the following grounds: (1) the quantities available of the drug on the territory of the Republic of Bulgaria at the time of the notification are insufficient to meet the needs of the Bulgarian population; (2) the export could result in a temporary insufficiency of the drug due to which the needs of the Bulgarian population would not be met; or (3) insufficiency of the drug could seriously endanger public health.

Those latter amendments were attacked before the Bulgarian Constitutional Court (the “Constitutional Court”) for introducing a restrictive authorization regime for drug exports.

By judgment of January 29, 2015, the Constitutional Court agreed and declared this regime contrary to the freedom of commerce enshrined in the Bulgarian Constitution.

The Constitutional Court held that the ability of the BDA to ban drug export clearly transformed the notification regime into an authorization regime. Therefore, according to the Constitutional Court, under the 2014 amendments, in addition to holding a general wholesale drug license, wholesalers also needed to receive authorization following analysis of the given drug’s sufficiency on the Bulgarian market.

The Constitutional Court noted that the grounds on which the BDA is empowered to ban the export of reimbursed drugs do not take into account the reasons behind the drug shortage, the causal relationship between that shortage and parallel trade, or the possible existence of generic substitutes. According to the court, the wording of all three aforementioned bases for bans are ambiguous (e.g. “insufficiency”) and, in particular, use terms that have not been statutorily defined. Therefore, it allows arbitrary applications by the administration and results in unequal treatment among exporters.

The Constitutional Court held that those grounds not only fail to create a balance between protection of public health and freedom of commerce, but also generate contradictory expectations and legal uncertainty incompatible with free trade. Accordingly, such limitations are not in line with the principle of proportionality.

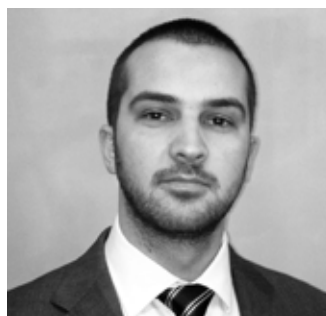
It is worth noting that, at the end of its judgment, the Constitutional Court pointed out that legislation must strictly comply with free movement of goods incorporated in the Treaty on the Functioning of the European Union, and that its present judgment was adopted in the context of a complaint before the European Commission regarding the compliance of the examined legislation with free movement of goods.

Following the Constitutional Court’s judgment of January 29, 2015, the BDA is no longer empowered to ban export of reimbursed drugs. However, the obligation to notify the agency subsists, and wholesalers who wish to engage in the export of reimbursable drugs need to comply therewith. Fines for non-compliance with this obligation are among the highest provided for by Bulgarian law.

Gabriela Edreva, Associate, Head of Competition & EU Law Practice, Pavlov and Partners Law Firm in cooperation with CMS

Romania

Competition Policies in the Distribution of Pharmaceuticals; An Insight Into the Romanian Market



It has been two years since the Romanian Competition Council (RCC) launched, by virtue of an order of the RCC President, a sector inquiry on the national pharmaceutical industry, in a risk-assessment trial run to address potential malfunctions of an anti-competitive nature.

The inquiry followed a preliminary study conducted by the RCC on the commercial evolution of the generics market and its interaction with the innovative medicines industry, evidencing that, despite initial forecasts and expectations, generics sector growth did not surpass the market share of innovative medicines.

On the basis of this preliminary evidence, the RCC narrowed down the sector inquiry initiated in 2013 to the current level and growth rates of the generic medicines market, mainly zeroing in on the model of distribution currently used by pharmaceutical companies and medicine producers and its prospects for evolution.

An increasing share of the industry is currently considering adopting the implementation of a direct-to-pharmacy (DTP) model – which is already common practice in many EU and non-EU countries. The RCC indicates that many pharmaceutical producers wishing to gradually abandon the classic distribution system are now opting for a modified supply chain model. Traditionally, medicine manufacturers transfer their ownership rights to products to wholesalers or dedicated distributors, who subsequently become the main suppliers to pharmacies and/or hospitals and/or other distributors, determining their own clientele and resale prices, and thus leaving no room for pharmaceutical companies/producers to maintain control over supply chains and set their own trading conditions. The new trend in the supply chain structure, however, takes the form of a DTP model, and calls for companies to sell their products directly to pharmacies and/or hospitals or appoint a reduced number of distributors or logistic service providers to deliver the products on their behalf, as the case may be.

On a theoretical basis, DTP is a distribution system that could optimize pricing policies in the pharmaceutical industry, enabling medicine manufacturers to shape and implement their own terms and conditions, while monitoring the supply chain in its entirety and taking almost full responsibility over delivery of their products to patients, thus ensuring high service levels. By modifying their distribution arrangements in line with the DTP model, producers enhance their industry-leading position in reducing parallel imports and tackling major legal hurdles that may arise from counterfeits trade, product shortages, and other logistic and quality control problems.

However, the rigid regulatory framework in Romania is currently putting forward significant challenges in the implementation of a DTP distribution system in lieu of the traditional supply chain procedure. Accordingly, pharmaceutical companies and medicine manufacturers are not yet able to assess the risks that a potential change in distribution structure may pose on patients, wholesalers, or even the manufacturers themselves, or be aware of any problems that may be raised in terms of competition and anti-trust policy.

By means of their sector inquiry, the RCC wishes to pay special attention to those specific competition issues that may show up in case of a change in the distribution process, including but not limited to parallel trade complaints, abuse of dominant

position, export ban investigations, contractual restrictions on parallel exports/imports, intra-brand competition issues, price setting, and anti-dumping policies.

In order to issue a final opinion with respect to the introduction, implementation, expansion, and possible anti-competitive nature of a DTP model, and to determine the legislative and policy reforms that should be brought into play, the RCC is currently establishing active cooperation with national pharmaceutical companies/medicine producers by issuing a series of questions (usually in the form of questionnaires) requesting, inter alia, information on marketing/promotion/advertising activities and budgets, documents, or other statements, aiming at determining their intentions and assessing all potential risks in the sector for all stakeholders involved.

In a press release issued in April 2014, the RCC announced certain preliminary findings from its sector inquiry, highlighting ways that limited distribution systems may operate in practice. Having examined a set of cases where the traditional distribution system has changed to DTP or limited distribution models, the RCC confirmed a significant decrease in discounts transferred by the distributors to the pharmacies.

In light of RCC's preliminary findings and until the sector inquiry reaches a final standpoint and a complete risk assessment report is delivered, the RCC recommends that all market players and companies involved and engaged in the distribution of pharmaceutical products in Romania (manufacturers and/or distributors) put on hold any scheduled moves in modifying, in any way, distributorship agreements currently in place or abandoning the actual traditional distribution structure and model, by selecting alternative distribution outlets. The RCC expects that a final opinion and the respective risk assessment guidelines will be issued in due course.

Laurentiu Gorun, Partner, Drakopoulos

Serbia

Approach to Regulatory Issues in Serbian Pharmaceutical M&A



tion to this general rule.

Before a foreign-based purchaser acquires a Serbian pharmaceutical company, a thorough due diligence review is in order. In the pharmaceutical industry, due to complex and strict regulations, the target's failure to fully comply with regulatory requirements may pose significant risks for the purchaser. Serbia is no excep-

Prior approval (marketing authorization) is required for a medicine to be placed on the Serbian market. This authorization

is issued by the Serbian Medicines and Medical Devices Agency (the “Agency”), for a period of five years. When the target company holds one or more such authorizations, due diligence requires a review of all authorizations issued for the company’s pharmaceutical product portfolio which falls within the scope of the transaction.



The buyer should pay particular attention to the deadlines within which each marketing authorization will expire. If the purchaser intends to continuously market the medicine, the marketing authorization holder (“MAH”) or, depending on the relevant moment, the purchaser as the new owner, is obliged to submit requests for renewal

to the Agency no later than 90 days prior to expiration of the marketing authorization. If this deadline is not complied with, the Agency may revoke the marketing authorization.

As a general rule, a MAH may transfer its marketing authorization to another company. This transfer is subject to prior approval by the Agency. The approval includes labeling and packaging requirements which the recipient company must fulfill within 12 months from the transfer. The purchaser of the target company should therefore pay attention to whether the company has obtained marketing authorization from another MAH for other medicines in the past, and whether the company has complied with its obligations under the Agency’s approval of that transfer. A failure of the target company to act in accordance with the terms of the approval amounts to commercial offense and exposes the target company to monetary fines.

Due diligence requires research into whether the MAH has monitored the medicine’s adverse effects and reported them to the Agency. Pharmacovigilance on the part of a MAH is an essential part of a medicine life cycle. Additionally, the Agency itself conducts overall pharmacovigilance monitoring activities through the National Pharmacovigilance Centre by collecting reports on adverse effects of medicines from healthcare institutions, private practices, and individual healthcare professionals. A MAH’s failure to monitor, keep records of, and report on adverse effects is a commercial offense resulting in monetary fines.

Negative reports on adverse effects may ultimately result in a decision by the Agency to change the terms under which the marketing authorization was issued, temporarily suspend the authorization, or withdraw the authorization entirely. Additionally, the Agency may propose to the Ministry of Health that it suspend or proscribe the distribution of the medicine or order its withdrawal from the market. Therefore, the purchaser of the target company should review the correspondence between MAH and the Agency in relation to pharmacovigilance in order to assess the risk that the medicine will be removed from the market.

The prospective buyer in an M&A transaction should pay at-

attention to the minutes of inspections, if any, carried out by the Ministry and to the resulting orders against the target company. The Ministry of Health supervises the compliance of pharmaceutical companies with the Medicines and Medical Devices Act (2010), the accompanying bylaws, and a set of good-practices guidelines which the Ministry enacted in 2008 and 2010. Supervisory powers of the Ministry include on-site inspections. In the exercise of its enforcement powers, the Ministry may prohibit production, wholesale, laboratory testing, or advertisement of medicinal products on the part of the pharmaceutical company. The Ministry is also authorized to order withdrawal or destruction of medicines that have been found to be defective.

On the basis of the in-depth analysis delineated above, the buyer should be able to properly assess the risk of taking over a target company’s medicinal products portfolio and mitigate any problems which may occur upon the transaction.

Bogdan Ivanisevic, Counsel and Co-Head of Life Sciences & Healthcare Practice, and Slobodan Trivic, Associate, BDK Advokati

Ukraine

Stem Cell Sales in Ukraine



The past two years have been very difficult for Ukraine, and for almost all industries in the country. Concerned about the armed conflict in the East and uncertainties about the possibility of Russia’s further escalation, many investors in the medical industry have stopped their investments. There is, however, one exception to

that trend – and it relates to stem cell medical services, which is developing rapidly and attracting domestic and foreign investments (though it must be acknowledged that the achievements of this industry would have been even better if not for the prolonged period of turbulence in the East of Ukraine).

Despite the fact that stem cell treatment services is a relatively new area of Ukrainian medical services, the interest in these services remains particularly strong. In particular, Ukrainian stem cell medical services are especially attractive for countries from the Far East and Oceania, including China, South Korea, and Malaysia. Recent years have seen a steady demand not only from patients, but also from foreign health care companies trying to benefit from Ukraine’s liberalized stem cell services regulation regime. The window of opportunity for Ukrainian stem cell clinics has remained open, and the number of patients from Far East countries in 2014 tripled compared to 2013. In 2015 the number of foreign patients in Ukrainian stem cell clinics has continued to grow, though at a lower speed, as a result of Ukrainian investors opening new treatment facilities in countries other than Ukraine, while substance production facilities

still remain in Ukrainian cities.

In the long-term, however, market participants expect that relocation of this kind of health care business from Ukraine into other countries will become common, not only because of the hostilities in the East of Ukraine, but also because of the desire of Ukrainian clinics and foreign patient generating agencies to have facilities located closer to their customer base. This territorial extension, however, is complicated by the domestic regulations with regard to stem cell transplantation. Thus, Ukraine with its benevolent – though still developing – legislation remains a center for the development of stem cell medicine.

It is unlikely that 2015 will be marked by huge M&A deals in the Ukrainian stem cell industry. Investors looking to acquire the know-how developed by Ukrainian scientists are very careful with respect to their negotiation tactics and preferences. There are also uncertainties related to the regulation of similar businesses in their home countries. For this reason it is still difficult to predict whether those M&A deals which are currently being negotiated between foreign investors and Ukrainian developers will lead to stem cell business migrating from Ukraine, so it appears probable that the current format of patient site-visits will remain popular.

Money-wise, the business remains one of the most profitable health care businesses in Ukraine. And the mostly valued feature of it is that the majority of patients are foreign citizens who bring foreign currency into Ukraine, which are of a great contribution to the Ukrainian foreign currency balance. According to initial estimates, by the end of 2015 there will be no stem cell clinics with at least 3-year history with annual revenues lower than 50 million US dollars. Given the low cost base in Ukraine, investments into Ukrainian stem cells clinics remain very attractive, especially compared with general health-care services provided in Ukraine.

Since its emergence in Ukraine stem cell medical services have been regulated by national legislation. Currently, the activity of stem cell banks and stem cell treatment clinics is regulated by the Law of Ukraine “On the Transplantation of Organs and Other Anatomical Materials into Humans” of 16.07.1999, the Law of Ukraine “On Donorship of Blood and its Components” dated 23.06.1995, the Order the Ministry of Healthcare of Ukraine “On Approval of the Procedure of the collection and Temporary Storage of Umbilical Cord (Placental) Blood” of 10.07.2014, Order of the Ministry of Healthcare of Ukraine “On Approval of the Procedure for Conducting Clinical Trials and Cell Transplants and Expertise of the Materials of the Clinical Trials” dated 10.10.2007, and Order of the Ministry of Healthcare of Ukraine “On Approval of the License Terms of Business of the Banks of Umbilical Cord Blood and Other Human Tissues and Cells” of 10.04.2012, among others. While the activities of stem cell services and cord (placental) blood treatments is regulated by the above laws, issues related to financing, foreign investments, and extraterritorial activity remain vague and are currently governed by general laws.

Given the existing demand of foreign patients for stem cell ser-

vices provided in Ukraine and in-interest of domestic and foreign investors thereto, Ukrainian legislation must introduce relevant regulations and procedures to preserve the current status of the industry and to ensure its further development.

Vsevolod Volkov, Partner, *Integrites*

Slovenia

Opening Doors to Integrative Medicine?



Despite the absence of a uniform definition, integrative (also known as integrated) medicine is generally understood to refer to the incorporation of high-quality and evidence-based therapies of complementary and alternative medicine (“CAM”) into the methods and treatments of conventional (mainstream)

medicine. Whereas it may be practiced by teams consisting of several qualified professionals (with a variety of different areas of expertise and skills), it is often offered by a single (mainstream) practitioner – a so-called integrative medical doctor. According to the reports of the CAMDOC Alliance – a group of organizations representing 132 European associations of medical doctors practicing CAM – approximately 150,000 medical doctors in the EU have already taken training courses in a particular CAM therapy such as acupuncture and homeopathy. While surveys consistently reflect a rapid surge in the percentage of European citizens who have already used one of the modalities of CAM (currently 65 percent), it remains unharmonized on the EU level and is thus subject only to national legislation. Slovenia has so far taken a comparatively rigorous approach with respect to the regulation of CAM practitioners and, in particular, on integrating CAM (and, subsequently, integrative medicine) into the practice of conventional medical doctors.

Statutory Regulation

In October 2007, the Slovenian National Assembly adopted the controversial Complementary and Alternative Medicine Act (“CAMA”), setting the long-awaited regulatory framework for CAM practices. CAMA aimed to address the previous legislative vacuum, as well as numerous issues raised by CAM practitioners and organizations. CAMA implements a considerably broad definition of CAM, encompassing all activities of practitioners intended to “improve the health” of their users, and envisions numerous regulatory tasks and responsibilities to be vested in a Chambers of CAM (Zdravilska zbornica), which has yet to be established. While CAM may generally be practiced by any adult who has completed secondary-level training in healthcare and holds a CAM license, a far more stringent regime applies for

the practice of homeopathy, chiropractic therapy, and osteopathy, which are among the most widespread and most frequently used CAM therapies. These may only be practiced by professionals with an official degree from a faculty of medicine.



In addition to this already rather stringent regulation, an even more rigorous restriction was introduced with the amendment of the Medical Practitioners Act (“MPA”), adopted in June 2008, which prohibits medical doctors from practicing any form of CAM. The MPA explicitly authorizes the Medical Chambers (Zdravniška zbornica)

to suspend (or refuse to issue) medical licenses of medical doctors practicing CAM. Slovenian law therefore takes a rather conservative approach, entirely precluding medical doctors from active participation in the practice of CAM and, as a consequence, significantly impedes the practice of integrative medicine. The conditions and restrictions set out in CAMA and MPA combined also leave very little room for the practice of homeopathy, chiropractic therapy, and osteopathy by significantly restricting the scope of eligible practitioners, these being required to hold a degree in medicine and, at the same time, abstain from the practice of conventional medicine.

Recent Developments

In the second half of 2014, a heated professional discussion on the abolishment of the prohibition against medical doctors practicing CAM developed after a German medical doctor who had recently started his practice in Slovenia voluntarily reported himself to the Medical Chambers for practicing homeopathy while continuing to practice medicine – which could have resulted in the doctor’s medical license being revoked by the Medical Chambers. While the arguments in favor of the prohibition revolved mainly around the lack of scientific proof for homeopathy’s effectiveness, those opposing it pointed out that Slovenia was the only EU member state enforcing such a restrictive, and arguably redundant, regulatory stance. In December 2014, by a vote of 40 to 18, the Medical Chambers finally decided to support the withdrawal of the restriction and appealed to the Slovenian Ministry of Health to prepare an amendment abolishing the provision suspending medical licenses of doctors practicing homeopathy. As a consequence, no proceedings for the withdrawing of the medical license were initiated against the German medical doctor (and homeopath) who exposed his dual practice in order to raise the discussion. As stated by the Ministry, the position taken by the Medical Chambers shall be taken into consideration in the legislative reform, which is already underway. Both the Medical Chambers and the Ministry have, however, so far remained silent regarding the terms of withdrawing the prohibition with respect to the practitioners of other CAM modalities.

Conclusions

The decision of the Medical Chambers appears to have success-

fully paved the way for changes allowing homeopathic practitioners to continue practicing conventional medicine. However, the full and effective incorporation of integrative medicine, said to provide the patient with “the best of both worlds,” would undoubtedly require a comprehensive legislative recasting – a development that has not yet appeared on the public horizon.

Petra Smolnikar, Partner, and Misa Tominec, Associate, Schoenherr

Austria

Awareness Campaign Ruled Not to Violate Laws Against Advertising for Pharmaceuticals



The Austrian Supreme Court has dismissed the claim of the Austrian Consumer Protection Agency (VKI) and ruled that a public pneumococcus awareness campaign launched by pharmaceutical companies, combined with simultaneous marketing activities of a pneumococcus vaccination towards healthcare professionals, did not violate the prohibition of direct-to-consumer advertising.

Background

Since 1999, the Austrian Chamber of Pharmacists, the Austrian pharmaceutical wholesale industry, and Austrian vaccine manufacturers have conducted a yearly public vaccination program, offering vaccination against pneumococcus diseases to customers at a lowered purchase price for a limited period of time.

At the turn of 2012 and 2013, two pharmaceutical companies and a lobbying organization of pharmaceutical companies launched a public awareness campaign regarding pneumococcus. The campaign was carried out through TV and radio spots, posters, flyers, hand-outs (including at doctors’ practices) and in several newspapers in Austria. At the same time one of the two pharmaceutical companies advertised its pneumococcus vaccine to health care professionals.

The Dispute



The VKI concluded that these measures, when considered jointly, amounted to advertising of a prescription drug towards consumers, and it brought a claim against the pharmaceutical company that advertised its vaccine towards health care professionals and against the lobbying organization for violating the Austrian

Pharmaceuticals Act and the Austrian Unfair Competition Act. According to the VKI, the public awareness campaign would

have led to an increase in consumer demand for the pharmaceutical company's pneumococcus vaccination, while its advertising activities towards health care professionals would have encouraged doctors to prescribe it.

The targeted pharmaceutical company and the lobbying organization, both represented by DLA Piper, opposed the arguments made by the VKI and explained, *inter alia*, that (i) the public awareness campaign, (ii) the vaccination program, and (iii) the advertising activities of the pharmaceutical company towards healthcare professionals were properly viewed as separate in terms of time and substance with regards to subsequent legal evaluations.

First, DLA Piper argued, the awareness campaign of the pharmaceutical company served the purpose of sensitizing the public to pneumococcus diseases in Austria and thus was not an advertisement of the vaccination, but instead an explicitly allowed awareness campaign under the Austrian Pharmaceuticals Act. Second, the pneumococcus vaccine advertising activities of the pharmaceutical company were addressed to healthcare professionals only. Advertisements targeting healthcare professionals – regulated separately in the Austrian Pharmaceuticals Act – are explicitly permitted. Hence, these measures should not be assessed jointly, and violate neither the restrictions on advertising to consumers nor the laws on unfair competition.

In October 2014, the Austrian Supreme Court accepted the arguments of the pharmaceutical companies and lobbying organization and overturned the previous decision made by the Higher Regional Court of Vienna – which had agreed with the VKI – but pointed out that a strict standard has to apply.

Conclusion

This Austrian Supreme Court decision is precedent-setting and can be seen as positive for the entire Austrian pharmaceutical industry, especially as it is extremely rare for the Austrian Supreme Court to decide against the Austrian consumer protection agency in such sensitive matters.

Christoph Mager, Partner, and Elisabeth Stichmann, Senior Lead Lawyer, DLA Piper Weiss Tessbach Rechtsanwälte

Poland

Warranty for Medical Devices



On December 25, 2014, as a result of the implementation of Directive 2011/83/EU of the European Parliament and of the Council of October 25, 2011 into Polish law, consumer law in Poland changed significantly. The existing legal solutions were revised and civil law terms were unified. Material changes were made to the pro-

visions relating to the implied warranty for defects and warranties, and among other things, the concepts of “lack of conformity of the goods with the contract” and “commercial warranty” (namely, non-code warranty provisions) were abandoned.

The changes relating to warranties have affected the medical devices market, especially as current technology often does not allow products to be repaired – only replaced.

As a rule, warranty statements remain voluntary. In the existing legal environment, the two-year warranty period for equipment in the European Economic Area is only a good market practice and not a legal requirement. This applies to both business-to-business and business-to-consumer relations.



There are, however, some modifications of contractual warranties in the case of consumer trading. Businesses (distributors) are now required to inform patients whether or not any contractual warranty exists before they execute a contract. Such information should be communicated in a way that takes into account patients'

disabilities, whether physical (e.g. a hearing impairment), mental, or psychological. In providing this information the patient's age should also be taken into account, which means the use of just one information template might not be appropriate. In no event should the disability or any special needs of the patient be grounds for applying different terms for their protection (including warranty protection). This is not explicitly stated in the act, but it is supported by the Directive. Thus, an inconsistency with Polish law arises, as the warranty periods vary.

The biggest challenge, however, is faced by the manufacturers of medical devices reimbursed by the National Health Fund (such as hearing aids, underarm crutches, leg prostheses and wheelchairs), as pursuant to reimbursement law a manufacturer's warranty for a medical device for a minimum warranty period defined by law is mandatory. Of course, providing a warranty is also recommended from a purely economic standpoint, as it is important to maintain good relations with prosthetic professionals, who in their relations with patients often act as manufacturers' agents.

The most serious issue for manufacturers is whether the warranty period starts again every time a new product is provided. The key to answering this question is the date of execution of the sales contract. If the contract was entered into before December 25, 2014, the warranty period will not start again, unless the parties explicitly agree otherwise. The fact that the quality warranty and the commercial (consumer) warranty are regulated by separate legal provisions means that the provision ordering that the period of guarantee be restarted is not applicable. The exclusion of this consumer right in the agreement was no more than a confirmation of the status existing under the law anyway. However, if the contract is entered into after December

25, 2014, the warranty period will start anew each time. Any contractual clauses providing otherwise are ineffective by operation of law. Moreover, such exclusion also entails the risk that the clause may be found abusive, which could result in an inspection by the Office of Competition and Consumer Protection, or even involve the risk of an administrative penalty being imposed on the company.

In the replacement procedure no new warranty may be provided. It is also impossible to change any existing warranty with terms disadvantageous for the consumer (for example, which provide for a shorter warranty period or make the warranty conditional upon the product's availability in the warehouse). This is not explicitly stated in the act; however, this is the conclusion from the pro-European interpretation of Article 25 of Directive 2011/83/EU states that: "Any contractual terms which directly or indirectly waive or restrict the rights resulting from this Directive shall not be binding on the consumer"

Please note, however, that patients' claims under the warranty and implied warranty for defects in the case of sales are completely independent of each other. This can cause significant difficulties for a manufacturer. If a patient uses the implied warranty for defects, they will have the right to withdraw from the contract. In the case of withdrawal from the contract, it seems that the manufacturer not only has to accept the return of the device, but also has to refund the reimbursement amount to the National Health Fund.

Finally, it is worth mentioning that there is a chance that the new consumer law will not apply to medical devices. Everything is in the hands of the Court of Justice of the European Union, as pro-consumer solutions do not apply to medical devices prescribed in connection with health services. The interpretation of this concept is still an open issue.

Marek Swierczynski, Counsel & Head of the Pharmaceutical Practice Group, and Wiktor Krzymowski, Junior Associate, Baker & McKenzie

Czech Republic

The New Act on Medical Devices



On April 1, 2015 the new Act on Medical Devices ("the Act") became legally effective in the Czech Republic. This complex new legislation regulates the entire production and supply chain, from the certification of medical devices to their distribution, sale, prescription, dispensing, use, maintenance, repair, and disposal, and thus

has had a significant impact on the medical devices sector.

What is Classified as a Medical Device?

The category covers a wide range of products intended for diagnosis, prevention, monitoring, and treatment of diseases as

well as those improving the quality of life of those with disabilities. This includes simple bandages as well as the most sophisticated life-support equipment. The actual legal definition of medical devices in the Act, as well as their classification, stems from EU legislation.

Registration and Notification Requirements

One of the crucial changes introduced by the Act is the establishment of the new Registry of Medical Devices (the "Register") containing information on all medical devices currently available on the Czech market and the persons placing such devices on the market.



Manufacturers of medical devices and their authorized representatives, as well as importers, distributors, and service providers, who are established within the territory of the Czech Republic, are required to notify the State Institute for Drug Control ("SIDC") of their intended activities in advance and appoint a contact

person. The SIDC shall then confirm the notification by registering the relevant person in the Register.

The above-mentioned persons are also required to notify the SIDC of each medical device they have placed on the market within 15 days from placement. The new notification procedure burdens mostly distributors, who were not obliged to notify the SIDC of specific medical devices under the previous regime, but only the general category of the products that they were dealing with.

This new Register was launched on May 1, 2015, and is (in part) publicly available online.

New Competencies of the State Institute for Drug Control

The Act divided the competencies for administration of medical devices between the Ministry of Health and the SIDC; the main supervisory authority is now the SIDC. The SIDC is responsible for the registration of manufacturers and other persons dealing with medical devices, notification of medical devices, classification of medical devices, supervision of clinical trials, and so on. The SIDC may also impose penalties for breaches of the Act, including fines of up to CZK 2 million.

The SIDC is also vested with a new competency to decide borderline cases, i.e. to determine whether a product is a medical device or not. Some medical devices are commonly mistaken for medicinal products, cosmetic products, or biocides, and it is important that the SIDC now has authority to declare whether a particular product falls within the medical devices regulation or not.

Other Changes and Secondary Legislation

The Act also provides new regulations for clinical trials and performance evaluations of medical devices and governs the system of vigilance of medical devices, which follows the model prescribed for medicinal products.

In addition to the Register mentioned above, the Act requires

the SIDC to administer the new National Information System for Medical Devices (“NIS”) as of April 1, 2018. The NIS shall be used to provide information to customers, patients, and healthcare providers to facilitate the correct choice of suitable medical devices, as well as their safe use and proper handling. Another feature of the NIS, which may become very significant in practice, will be the support of tenders for the purchase of medical devices. It is expected that the NIS will, for example, publish prices of realized purchases of medical devices to optimize the use of public resources. However, the scope of the information to be provided by the NIS has not yet been laid down in detail.

The secondary legislation to the Act has also been issued this year. This includes the Decrees of the Ministry of Health, which set out further details in respect of good import and distribution practices, details of documentation, etc., and Government Regulations, which specify the technical requirements for individual categories of medicinal products.

The overall aim of the new legislation is to improve patient safety. Time will show whether the heavier regulation and increased level of state supervision of the medical devices sector are the right tools to achieve this goal, or whether unnecessary administrative burdens have been imposed on market participants. For now it seems appropriate in dealing with products that protect the health of patients.

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Slovakia

Parallel Trade in the Pharma Sector: Between Hammer and Anvil



For several years, parallel trade has been one of the main concerns for pharmaceutical companies in Slovakia and across the region. It has been steadily eating into their profit margins and exposing them to the risk of regulatory sanctions. Recent developments in Slovakia underline the complexity of the issue.

What is Parallel Trade?

Parallel trade in pharmaceuticals is caused by the fact that European integration in this area is ‘stuck halfway’ – in other words, it appears that either it went too far or it did not go far enough. On the one hand, prices are regulated at the national level and Member States are free to set different prices. On the other hand, the European Union has removed internal barriers to trade between Member States. Consequently, parallel traders can benefit from price differences by purchasing cheaper pharmaceuticals in one Member State and exporting them into another Member State where they sell them with higher margins. According to estimates, parallel exports in the EU generate an

annual turnover of approximately EUR 5 billion and they keep growing.

This poses several problems for pharmaceutical companies. First, it decreases their profit margins in higher-price Member States by decreasing the consumption of products earmarked for that market. At the same time, it drains supplies allocated to lower-price Member States.



In Slovakia, the problem is particularly acute. Under current legislation, the maximum price of a drug is calculated as an average of the three lowest prices in other Member States. This regulation makes Slovakia an attractive destination to buy cheap medicines and export them abroad. At the same time, Slovak law mandates that

pharmaceutical companies ensure sufficient supplies of drugs on the market. In other words, if a certain drug is absent from the Slovak market for whatever reason (including parallel trade), the pharmaceutical company can face monetary sanctions or even de-registration of the drug.

What Can Companies Do?

Some pharmaceutical companies have been trying to implement various mechanisms to mitigate losses resulting from parallel trade. Such mechanisms include contractual clauses restricting wholesalers from reselling drugs in other Member States, quotas on supplies to a low-price Member State to cover only local demand, or dual pricing for drugs earmarked for the local market and for export.

However, mechanisms curbing parallel trade have usually been viewed with suspicion by competition authorities and have repeatedly attracted significant fines as restrictive vertical agreements or as conduct amounting to abuse of a dominant position. Some cases have made it all the way to the European Court of Justice, which has failed to formulate clear legal guidelines. Not all restrictions are prohibited by competition law, however, and depending on the market shares of the participating companies, some contractual restrictions may be permitted. But unfortunately, given the complexity of existing case law, it is practically impossible to formulate a general rule and obtain clear guidance on what is permitted.

What Can Governments Do?

To curb the re-export of medicines from Slovakia, a legislative amendment passed in 2012 made all exports subject to prior notification to the Slovak pharmaceutical regulator. The regulator can block an export if it would jeopardize the availability of the product in Slovakia. On this basis, hundreds of proposed exports have been turned down.

However, the measure has been viewed with suspicion by the European Commission as a potential restriction to the free movement of goods on the European internal market. In early 2015, Commission representatives confirmed that the Slovak government had been formally invited to explain this restrictive

measure. Should the Commission not be satisfied with Slovakia's response, it is likely to open formal proceedings for breach of EU law. At the end of the day, parallel trade from Slovakia is likely to become unrestricted, or at least the powers of the regulator to control such trade are likely to be more circumscribed.

Going Forward

The Slovak situation illustrates the conundrum of parallel trade. Neither companies nor governments can effectively curb its impacts, and the duality of national and European regulation leaves ample space for price arbitrage to flourish at the expense of pharmaceutical companies. Solving the issue would require allowing significant restrictions to the internal market – whether imposed by companies themselves or by the Member States. Alternatively, a case could be made for the harmonization of prices across the EU. However, none of these alternatives is likely to happen any time soon. In the meantime, companies and governments are left trying to interpret a complex body of case law in an attempt to limit the negative consequences of parallel trade.

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Estonia

Changes in Pharmacy Ownership Regulation in Estonia



For the past couple of years, one of the main subjects for public discussion in the field of life sciences in Estonia has been changes in the pharmacy regulation. It all started back in 2012, when the Chancellor of Justice drew the attention of Parliament to the unconstitutionality of the regulation that stipulated restrictions on

establishing new pharmacies. These restrictions, which had entered into force in the beginning of 2006, constituted, in effect, a market lock. Entrance to the general pharmacy market for newcomers and expansion of existing pharmacies was highly obstructed.

On December 9, 2013, the Supreme Court en banc declared the restrictions unconstitutional. Nonetheless, and despite constant media attention and public turmoil, the Parliament adopted a new, temporary regulation with restrictions similar to the ones that the Supreme Court had already declared unconstitutional. Thus, in December 2014, one year after the original judgement, the Supreme Court issued a second judgment, declaring the similar restrictions unconstitutional as well.

Meanwhile, in the summer of 2014, a new law on pharmacy ownership restrictions had come into force, which prohibited pharmaceutical wholesalers, distributors, and manufacturers from being shareholders (even minority shareholders), or members of a private legal person holding a general pharmacy's ac-

tivity license. In addition to the prohibition of direct ownership, undertakings related to pharmaceutical wholesalers, distributors, or manufacturers via dominant influence are also prohibited from being shareholders or members of pharmacies.



“Dominant influence” has been defined as the opportunity for one company or several companies jointly or for one individual or several individuals jointly, by purchasing shares and on the basis of a transaction or articles of association or by any other means, to exercise direct or indirect influence on another undertaking. This

may consist of the right to exercise significant influence on the composition, voting, or decision-making of the management bodies of the other company, or the right to use a significant proportion of the assets of the other company.

The idea of this restriction is to avoid situations where pharmaceutical wholesalers, distributors, or manufactures actually control the activities of a pharmacy. And indeed, the Estonian Competition Authority's application of this extremely broad definition of dominant influence has allowed it to capture every form of factual dominant influence, including undertakings in the same group of companies.

Furthermore, in February 2015, the Parliament adopted even more restrictive additional provisions regarding the ownership of pharmacies. The explanatory memorandum of the amendments explained that “it is important that the pharmacists are independent and able to exercise control over the activities of the pharmacy.” Amendments regarding the ownership entered into force on March 20, 2015.

Since then, upon issuing the activity license of a general pharmacy to a private legal person, more than 50% of the shares of the pharmacy together with the dominant influence must belong to a pharmacist who works as a manager in at least one of the pharmacies. One pharmacist may be connected to up to four general pharmacy activity licenses in towns of 4,000 or more inhabitants.

These ownership restriction provisions are to enter into force gradually. Newly-issued pharmacy activity licenses must comply with the ownership restrictions immediately, but there is a transition period until April 1, 2020 for licenses issued before the new rule came into force.

To conclude, the Estonian legislator has decided to limit the pharmacy market significantly. Pharmaceutical wholesalers, distributors, and manufactures cannot be the owners of pharmacies or have dominant influence over them. Furthermore, the dominant influence and majority of shares of a pharmacy must belong to the pharmacist. This regulation restricts very specifically the ownership and management of the pharmacies and poses a new challenge to the market.

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