



CEE

YEAR 5, ISSUE 6
JUNE 2018

LEGAL MATTERS

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

- ACROSS THE WIRE: DEALS AND CASES IN CEE ■ ON THE MOVE: NEW FIRMS AND PRACTICES ■ THE BUZZ IN CEE
- TAKE THE STAGE: LEGAL TECH FALLACIES AND THE STRUCTURAL TRANSFORMATION OF THE LEGAL PROFESSION
- SEBASTIAN LAWSON: AN IML IN CEE ■ CEE REAL ESTATE LANDSCAPE: THE MARKET AT A GLANCE
- MARKET SPOTLIGHT: CZECH REPUBLIC AND SLOVAKIA ■ SERVING THE START-UPS: A CZECH AND SLOVAK ROUND TABLE
- INSIDE INSIGHT ■ THE TRANSFORMING LEGAL MARKET: A SCARCITY OF SKILLED SLOVAK ASSOCIATES
- EXPAT ON THE MARKET: INTERVIEW WITH RITA RAN PANG OF KINSTELLAR ■ EXPERTS REVIEW: REAL ESTATE
- INSIDE OUT: CZECH MEDIA INVEST'S ACQUISITION OF CEE RADIO BUSINESSES FROM LAGARDERE
- INSIDE OUT: CNIC CORPORATION'S ACQUISITION OF PROLOGIS PARK GALANTA-GAN



Straight to the point

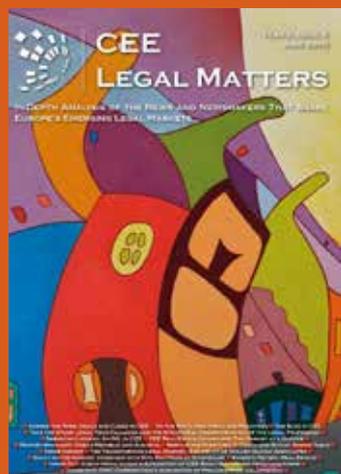
With guided precision
and legal services tailored
to your needs, our teams
across 14 countries lead
you from start to finish.

schönherr

ATTORNEYS AT LAW



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



The Editors:

David Stuckey
david.stuckey@ceelm.com

Radu Cotarcea
radu.cotarcea@ceelm.com

Letters to the Editors:

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

press@ceelm.com

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: TIRING TIMES, AND TERRIFIC

I write this flying high above the United States, shortly after the conclusion of what may well have been the most frantic and stressful week in the almost five-year history of CEE Legal Matters.

On Monday, June 4th, we hosted a Round Table conversation with four eminent Czech and Slovak practitioners at the offices of Kocian Solc Balastik in Prague to discuss the idiosyncrasies and challenges of the Tech/Start-Up market in both countries (report on page 34).

On June 5th, we began the set-up process in the Czech National Bank for the first-ever Dealer's Choice conference scheduled to begin the next day and the Deal of the Year Awards Celebration scheduled for the Slovansky Dum banquet hall the following evening, then went for tuxedo fittings, before meeting early-attendees for drinks and conversation at a popular Czech beer garden.

On June 6th, our team gathered at the Czech National Bank at 7 am for the Dealer's Choice conference – a full day of expert panel presentations, networking, and debate – then, after everyone left, we scrambled to change clothes, put on the tuxedos, move the banners and other accoutrement to Slovansky Dum, make final changes to the slides, and greet friends at the big Awards Banquet.

When *that* revelry concluded and we pulled down all the banners and gathered all the remaining awards, changed back into normal clothes, and retreated to our airbnb at about midnight ... we discovered that we had locked ourselves out of the flat. Exercising remarkable strength-of-will, we restrained ourselves from casting aspersions and hurling accusations, and finally, at about 1:30 am, we checked into a Prague hotel.

The morning of the 7th, as you can imagine, was a bit of a challenge. I was lucky – I had gotten about four hours of sleep. Radu, however, who was only able to direct his attention to final preparations for the fourth annual General Counsel Summit after we checked in, only got about one and a half. Thus, at 7 am on Thursday we were *back* at the Czech National Bank, putting the banners *back* up, and preparing the hall for the beginning of that annual.

That evening we attended a wonderful Gala Dinner put together by our Events Producer Vaida Stockunaite at the Convent of Saint Agnes, and then, while I went home to collapse (our keys for the airbnb back in our possession), Radu – driven by enthusiasm, youth, and an unerring social instinct (and not a little Red Bull) – led the annual post-gala revelry until the early hours of the morning.

The next morning – June 8th – I was back at the Czech National Bank *again* at 7 am for the beginning of Day 2 of the GC Summit – having mistakenly remembered that it began at 8 am, instead of 8:30. Radu and the rest of our team, reaping the benefit of their superior memories, came in a bit later.

Friday evening, at the conclusion of the GC Summit, following the taking down of all banners, removal of all pads, pens, and back issue of the magazine, and withdrawal of all signs that CEELM had ever been at the Czech National Bank, Radu and I went out for a hamburger and a beer, then watched the sun set over Prague. We were both sound asleep well before 11 pm.

Thus. Five separate events over five days. Little sleep. A surprising amount of heavy lifting and carrying. Running from one place to another. Last minute scrambling to prepare audio-visual content and put out fires with caterers (no croissants!) and address concerns of attendees (problems with wifi!). It was frenzied and exhausting, and, in all honesty, a bit much. We are unlikely to schedule events like this back-to-back in the future.

But *damn* it was fun. These events – as physically draining as they can be – are, always, energizing. Seeing so many friends at once, and seeing the results of our efforts, hearing how much attendees appreciated the content of the events and enjoyed the social events, and how glad they were they came, is profoundly rewarding. I am already thinking of ways to refine the Deal of the Year submission process, improve the Awards Ceremony, and strengthen the value and content of the Dealer's Choice event, all looking forward to next year's event (tentatively scheduled for March 28, 2019, in Budapest). And Radu left Prague with renewed energy, already bubbling over with plans for what he promises will be the best GC Summit yet next year in Vienna.

So, as my plane begins its descent into Charlottesville, and as I look forward to spending a week with my family before returning to Budapest, I look back on the week of June 4th in Prague with not a little relief that it's over – but also, more, and fundamentally, with pride. It was great. I hope you all enjoyed it as much as we did. We're never *ever* doing this again, and ... see you next year!



David Stuckey

GUEST EDITORIAL: CEE REGION IN PERSPECTIVE



The CEE Legal Matters Deal of the Year awards ceremony in Prague on June 6 brought together experts and law practitioners from the region and provided an opportunity to look back at the year while awarding the participants for work on some of the most complex and unique transactions in 2017. The projects represented a variety of different types of transactions, including capital markets, M&A, financing, real estate, and restructuring. The transactions were also some of the biggest and first-of-their-kind transactions in Europe in 2017 and, as such, are reflective of how the CEE region has transformed over the past years and what the future is likely to bring for those countries.

I come from Poland but have spent my entire career as a capital markets lawyer in London, New York, and Frankfurt. At the time when I left Poland almost 16 years ago to pursue my education abroad, Poland was not a member of the European Union. The political and economic transformation started only a few years back and major structural and legal changes were still to be implemented to allow Poland and other countries in the region to catch up with their Western European peers. In fact, day-to-day life looked very different. While this process is still ongoing and countries in the region remain at varying stages of economic development, it is fair to say that CEE today as a whole is different. The reforms initiated a few decades ago have over time resulted in major changes to the economies, societies, and legal frameworks of the region while improving the quality of life of ordinary people.

The region is unique in many respects. Expectations for growth have changed rapidly over the past few years in a manner that is difficult to find elsewhere in the world. Key economic metrics including GDP, inflation, industrial production, unemployment rate, current account/GDP, and fiscal balance remain stable and economic growth in most countries is generally above the EU average. For example, Poland was the only European country not to suffer recession during the 2008 financial crisis. Moreover, FTSE Russell in the United Kingdom has officially reclassified Poland from an emerging to a developed market effective from September 2018. Countries which were previously shut out of the capital markets, like Ukraine, are now able to access them for both corporate and sovereign bond issuances. The CEE region continues to remain attractive for foreign direct investments, as it still has lower wage levels than West-

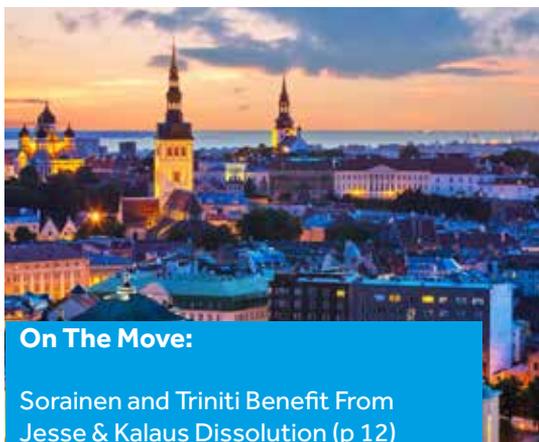
ern Europe, coupled with high levels of productivity. The combination of these factors has contributed to the attractiveness of the region and provided further business and investment opportunities for foreign and local investors.

The success of the CEE region can not be attributed only to economic factors and foreign investment. It was supported to a great extent by political and legal changes aimed at introducing liberal market reforms, in particular through membership in the European Union (or future accession plans by countries that aspire to join it). The reforms create a stable legal environment based on the rule of law, which provides certainty to investors – necessary for the support of continuous economic growth. In that sense, the European Union has provided substantial benefits to CEE in economic, social, and legal terms. The EU budget has been particularly important for local economies, which have been some of the largest beneficiaries of funds over the past decade, and EU funding remains a large source of investment in the region. This is also why many compare the membership of CEE countries in the European Union with the post-war Marshall Plan for Western Europe, as the purpose of both was the same: to create liberal economies and to improve the quality of life.

This is not to say that the region faces no challenges. Diverging political developments in certain countries, uncertainty around Brexit and its implications for the region, continuous reliance on Western economies, and other country-specific circumstances are just a few examples to mention. However, the ability to handle challenges is a measure of strength, and each of the countries in the CEE region has demonstrated strength and perseverance in meeting and overcoming those challenges on many occasions.

I am honored to have worked with my colleagues and friends at different firms on projects which won Deal of the Year awards this year in Hungary, Serbia, and Greece. We look forward to another exciting year and to providing market participants and investors with the legal expertise and industry insight they need to achieve their business aspirations in the CEE region.

**Pawel Szaja, Partner and
Head of Emerging Markets Desk, Shearman & Sterling**

**On The Move:**

Sorainen and Triniti Benefit From Jesse & Kalas Dissolution (p 12)

**Freshfields' IML in CEE (p 26)****Serving Start-Ups:**

A Czech and Slovak Round Table (p 34)

**Experts Review:**

CEE Experts Review Round-up on Real Estate (p 60)

Preliminary Matters

2 - 5

- 2 Editorial: Tiring Times, and Terrific'
- 4 Guest Editorial: CEE Region in Perspective

Across the Wire

6 - 15

- 6 Across the Wire: Featured Deals
- 8 Legal Ticker: Summary of Deals and Cases
- 12 On the Move: New Homes and Friends

Legal Matters

16 - 31

- 16 Legal Matters: The Buzz
- 24 CEE Real Estate Landscape – The Market at a Glance
- 26 Freshfields' IML in CEE
- 30 Take the Stage: Legal Tech Fallacies and the Structural Transformation of the Legal Profession
- 31 Inside Insight: Interview with Miljan Malovic of Banca Intesa Belgrade

Market Spotlight: Czech Republic

32 - 47

- 33 Guest Editorial: A Quarter Century in the Czech Legal Market
- 34 Serving the Start-Ups: A Czech and Slovak Round Table
- 42 Market Snapshot
- 44 Inside Out: Czech Media Invest's Acquisition of CEE Radio Businesses from Lagardere
- 46 Expat on the Market: Rita Ran Pang of Kinstellar

Market Spotlight: Slovakia

48 - 58

- 49 Guest Editorial: Making Choices
- 50 The Transforming Legal Market: A Scarcity of Skilled Slovak Associates
- 55 Market Snapshot
- 56 Inside Out: CNIC Corporation's Acquisition of Prologis Park Galanta-Gan in Slovakia

Experts Review: Real Estate

60 - 78

ACROSS THE WIRE: FEATURED DEALS

Kocian Solc Balastik Among Firms Advising on Energo-Pro Eurobond Issue



Kocian Solc Balastik acted as legal counsels to Energo-Pro a.s. in its EUR 250 million Eurobond issue in London, advising on Czech, English, Georgian, Turkish, and Bulgarian law, respectively.

The Guaranteed Notes mature on May 4, 2024 and carry a 4.5% annual coupon. The issue price is 100%. The Notes have been admitted to the Official List and to trading on the Global Exchange Market of the Irish Stock Exchange plc trading as Euronext Dublin. They are fully guaranteed on a joint and several basis by each of Energo-Pro Georgia Generation JSC, Energo-Pro Georgia JSC, Energo-Pro VARNA EAD and Resadiye Hamzalı Elektrik Uretim San.ve Tic. A.S.

According to Energo-Pro, the net proceeds will be used for repayment of existing group indebtedness and general corporate purposes.

Energo-Pro operates hydroelectric power stations in the Central and East Europe, and the Black Sea and Caucasus regions. Originally a Czech company, it expanded to Bulgaria, Georgia, and Turkey.

The Trustee Company is Citibank, N.A., London Branch that also served as a principal paying agent. The registrar bank was Citigroup Global Markets Deutschland AG. The joint bookrunners include BNP Paribas, Citigroup Global Markets Limited, and J.P. Morgan Securities plc.

Linklaters, BLC Law Office, Paksoy, and Tsvetkova Bebov Komarevski have also advised Energo-Pro a.s.

The Joint bookrunners and the trustee were advised by Allen & Overy's London and Prague offices, Tbilisi-based BGI Legal, Boyanov & Co. in Sofia, and Istanbul-based Gedik & Eraksoy.

Avellum Advises Horizon Capital on Stake Disposal in Ergopack Group



Avellum has advised Horizon Capital and other individuals on the disposal of a 90% stake in Ergopack Group in favor of Sarantis Group.

Ergopack Group is a player in the growing Ukrainian household market. The company reported sales in 2017 of approximately USD 29 million.

Horizon Capital is an equity firm in Ukraine backed by over 40 institutional investors, managing four funds with assets under management of over USD 750 million.

Sarantis Group is a consumer product companies and has operating subsidiaries in nine European countries: Poland, Romania, Bulgaria, Serbia, Czech Republic, Hungary, Macedonia, Bosnia, and Portugal. The group also has a distribution network that exports products to more than 35 countries.

"This transaction was quite complex and, as such, required closely coordinated work of our team on multiple parallel work streams within very tight deadlines. We were able to successfully pass this test, once again confirming that teamwork is one of our firm's fundamental values. Needless to say, we are proud and honored to have assisted Horizon Capital on its yet another successful exit."

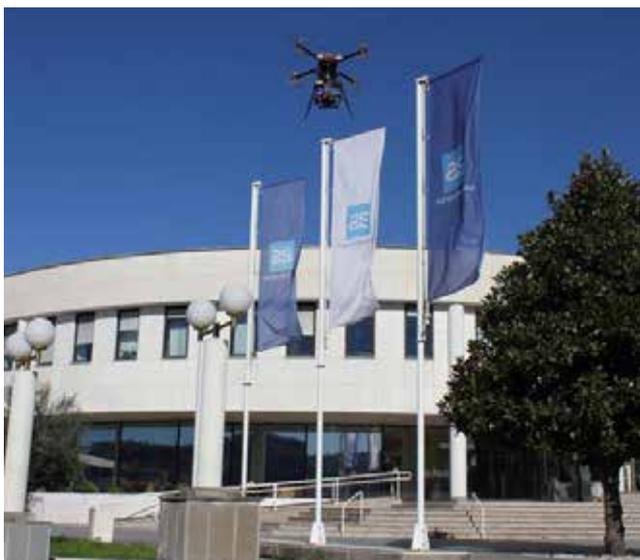
– Yuriy Nechayev, Partner, Avellum

Besides helping its Horizon Capital obtain clearance from the Antimonopoly Committee of Ukraine for the transaction, Avellum advised them on various aspects of the deal structuring, drafted and negotiated the transaction documents, and coordi-

nated their signing process. The firm's team was led by Partner Yuriy Nechayev, with support from Senior Associate Andriy Romanchuk and Associates Dmytro Symbiryov and Oleksandr Kulykovskiy. Managing Partner Mykola Stetsenko, Senior Associate Yaroslav Medvediev, and Associates Andrii Gumenchuk and Anton Arkhypov advised on antitrust matters.



Rojs, Peljhan, Prelesnik & Partners Advises on Adriatic Slovenica Acquisition



Rojs, Peljhan, Prelesnik & Partners has advised insurer Generali CEE Holding BV – a part of Italy's Generali Group – on its EUR 245 million sale of Adriatic Slovenica Zavarovalna Druzba d.d to the KD Group d.d. financial group.

The transaction is subject to the approvals of regulatory bodies and competition authorities.

“The acquisitions in Slovenia and Poland will enable us to balance and diversify our portfolios, sales channels, and regional presence,” said Luciano Cirina, Austria, CEE & Russia Regional Officer and CEO of Generali CEE Holding. “Also, through these acquisitions the business of Generali Group in the Austria, CEE, and Russia region will increase about seven percent, reaching more than EUR 6.4 billion in terms of premium income. Ongoing M&A activities will speed up the journey towards fulfilling our strategic goals of strengthening, in particular, the P&C and health portfolio and as well third-party asset management.”

The Adriatic Slovenica insurance company provides property and casualty insurance, health, life, and pension products. Ac-

ording to Generali, in 2017 Adriatic Slovenica generated gross premiums written of EUR 304 million. It ranks third in the Slovenian market with a market share of nearly 15%. Furthermore, the acquisition includes a mutual fund manager KD Skladi, which has over EUR 750 million in assets with a market share of 20% and a presence in Croatia and Macedonia through its subsidiaries.

The Rojs, Peljhan, Prelesnik & Partners team was led by Managing Partner Grega Peljhan and Partner Bojan Sporar and included Senior Associates Rok Kokalj and Jakob Ivancic.

RPPP worked alongside with Allen & Overy (and Consultant Hugh Owen of Go2Law).

Ulcár & Partnerji and solo-practitioner Simon Gabrijelcic advised the buyers on Slovenian law matters, and Mayer Brown advised on English law matters.

Schoenherr Advises on Acquisition of Turkish Natural Gas Plant



Schoenherr has advised OMV on the sale of OMV Samsun Elektrik Uretim Sanayi ve Ticaret A.S. to Yapisan Elektrik Uretim A.S., a subsidiary of Bilgin Enerji. The transaction, which remains subject to clearance from the regulatory authorities in Turkey, among other contractual requirements, is expected to close by the third quarter of 2018.

OMV Samsun Elektrik Uretim Sanayi ve Ticaret is a natural gas combined cycle plant located in the Samsun province in Turkey's Black Sea region. The plant began operating in 2013 and its current capacity meets approximately three percent of Turkey's total power demand.

The Schoenherr team consisted of Vienna-based Partner Markus Piuk and attorneys at law Clemens Rainer and Manuel Ritt-Huemer, as well as Istanbul-based Partner Levent Celepci and attorneys at law Murat Kutlug and Busra Ozden.

Paksoy advised Yapisan Elektrik Uretim A.S.

ACROSS THE WIRE: DEALS SUMMARY

| Date covered | Firms Involved | Deal/Litigation | Value | Country |
|--------------|--|--|-----------------|-------------------------|
| 23-May | Cerha Hempel Spiegelfeld Hlawati; Chiomenti; Dentons; Wolf Theiss | Wolf Theiss, working with Italian offices of Dentons, advised the shareholders of Lifebrain on the sale of its shares to an investment subsidiary of Investindustria VI L.P. Investindustria, which was advised by Italy's Chiomenti law firm, with CHSH acting as local counsel for Austria, now owns 96% of Lifebrain. | N/A | Austria |
| 23-May | Freshfields | Freshfields Bruckhaus Deringer advised South Korean LG Electronics and LG Corporation on its acquisition of Austria's ZKW group from Mommert Holding GmbH. | EUR 1.1 billion | Austria |
| 24-May | Act Legal | Act Legal's Austrian office assisted PPGA Architects in negotiating a contract with Qatari officials after the company won a public tender published by the Museum of Islamic Art in Doha. | N/A | Austria |
| 28-May | Kirkland & Ellis; Norton Rose Fulbright; Wolf Theiss | Wolf Theiss and Norton Rose Fulbright advised Canadian Tire Corporation Limited on its CAD 985 million acquisition of a majority stake in Norwegian sportswear and workwear brand Helly Hansen from the Ontario Teachers' Pension Plan. Kirkland & Ellis advised the sellers. | CAD 985 million | Austria |
| 31-May | Binder GroeSSWang; Wolf Theiss | Binder GroeSSWang advised UniCredit Bank Austria AG in connection with financing provided for the construction of The Student Hotel Vienna, which was represented by Wolf Theiss. | N/A | Austria |
| 6-Jun | Brandl & Talos; Spoor & Fisher | Brandl & Talos advised Aphria Inc., a Canadian medical cannabis company listed on the Toronto Stock Exchange, on the forming of a joint venture with South Africa's Verve Group of Companies. As part of the transaction, the new entity, CannInvest Africa Ltd, acquired an interest in Verve Dynamics Inc., a licensed producer of medical cannabis extracts in Lesotho. Verve Group of Companies was advised by Spoor & Fisher. | N/A | Austria |
| 13-Jun | Brandl & Talos; CMS | Brandl & Talos and CMS Slovenia advised the Martens Management Group on its proposed takeover of Cinkarna Celje, a Slovenian corporation listed on the Ljubljana Stock Exchange. | N/A | Austria |
| 1-Jun | Binder GroeSSWang; Clifford Chance; Herbert Smith Freehills | Binder GroeSSWang and Clifford Chance advised Emirates NBD Bank PJSC on the acquisition of 99.85% of the shares of Turkish DenizBank A.S. and its Austrian subsidiary DenizBank AG from Sberbank of Russia. Herbert Smith Freehills advised Sberbank on the sale. | EUR 2.7 billion | Austria; Turkey; Russia |
| 29-May | Egorov Puginsky Afanasiev & Partners; Ellex (Valiunas); Revera; Verkhovodko & Partners | The Minsk office of Egorov Puginsky Afanasiev & Partners advised the EBRD on a six year senior secured loan of EUR 24 million to OMA, the leading Belarusian DIY retail chain. The borrowers were represented by Verkhovodko & Partners and Revera, with Valiunas Ellex serving as OMA LLC's Lithuanian counsel and Baker Botts as the company's English counsel. | EUR 24 million | Belarus |

| Date covered | Firms Involved | Deal/Litigation | Value | Country |
|--------------|---|--|------------------|--|
| 24-May | Divjak, Topic & Bahtijarevic | Divjak, Topic & Bahtijarevic advised Szarka Group on its acquisition of a controlling stake in Super Sport, a Croatian online and land-based sports betting operator. | N/A | Croatia |
| 25-May | Weinhold Legal | Weinhold Legal advised Cryptelo on the preparation and successful implementation of the issue of its own cryptographic CRL via an initial coin offer. | N/A | Czech Republic |
| 28-May | Dentons; Wachtell Lipton, Rosen & Katz | Dentons advised PFNonwovens Inc., a member of the Prague-based R2G Rohan nonwovens group, in connection with its agreement to acquire First Quality Nonwovens Inc. and First Quality Nonwovens (Wuxi) Co., Ltd., an American and a Chinese manufacturer of nonwovens for consumer, health care, and industrial products. The seller, First Quality Enterprises, was represented by Wachtell Lipton, Rosen & Katz. | N/A | Czech Republic |
| 28-May | Dvorak Hager & Partners | Dvorak Hager & Partners represented Cool Credit, s.r.o. in its registration in the register of non-bank consumer credit providers with the Czech National Bank. | N/A | Czech Republic |
| 31-May | bpv Braun Partners; Havel & Partners; Latham & Watkins; Mayer Brown | Havel & Partners and the Frankfurt office of Latham & Watkins advised a consortium of banks as initial purchasers of 3% senior secured notes in an aggregate principal amount of EUR 450 million due in 2026 issued by Progroup AG and a second consortium of banks in relation to several facilities agreements in an aggregate of more than EUR 600 million (equivalent). Mayer Brown's Dusseldorf office and bpv Braun Partners advised Progroup on German law and Czech law, respectively. | EUR 1.05 billion | Czech Republic |
| 1-Jun | Dorda; Herbst Kinsky | Dorda advised Czech private equity and venture capital firm Enern on the Series A financing of Vienna-based online sport booking service Eversports. | N/A | Czech Republic |
| 13-Jun | Randa Havel Legal | Randa Havel Legal advised four stakeholders of New Presence Jewels s.r.o., which operates the Presence chain of jewelry stores in the Czech Republic and Slovakia, in their sale of the company to the Poland's Polish Luxury Group. | N/A | Czech Republic |
| 4-Jun | Bowman Gilfillan; Cobalt; Ellex (Raidla); Jeantet; Noerr; Sorainen | Noerr, Ellex Raidla, Jeantet, and Bowman Gilfillan advised Daimler AG on a USD 175 million investment in Estonian startup Taxify. Sorainen Estonia advised Taxify on the successfully concluded funding round that brought its valuation to the USD 1 billion mark. Cobalt's Estonian office advised Taxify shareholder DiDi Chuxing, on the investment round. | USD 1 billion | Czech Republic; Estonia; Poland; Romania |
| 25-May | Cobalt; Pohla & Hallmagi; Thommessen Bergen | Pohla & Hallmagi, working in cooperation with Norwegian law firm Thommessen Bergen, advised Norwegian hotel operator Citybox on its agreement with Estonian company Porto Franco OU to establish a Citybox hotel in Tallin. Cobalt advised Porto Franco on the deal. | N/A | Estonia |
| 28-May | Ellex (Raidla) | Ellex Raidla advised Endover Kinnisvara on a EUR 7.5 million bond issuance. | EUR 7.5 million | Estonia |
| 30-May | Cobalt | Cobalt advised Estonian venture capital firm Karma Ventures on its investment in Realeyes, a tech company that uses A.I. and computer vision to help computers read people's emotions. | N/A | Estonia |
| 30-May | HPP Attorneys; Pohla & Hallmagi | Pohla & Hallmagi advised Hansapost on its merger with Finnish company Hobby Hall. HPP Attorneys advised Hobby Hall Oy and its Finnish shareholders SGN Group Oy and Four P&P Consulting Oy on the merger. | N/A | Estonia |
| 1-Jun | Deloitte Legal; Pohla & Hallmagi | Pohla & Hallmagi advised France's Oberthur Technologies on its agreement with Estonia's Police and Border Guard Board to produce ID cards in the country. The Police & Border Guard Board was represented by Deloitte Legal. | N/A | Estonia |
| 11-Jun | Ellex (Raidla) | Ellex represented Estonia's Inbank on its acquisition of 100% of the shares of UAB Mokilizingas from shareholders LHV Group and UAB Inovatyvus Prekybos. | N/A | Estonia |
| 11-Jun | Sorainen | Sorainen advised Eurovia, a subsidiary of VINCI, on the acquisition of a 75% stake in Estonian infrastructure construction company TREV2 Grupp from BaltCap. | N/A | Estonia |
| 12-Jun | Sorainen | Sorainen advised a working group of the Tallinn City government on the development of an anti-corruption strategy for the city. | N/A | Estonia |
| 13-Jun | Sorainen | Sorainen Estonia advised Hobbiton, the Estonian handicraft log home producer, on its merger with another Estonian log house producer, Saulerman. | N/A | Estonia |
| 6-Jun | Ellex (Klavins); Ellex (Raidla); Ellex (Valiunas); Thomessen | Ellex advised Eesti Energia subsidiary Enefit Green AS on its acquisition of 100% the shares in Nelja Energia AS from Vardar Eurus AS and Nelja Energia's minority shareholders. The sellers were represented by Norway's Thomessen law firm. | N/A | Estonia; Latvia; Lithuania |
| 28-May | Ellex (Valiunas) | Ellex Valiunas advised Estonia's Inbank on its acquisition of 100% of the shares of UAB Mokilizingas from shareholders AS LHV Group and UAB Inovatyvus Prekybos Sprendimai. | EUR 15 million | Estonia; Lithuania |
| 23-May | Bekes Partners; Dentons; HBK Partners; Jeantet | HBK Partners and Bekes Partners advised Novohot Kft. on the acquisition of Hotel Novotel Szeged from Accor Hotels. Jeantet and Dentons advised Accor Hotels in the sale. | N/A | Hungary |
| 28-May | CMS; Oppenheim | Oppenheim advised IAD Investments, an independent Slovak asset management company, on the acquisition of the Dunaharaszti industrial park on behalf of its Prvy Reality fond. The seller, IPD, was advised by CMS. | N/A | Hungary |

| Date covered | Firms Involved | Deal/Litigation | Value | Country |
|--------------|--|---|------------------|-----------|
| 25-May | Cobalt | Cobalt advised BaltCap, Dasha Group AS, and others on the sale of their majority shareholding in Runway BPO to Webhelp, a global business process outsourcing and customer experience company. | N/A | Latvia |
| 28-May | Sorainen | Sorainen advised Stockholm-listed gaming operator MRG on the acquisition of a majority stake in Latvia-licensed operator 11.lv. | N/A | Latvia |
| 29-May | Cobalt | Cobalt advised Kartesia on its acquisition of Groglass – its first investment in the Baltics from NCH Capital – which reportedly was represented by Ellex Klavins. | N/A | Latvia |
| 29-May | Sorainen | Sorainen successfully represented dairy products producer Luksiu Pienine in a dispute against Pieno Zvaigzdes, a Lithuanian manufacturer of milk and dairy products, over the use of the Liliputas brand. | N/A | Lithuania |
| 13-Jun | Fort Legal; Vilnius Law Firm No 9 | The Vilnius office of Fort Legal represented EFTEN Real Estate Fund III AS on its acquisition, made through subsidiary EFTEN Evolution UAB, of the Evolution business center in Vilnius from Evolution Office System UAB, owned by Audrone Petraitiene ir Nordija UAB. The sellers were advised by Vilnius Law Firm No 9. | EUR 9 million | Lithuania |
| 23-May | SMM Legal; Weil, Gotshal & Manges | SMM Legal is advising PKN Orlen on its merger with Grupa Lotos S.A., which is advised by the Warsaw office of Weil, Gotshal & Manges. | N/A | Poland |
| 24-May | Jedwabny & Brzozowska | Jedwabny & Brzozowska advised Less Mess Storage on negotiating PLN 210 million of loan facility commitments from Bank Polska Kasa Opieki S.A. | PLN 210 million | Poland |
| 25-May | Wiercinski Kwiecinski Baehr; Weil, Gotshal & Manges | WKB advised BC Bavarian Candles Expansion GmbH on the acquisition of 100% of the shares in Korona Candles, a private label manufacturers of candles. The sellers – the company's founder and primary shareholders – were advised by Weil, Gotshal & Manges. | N/A | Poland |
| 28-May | Kondracki & Celej; Orrick, Herrington & Sutcliffe | Kondracki & Celej and the London office of Orrick, Herrington & Sutcliffe advised Black Pearls VC on PLN 3 million financing as part of Deep.Bl seed round, which resulted in a total of PLM 4.8 million (EUR 1.1 million). The remaining 1.8 million PLN was raised from Polish business angels related to the media industry: Piotr Walter, Tomasz Jozefacki, Krzysztof Debowski, and Adam Sawicki. | EUR 1.1 million | Poland |
| 28-May | Studnicki, Pleszka, Cwiakalski, Gorski | SPCG Studnicki, Pleszka, Cwiakalski, Gorski successfully represented T-Mobile Polska S.A. in a dispute with Poland's President of the Office for Competition and Consumer Protection before the country's Court of Competition and Consumer Protection regarding a subscription price increase and the obligation to pay public compensation. | N/A | Poland |
| 29-May | Freshfields; Skadden, Arps, Slate, Meagher & Flomwardynski & Partners; Wiercinski Kwiecinski Baehr | WKB and Skadden advised Joyson Electronics on Polish aspects of its USD 1.6 billion acquisition of the global assets of Takata Corporation. Freshfields Bruckhaus Deringer advised the sellers, with Wardynski & Partners acting as local Polish counsel. | USD 1.6 billion | Poland |
| 6-Jun | Wiercinski Kwiecinski Baehr | WKB helped the Ryanair Group establish Ryanair Sun, a new business unit in Poland. | N/A | Poland |
| 6-Jun | SMM Legal | SMM Legal assisted Poland's National Centre for Research and Development on a program to incentivize the creation of new hydrogen storage technology. | N/A | Poland |
| 11-Jun | SSW Pragmatic Solutions | SSW Pragmatic Solutions helped ZPC Otmuchow S.A. obtain permission from the Polish Financial Supervision Authority for its issue prospectus. | N/A | Poland |
| 11-Jun | SSW Pragmatic Solutions | On May 29, 2018, SSW Pragmatic Solutions obtained a favorable judgment for Erbud S.A. in its dispute with Millennium Bank before the Court of Appeal in Warsaw. | N/A | Poland |
| 13-Jun | Linklaters | Linklaters advised Panattoni Europe on the lease of 16,000 square meters of space in Panattoni Park Gdansk III to LPP S.A, a Polish company engaged in the clothing and accessories industry. The complex, which is currently under construction, will consist of two warehouse halls of nearly 64,000 square meters. | N/A | Poland |
| 13-Jun | Dentons; Wolf Theiss | Dentons advised NEPI Rockcastle on its EUR 64.9 million acquisition of the Aura Centrum shopping center from Amsterdam-based company Rockspring NPS European Alfa B.V., which was advised by Wolf Theiss. | EUR 64.9 million | Poland |
| 24-May | Popovici Nitu Stoica & Asociatii | PNSA advised Medicover on the acquisition of a majority stake in Pelican Hospital in Romania. | N/A | Romania |
| 25-May | Nestor Nestor Diculescu Kingston Petersen | Nestor Nestor Diculescu Kingston Petersen successfully represented the Municipality of Bucharest in a dispute involving ownership of the Mogosoia Palace. | N/A | Romania |
| 13-Jun | Clifford Chance | Clifford Chance Badea advised BNP Paribas Leasing on the acquisition of shares in two Romanian companies from IKB, a Germany-based group that is exiting the local market. | N/A | Romania |
| 24-May | Bryan Cave Leighton Paisner | The Moscow office of Bryan Cave Leighton Paisner successfully represented the Prosveshcheniye publishing house in an intellectual property rights dispute against Russian publishing house Ventana-Graf. | RUB 3.7 billion | Russia |

| Date covered | Firms Involved | Deal/Litigation | Value | Country |
|--------------|--|--|------------------|----------------|
| 24-May | Egorov Puginsky Afanasiev & Partners | Egorov Puginsky Afanasiev & Partners successfully represented Bank Saint Petersburg in a case against Russian entrepreneur Vitaly Arkhangelsky and Oslo Marine Group Ports LLC before the High Court of Justice. | RUB 1.5 billion | Russia |
| 28-May | Yust | YUST advised Rusgazdobycha JSC on the preliminary stage of an agreement with Gazprom to build a gas plant in the Leningrad region of Russia. | N/A | Russia |
| 23-May | Kinstellar; Sidley Austin | Kinstellar, working with global legal counsel Sidley Austin, advised the Nidec Corporation on Slovak law aspects of its acquisition of Brazilian compressor business Embraco from Whirlpool Corporation. | USD 1.08 billion | Slovakia |
| 4-Jun | Allen & Overy; Mayer Brown; Rojs, Peljhan, Prelesnik & Partners; Ulcar & Partnerji | Rojs, Peljhan, Prelesnik & Partners and Allen & Overy (together with Consultant Hugh Owen of Go2Law), advised insurer Generali CEE Holding BV, a part of Italy's Generali Group, on its sale of Adriatic Slovenica Zavarovalna Družba d.d. to financial group KD Group d.d. Ulcar & Partnerji and solo-practitioner Simon Gabrijelcic advised the buyers on Slovenian law matters, with Mayer Brown advising on English law matters. | EUR 245 million | Slovenia |
| 5-Jun | Paksoy; Schoenherr | Paksoy advised Yapisan Elektrik Uretim A.S., a subsidiary of Bilgin Enerji, on the acquisition of OMV Samsun Elektrik Uretim Sanayi ve Ticaret A.S. from OMV. Schoenherr advised OMV on the sale. | N/A | Turkey |
| 11-Jun | GKC Partners; Paksoy; White & Case | Paksoy advised the Zorlu Group on raising USD 330 million for Osmangazi Elektrik Dagitim AS from the EBRD, IFC, Nederlandse Financierings Maatschappij Voor Ontwikkelingslanden N.V., and Turkish commercial banks. White & Case and GKC Partners advised the consortium of banks on the deal. | USD 330 million | Turkey |
| 11-Jun | Gleiss Lutz; Kirkland & Ellis; Paksoy; Sidley Austin | Paksoy, Kirkland & Ellis, and Sidley Austin advised Accuride Corporation, a US-based supplier of components to the commercial vehicle industry, on the acquisition of the Mefro Wheels GmbH. The sellers were advised by the Munich office of Gleiss Lutz. | N/A | Turkey |
| 13-Jun | Paksoy | Paksoy advised Turkish energy company Enerjisa on its acquisition of the majority of shares in Esarj, a company operating in the electric vehicle charging station sales and installation sectors. | N/A | Turkey |
| 25-May | Paksoy | Paksoy advised Sberbank of Russia on a share purchase agreement for the sale of Denizbank to Emirates NBD Bank. | USD 3.2 billion | Turkey; Russia |
| 24-May | CMS; Linklaters | CMS advised HNA Group on the sale of equipment service provider TIP Trailer Services to I Squared Capital, an independent infrastructure investment manager. Linklaters advised I Squared Capital on the acquisition. | N/A | Ukraine |
| 30-May | Asters; Avellum | Avellum advised Investment Capital Ukraine on the establishment of a joint venture with the VR Capital Group to develop a 63.8 MW solar power plant in the Khmelnytskyi region of Ukraine. VR Capital Group was advised by Asters. | N/A | Ukraine |
| 6-Jun | Avellum | Avellum advised the EBRD in connection with a senior secured loan of up to EUR 9.5 million to Nova Poshta LLC. | EUR 9.5 million | Ukraine |
| 11-Jun | Ilyashev & Partners | Ilyashev & Partners successfully represented the Ukrainian Association of Ferroalloys Producers and Other Electrometallurgy Products in an anti-dumping investigation concerning imports of ferro-silicon originating in Egypt and Ukraine. | N/A | Ukraine |
| 12-Jun | Vasil Kisil & Partners | Vasil Kisil & Partners represented the European Business Association in administrative litigation regarding Resolution N231 of March 16, 2017 of Ukraine's Cabinet of Ministers. | N/A | Ukraine |

Full information available at: www.ceelegalmatters.com

Period Covered: May 23, 2018 - June 13, 2018

DID WE MISS SOMETHING?

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



ON THE MOVE: NEW HOMES AND FRIENDS

Laszlo Fekete Bagamery Opens Doors in Budapest



Andras Daniel Laszlo, a former partner at Hungary's Szecskay law firm, has teamed up with Zoltan Titusz Fekete, who previously worked at RSM Hungary and with the Hungarian tax authority, and with Gaspar Bagamery, who worked with DLA Piper and Szecskay, to establish a new boutique in Budapest under the brand of LFB.

According to the new firm's press release, the partners "intend to capitalize on their experience with leading law firms and consulting companies to start a new venture providing integrated legal and tax services on the field of dispute resolution and M&A."

The new firm will also include Counsel Pal Batki, who specializes in white collar crime and international criminal law.

"We wanted to do what we are the best in and we felt that the Hungarian market is mature enough to support a true boutique approach," said Litigation and Arbitration expert Andras Daniel Laszlo. "Our focus is on providing comprehensive, tailor made strategies to complex corporate and business disputes, exploiting our unique practice mix of commercial, tax, and criminal law."

Fekete, who focuses on tax audits and tax litigations, also emphasized the integrated multidisciplinary approach of the firm. "There are many great law firms who start developing tax practices, and many great tax advisory firms who hire lawyers. In our case, however, the legal and tax experts who com-

bine forces are both on the top of their respective games."

While Laszlo and Fekete specialize in legal and tax disputes, the trio's third partner concentrates on corporate and finance transactions. "Being both an attorney and a tax advisor, I can attest first-hand the value that our integrated approach brings to the table in a transaction," said Bagamery, adding that "our [clients'] overwhelmingly positive reaction to our new shop confirms our decision."

According to the LFB press release, "the firm acts in several high profile cases from day one, including tax and commercial litigations, investment arbitration procedures as well as corporate acquisitions, amongst others in the media and publishing, advertising, IT, health, construction and logistics sectors. In cross-border cases, the firm relies on the extensive international, professional, and personal network of the founders, including that of dual-qualified Laszlo, who is admitted both in Hungary and New York, but they plan to add international counsel to the team in Budapest soon."

By Hilda Fleischer

Sorainen and Triniti Benefit From Jesse & Kalas Dissolution



Estonian firm Jesse & Kalas has dissolved after three years, with Partner Piret Jesse bringing two members of her team to Sorainen's Tallinn office, and Tanel Kalas bringing a separate team to Triniti.

According to Kalas, “the decision was made jointly by all parties concerned to provide better legal services to our clients in the future.”

Jesse has joined Sorainen’s Corporate/M&A team, which is led by Partners Toomas Prangli and Karin Madisson. On joining Sorainen, she said: “The M&A market is developing well and regional market growth is expected to continue. I’m proud to be joining the top M&A team with the aim of ensuring the best-aligned highest quality services to our clients. I am sure that together we can handle complex, large-scale transactions even better and our clients will benefit from the joint long-term experience of the team.”

“I want to deliver the best service with the best team,” she added. “Sorainen values its people and has created a working environment that supports teamwork and personal development.”

“Our views with Piret are aligned,” said Prangli. “We soon realized how synergy of effort would help our clients succeed in business and our people succeed in their careers.”

Piret believes in a strong integrated international firm which invests in people and where the partners are hands on with client work and business development,” added Partner Karin Madisson.

Sorainen Senior Partner Aku Sorainen claimed he was “delighted at the opportunity to strengthen our partnership with an outstanding M&A professional and I am much looking forward to the synergy she will bring. Piret is ambitious and driven and I believe her skill-set will bring further diversity to our leadership team.”

Former Jesse & Kalas lawyers Robin Teever and Mirell Prosa moved with Jesse to Sorainen, who spent ten years with Tark Grunte Sutkiene before co-founding Jesse & Kalas in February 2015.

Tanel Kalas, who has joined Triniti’s Bureau of Competition and Disputes, has been practicing competition law for over 17 years, advising both private and public clients on matters relating to competition law, including transactions, merger control both in Estonia and across borders, risk analyzes, relations with the Competition Authority and the European Commission, state aid and disputes, including representation in civil, administrative, misdemeanor and criminal proceedings.

“I am sincerely pleased to join Triniti with a very experienced and ambitious team, built on exactly the values that I think have to be in one modern office,” he said. “This is the environment in which I want to contribute in the future.”

Before co-founding Jesse & Kalas, Kalas spent 15 years with the Estonian office of Raidla Lejins & Norcoux (which in May 2015, shortly after he left, transformed into Ellex Raidla).

By Mayya Kelova

New Firm in Budapest: Bittera, Kohlrusz & Toth



Former Dentons Partner Milan Kohlrusz has joined forces with Csaba Bittera and Peter Toth, both long-time legal advisors to Budapest Airport, to launch Budapest’s new Bittera, Kohlrusz & Toth law firm.

According to a press release from the new firm, “the new enterprise will focus on three practice areas: aviation law, arbitration and litigation, and employment law. All the founding partners have ties to the aviation industry, which served as a common basis for the combination, with each of them practicing in different fields as well.”

“We are focusing on what we are uniquely good at and this is an excellent opportunity for us to marshal our diverse experience,” said Bittera.

“We had many cases together in the past eight years in aviation related disputes, transactional risk assessments, internal investigation, and regulatory matters,” added Kohlrusz. “We do believe that by combining our forces we offer clients superior advice, without the constraints and costs of hiring a large firm.”

Bittera gained experience on aviation matters as well as in commercial and corporate law as lead legal advisor to the Budapest Airport. He was in charge of the legal management of the crisis that Budapest Airport faced after the collapse of Malev in February 2012.

Kohlrusz is a litigator and former Partner in the Budapest office of Dentons (as he was at White & Case, before that entire office moved to Dentons in April 2015). He has 20 years of experience in domestic litigation and international commercial and investment arbitration.

Toth, a Labor Law specialist, has 15 years of experience in labor disputes with trade union officers and executive managers, representing clients in mass redundancy litigation and strike negotiations with trade unions.

Bittera, Kohlrusz & Toth has six attorneys. The team also includes Edit Hauser, a dispute lawyer previously at Dentons, White & Case and CMS, Szandra Szabo, a commercial lawyer working for aviation clients, and Zsolt Slujtner, a regulatory lawyer specializing in aviation-related regulatory matters.

By Mayya Kelova

SUMMARY OF CEE MOVES AND APPOINTMENTS

PARTNER APPOINTMENTS

| Date Covered | Name | Practice(s) | Firm | Country |
|--------------|------------------|---|--------------------|---------|
| 28-May | Ioana Roman | Corporate/M&A | PeliFilip | Romania |
| 28-May | Eliza Baias | Corporate/M&A | PeliFilip | Romania |
| 28-May | Mihnea Sararu | Litigation/Dispute Resolution | PeliFilip | Romania |
| 13-Jun | Iulian Cioienaru | Litigation/Dispute Resolution | Suciu Popa | Romania |
| 14-Jun | Edwin Tham | Corporate/M&A | Danilov & Partners | Russia |
| 14-Jun | Peter Khokhlov | Corporate/M&A | Danilov & Partners | Russia |
| 31-May | Erdem Atilla | Dispute Resolutions; Administrative Law | Pekin & Pekin | Turkey |

PARTNER MOVES

| Date Covered | Name | Practice(s) | Firm | Moving From | Country |
|--------------|----------------------|-------------------------------|--------------------------------------|---------------|---------|
| 23-May | Marina Mesic | Real Estate; Corporate/M&A | Cipcic-Bragadin Mesic and Associates | Marina Mesic | Croatia |
| 23-May | Ivan Juricic | Litigation/Dispute Resolution | Cipcic-Bragadin Mesic and Associates | Ivan Juricic | Croatia |
| 21-May | Mari Matjus | IP/Competition | Nove | Jesse & Kalas | Estonia |
| 31-May | Piret Jesse | Corporate/M&A | Sorainen | Jesse & Kalas | Estonia |
| 31-May | Tanel Kalas | Competition/Dispute | Triniti | Jesse & Kalas | Estonia |
| 13-Jun | Andras Daniel Laszlo | Litigation/Dispute Resolution | Laszlo Fekete Bagamery | Szecskey | Hungary |
| 13-Jun | Gaspar Bagamery | Corporate/M&A | Laszlo Fekete Bagamery | DLA Piper | Hungary |
| 23-May | Michal Mezykowski | Banking/Finance | CMS | Dentons | Poland |
| 25-May | Konrad Werner | Banking/Finance | Noerr | CMS | Poland |
| 23-May | Michal Mezykowski | Banking/Finance | CMS | Dentons | Poland |

IN-HOUSE MOVES AND APPOINTMENTS

| Date Covered | Name | Company/Firm | Moving From | Country |
|--------------|----------------------|------------------------|-------------|---------|
| 13-Jun | Zoltan Titusz Fekete | Laszlo Fekete Bagamery | RSM Hungary | Hungary |
| 14-Jun | Daryna Sydorenko | Sayenko Kharenko | Swiss RnD | Ukraine |

Full information available at: www.ceelegalmatters.com

Period Covered: March 23, 2018 - May 14, 2018

KOCIÁN
ŠOLC
BALAŠTÍK

ADVOKÁTNÍ KANCELÁŘ

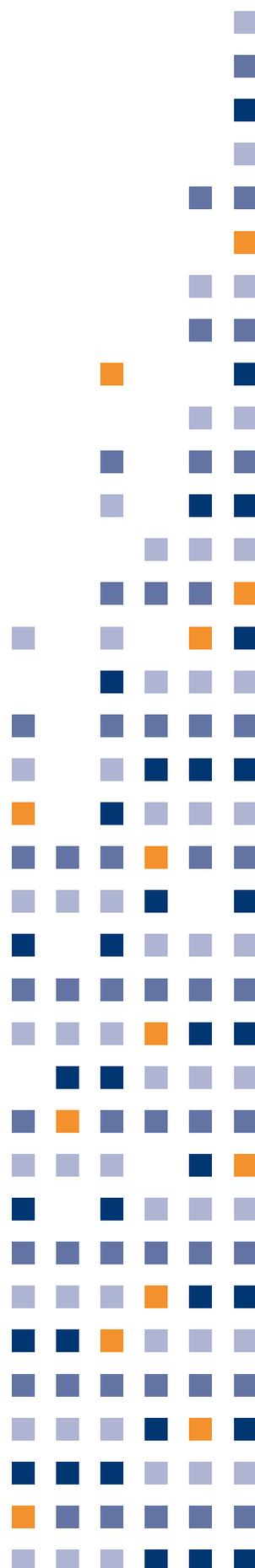
Tradition, Empathy and a Modern Approach

With over 25 years of experience, Kocián Šolc Balašík (KŠB) is one of the leading law firms in the Czech Republic. With more than 70 renowned lawyers, many of whom are leaders in their respective fields, KŠB provides legal and tax advice to both Czech and foreign businesses. KŠB's lawyers follow modern trends in key fields, including new technologies, financing methods (crowdfunding, P2P lending) and specialty areas such as aviation law, pharmaceutical law and franchising. KŠB's team always strives for a clear understanding of its clients' needs in order to find a solution that is original, innovative and effective.

The firm and its lawyers have received many awards over the years, the most prestigious of which includes law firm of the year from Chambers and Partners and Who's Who Legal, which it has won several times. Accolades such as this have helped KŠB to earn a solid reputation and strong position on the market.



www.ksb.cz



THE BUZZ

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

TURKEY: MAY 2, 2018

“An imminent slowdown in the market”



With early elections scheduled for June 24, 2018, Begum Incecam, Partner at Kolcuoglu Demirkan Kocakli in Istanbul, says the attention which will inevitably be drawn to the political arena in Turkey will slow down the market.

After the *coup d'état* attempt in 2016, Incecam says, the recovery that began in 2017 was expected to continue in 2018 at the same pace. But with the announcement of snap elections, against the context of a state of emergency in the country that was just extended for the seventh time, she predicts “an imminent slowdown in the market, as both domestic and foreign investors will watch closely what happens in the political scene in Turkey.”

“Although these political and economic uncertainties have a

short term effect, they are currently a challenge for the Turkish market,” Incecam says. In addition, there have been several significant changes in the country’s legislation recently as well, including, she reports, to the country’s tax laws, the Turkish Commercial Code, and foreign exchange rules. “The latest amendments made in several laws aim to improve the investment environment and boost the economy,” she says. Unfortunately, the number and frequency of changes is causing trouble for practitioners trying to stay up to speed.

Incecam also reports changes in Turkey’s bankruptcy process. According to her, a change in the Enforcement and Bankruptcy Law introduced in February 2018, “aims to implement a tool balancing the interests of the debtors in poor financial standing and their creditors by replacing the postponement regime with concordat.”

“While concordat was available in the laws [before], we are not very used to the new tool we have now,” Incecam says. “Earlier, by postponement of bankruptcy, debtors would be immune from its creditors,” she says. “Reaching an agreement on a concordat, debtors will have the permission of the creditors,” allowing debtors to clear debts by paying them according to the concordat agreement. “In the postponement of bankruptcy, the creditors were not much involved in the process, and it would take a considerably longer time for them to reach their receivables.”

Finally, Incecam says, what’s generating the most attention at



the moment are the recently implemented rules on the Protection of Personal Data that affect both companies and the law firms advising them on compliance. “Now is the time for companies to work on the implementation of the new rules,” she says, noting that the process is “going smoothly.”

By Mayya Kelova

BULGARIA: MAY 3, 2018

“In terms of M&A, a number of sizable transactions”



“Generally, the Bulgarian economy is on an upward path, so law firms are busy,” reports Kinstellar Bulgaria Managing Partner Diana Dimova, who reports increased M&A activity, a strong demand for regulatory advice, and significant public

sector opportunities.

Dimova says that the outlook, in terms of deal activity, is positive, with Real Estate, Banking, and TMT among the most active sectors in the country. “In terms of M&A, a number of sizable transactions have been completed in the last few months, and there are more in the pipeline,” she says. “The main drivers of M&A are the exits of Greek banks from Bulgaria, as well as the appetite of new investors to establish themselves on the market.” She adds that the abundance of current M&A activities, especially in the real estate sector, reminds her of 2007 – the last year the country’s real estate market experienced similar growth. “This sector is generating remarkable volumes of investment in the country, and I think the trend will continue, especially in retail and office buildings.”

Dimova says that most of the buyers are foreign investors, including a number of South African funds interested in buying shopping malls and large office developments.

It’s not only M&A work that’s keeping lawyers busy, and Dimova suggests that, “it is important to acknowledge the big demand for regulatory advice as well.” According to her, “in addition to the GDPR we also see an increase in matters related to financial regulations, cyber security, and compliance.”

Another initiative that has boosted the Bulgaria business market is the One Belt, One Road strategy proposed by the Chinese government that focuses on connectivity and cooperation between Eurasian countries. “Due to this initiative,” Dimova says, “we are also seeing greater interest from Chinese investors. For example, the HNA Airport Group was awarded a 35-year concession to run the airport in Plovdiv, Bulgaria’s second-largest city. I am sure that more Chinese investments are expected in others sectors as well, like infrastructure, real estate, energy, and TMT.”

There are more interesting opportunities in the public sector, Dimova reports. “This includes the long-awaited concession of Sofia airport, but also several infrastructure projects in the gas sector that have generated interest from international players. We expect increased scrutiny from the business community to ensure that public tenders are run at the highest international standards.”

Dimova says that the most substantial legislative amendments that are expected in the near future relate to the renewable energy industry. “The purpose of the upcoming amendments is to further liberalize the energy market,” she says. “They will basically replace the current feed-in tariff contract model with a contract for compensation with a premium model. This will require renewable producers to restructure their business activities, including possibly renegotiating their existing finance agreements.” Still, she admits to some personal reservations about the measures. “Changes to the Energy Act would make revenues of the renewable energy producers less predictable,” she says, and she concedes that, “this development will likely

require strong legal support.”

Staying with the energy sector, Dimova says that Bulgarian businesses are also expecting the Clean Energy for All Europeans package to be adopted, which contains measures designed to provide a stable legislative framework necessary to facilitate the transition to clean energy. “This package will provide new opportunities not only for energy stakeholders, but also for other stakeholders like financial institutions and IT companies.”

By Hilda Fleischer

LATVIA: MAY 3, 2018

“Legal services are in demand”



“There are four main new legislative developments which have shaken the market in Latvia,” says Andra Rubene, Partner at TGS Baltic in Riga, referring to the GDPR, amendments to Latvia’s Law on the Prevention of Money Laundering and Terrorism Financing, and changes to the country’s corporate and personal income tax laws as of primary significance.

The General Data Protection Regulation, which was approved by the EU Parliament on April 14, 2016 and came into force on May 25, 2018 has generated the most attention. “The changes are dramatic,” Rubene says. “Before, penalties were smaller, but the new larger ones are frightening the market.” The final weeks leading up to the deadline were “organized panic” she says, and legal assistance with GDPR compliance was often necessary. “Everyone is struggling to complete compliance by the deadline,” she says, but overall, business were “rather prepared.”

Going forward, Rubene says, “there are a lot of questions and uncertainties about how the regulation will be applied later in practice and which direction the interpretation will go.” The most frequently-discussed topic is the length of time the data must be stored and the legal basis for that storage, depending on the kind of data involved. And while the main goal is

to protect the data of natural persons, “for businesses it is a burden.” Nonetheless, she believes that in the long run the business community will benefit, as “clear and understandable guidelines will increase the organization and functionality of any business.”

Other changes related to data and identity security are in Latvia’s Law on the Prevention of Money Laundering and Terrorism Financing. Based on EU Directive 2015/849, the law requires companies in Latvia to disclose their beneficial owners to the Latvian Commercial Register by March 1, 2018. According to Rubene, Latvia is the first Baltic State to translate the directive into law. Although the main purpose of the law is to penalize fraud, money laundering, and the lack of transparency, there are significant personal data protection considerations for beneficial owner of some companies. “For publicly traded companies this is not a huge issue, but for others there is a struggle,” she says, as many companies are concerned about potential risks to beneficial owners, since their personal data will be publicly available.

On January 1, 2018, a new Corporate Income Tax (CIT) law came into force in Latvia, Rubene reports, raising tax on dividends from 15% to 20%, and eliminating any personal income tax on profit from dividends in cases of CIT paid. According to her, the new law was needed to increase the efficiency of tax collection. “For us in Latvia it was time to change our tax system slightly,” she says, noting that, unless the amendments fully positive and effective, “the multiple changes in the tax law made the system no longer stable and caused caution as a downside.” She expects the effects of the new Corporate Income Tax law to be visible in upcoming years.

The Personal Income Tax law was also changed at the beginning of the year, Rubene reports, in the form of significant amendments to the calculation of salaries, with differentiated taxes (i.e., larger taxes from larger salaries, smaller taxes from smaller salaries) applied as an “attempt to introduce proportionality.” She says, “the idea is good, but currently it seems that it does not fully work in practice.”

Finally, turning to the law firm market, Rubene reports that the economic growth in the country has resulted in an improved legal services industry. “Since we are currently in a good economic cycle, and the law firms have matured, it is the best time.” In particular, she says, law firms have started introducing knowledge management tools and AI software. The first increases efficiency: lawyers are able to work more quickly and produce work of better quality. The second is related to developing templates to ease and shorten the process of drafting and checking documents. “Currently legal services are in demand, but there is a lack of a competent work force, and clients expect us to improve our efficiency. This is a good time for improvement.”

By Mayya Kelova

RUSSIA: MAY 11, 2018**“Serious Administrative Burden”**

“The biggest challenge for companies in Russia today is the serious administrative burden,” says Andrei Gusev, Managing Partner at Borenium Russia. “There are a huge number of outdated conglomerate regulations in various sectors, applied since the Soviet times, that lead to contradictions among requirements and regulations.”

According to Gusev, authorities strictly monitor compliance with corporate regulations and conduct numerous checks, which, as a consequence, creates tension in companies, forcing them to commit considerable time and energy into ensuring compliance. “This distracts from the development of business,” he says.

Yet some efforts have been made to lessen that burden on companies, according to Gusev, including, most notably, amendments made in 2016 to the law of December 26, 2008 No. 294-FZ “On the Protection of the Rights of Legal Entities and Individual Entrepreneurs During State Control (Supervision) and Municipal Control,” which, among other things, imposes a moratorium on inspections of small and medium-sized businesses. “This has had a positive effect on small and medium enterprises,” he says, adding that, although the moratorium is set to expire in December 2018, expectations are that it will be extended.

At the end of 2017, Gusev says, Russia’s tax law underwent major changes as well, clarifying how the tax base is calculated. Earlier, the concept of tax evasion resulting from the use of artificial structures was based only on judicial practice, whereas today there is a norm of direct action, which, he says, means that “liability is imposed on taxpayers who use formal ways to escape payments of taxes.” According to Gusev, the new approach is seen as a game changer because it crosses over the massive court practice built over years.

Going forward, Gusev reports that Russia’s plan to impose counter-sanctions on the West is an important issue in the country and will bring some legal challenges and, hence, lawyers’ work. According to him, the first reading of a draft law on counter-sanctions is scheduled for May 15, 2018. The draft law allows the Government to impose new measures against the US and its allies. “I think it’s quite a firm draft bill, with a

mechanism that mandates the government to establish concrete measures.”

Russia’s Federal Law No. 214-FZ on the Participation in Shared Construction of Apartment Houses and Other Immovable Property Units comes into force in July 2018. “On the one hand,” Gusev says, “shared construction has had a positive social effect by providing an opportunity for young families to buy apartments.” On the other hand, he explains, a lot of people were lured to invest in infrastructure and cooperated directly with construction companies, without having insurance that the property would be transferred to them. Thus “shared construction led to a high level of bankruptcy and hoodwinked investors in the country.” The new law is promising, he reports, as shared construction will be substituted by project financing, providing more control over the process. However, he says, “The change restricts market growth and raises the costs of living.”

Finally, Gusev mentions the ongoing discussion on reforms in the legal profession. “Some proposed changes were quite controversial,” he says, “from the introduction of advocates’ monopoly to the ban for international law firms to operate in the Russian market.” None of those proposals have been adopted so far, but according to him, “if those changes happen in the form they are currently proposed in, it will change the entire market, and the quality of legal services in the market may drop.”

By Mayya Kelova

ALBANIA: MAY 15, 2018**“A hospitable climate for foreign investors”**

“In Albania we have a hospitable climate for foreign investors, not just from a legal perspective, but from a business perspective as well, and we are trying to do the best to implement the laws as they are written,” reports Jonida Skendaj, Partner at Boga and Associates.

According to Skendaj, Albania is in a state of “constant development,” in areas such as agriculture, energy and mining, transport, telecommunication, and urban waste. And while she reports that domestic investors are getting more and more active, primarily in public infrastructure projects, she says that “foreign investors, on the other hand, are becoming interested in the agriculture sector.”

According to Skendaj, “we also hope to see some more movement in tourism, as it is being incentivized quite strongly by the government. We have no restrictions on repatriation of funds, no tax on net profit of a branch, many tax conventions in place which provide for a low rate of tax on dividend repatriation, and equal treatment for foreign and domestic investors, meaning that we do not have discrimination from a taxation point of view; foreigners don’t pay more than locals.” According to her, this equal treatment – combined with attractive tax rates – is key. “When you are a foreign investor and come into a country that you don’t know, at first glance you want to see what protection the country can offer to you, but also how the tax treatment will be. We have friendly tax rates – 15% rate for profit tax – and then with the double tax treaties, the income that is generated in Albania may be taxed at reduced rates depending on its nature.”

Also important, Skendaj says, is that foreign investors don’t need prior governmental approval to invest. In addition, the investment can be 100% foreign, including management. “The law on tourism has been changed recently, and it now provides for incentives to state-owned immovable properties that are located in areas that are priorities in the development of tourism, so they can be made available for investors for a duration up to 99 years. The right to use state-owned property can be also obtained for a symbolic price of 1 euro,” she reports, adding that when someone has the status of a “special strategic investor,” Albania’s Council of Ministers may also change the ownership of the state-owned territory in its favor. “In this case, the contract will contain a condition that the investment should be fully realized as undertaken in the original contract,” she says. “The agreement would be ratified by the parliament.”

“The investment value in these cases is very high,” she reports, “and for someone to qualify as a ‘strategic special investor,’ they need to ensure that some jobs will be in place, the project will be finished in time, and so on. In exchange, the state gives you special protection: you’ll have a contract ratified by the Parliament, which gives you more security, or if you need some immovable property that is privately owned, the state undertakes the expropriation.”

“The law is there to protect,” Skendaj concludes, adding that Albania also has special bodies like the Albanian Agency for Foreign Investments and the Strategic Investment Committee that have been designed to help investors. “If they need assistance, these agencies can put them in contact with relevant ministries, and if they need expropriation, they prepare the

field. Foreign investors are literally accompanied by the state (in its bodies) on every step.”

By Hilda Fleischer

MOLDOVA: MAY 25, 2018

“A commitment to create more transparent and stable banking legislation”



Although Moldova is not part of the European Union, the country strives to stay in line with EU regulations, Andrei Caciurencu, Partner at ACI Partners says, so the GDPR is as hot a topic there as it is elsewhere.

According to Caciurencu, in recent years many companies have started to pay more attention to personal data protection, data management, and storage, and many of them have registered as personal data operators. “Both the business and the legal community is taking this very seriously, and I think that companies are more aware and more cautious today in this sense,” he says.

The GDPR is not the only field where Moldova is trying to harmonize its legislation with EU principles and expectations, Caciurencu says. He explains that “we have a new law on banking activity, which came into force on January 1, 2018, and it aims to strengthen the regulation, supervision, and risk management of banks. Banks are stricter on bank capital adequacy, stress testing, and market liquidity risk. Moldova is really trying to stay in-line with EU norms, especially when it comes to the financial sector, which is the backbone of the country’s economy.”

Caciurencu thinks these changes will, ultimately, be good for

business. “It should definitely be a positive change, for it reflects a commitment to create more transparent and stable banking legislation, and to become an active member of the international financial community.”

Caciurencu reports that M&A activity is quite high in Moldova at the moment, with foreign investors making serious investments and acquisitions, especially in mobile networks, energy distribution networks, and the IT sector.

“At the end of last year, and the beginning of 2018, the first (and so far only) park for information technology was created here, called the ‘Moldova IT Park,’ Caciurencu says. “Companies [in the park] – or residents, as we call them – benefit from a very good tax regime in the park. The government combined several taxes, so now they pay a single tax of 7% of monthly sales revenue (but not less than 30% of the average monthly wage in the economy, predicted for the fiscal year, per one employee). This tax includes the income tax on entrepreneurial activity, income tax on salary, compulsory social insurance contributions, compulsory medical insurance payment (by the employee and employer), local taxes, real estate tax, and road usage tax.” According to him, these benefits make it “very attractive,” for foreign companies to register in the park. “The initial target was to attract around 40 companies,” he says, “but now there are more than 180 residents, and this number is increasing every single day.”

By Hilda Fleischer

SLOVENIA: JUNE 19, 2018

“We are back to M&A”



“We are experiencing quite high economic growth in Slovenia,” reports Matej Perpar, Partner at Kirm & Perpar in Slovenia, “which for the time being has boosted foreign investments and resulted in a couple of sizable transactions.”

“The most significant transaction can be tied to Gorenje,” he continues, referring to Slovenia’s white goods manufactur-

er. “The company has been taken over by a Chinese investor – something relatively new for the Slovenian market. The state always had influence in Gorenje, which was perceived as important domestic employer and an important Slovenian brand, so most of us expected that the politicians would have some sort of reaction because all three bidders were Chinese parties. Maybe because it is the biggest investment made by a Chinese investor in the country or maybe because the company indeed needed a strategic partner, the transaction didn’t have as many opponents as I would have expected based on my previous experience.”

Perpar admits that he himself is still a bit skeptical about what exactly the transaction means. “On the one hand it can be considered an indicator that we might have more similar investments from Chinese companies in the future. But on the other hand, China is still unknown territory for Slovenians, and I also have talked with lawyers who worked on the transaction, and they all said that business cannot be done the same way that we usually do with foreign investors. There are many barriers and challenges. First and foremost, when it comes to business, they follow different rules than we follow here in Europe, then there are the cultural differences, the language, and the approaches.”

In general, Perpar says, Slovenian legislation has an open approach and promises equal treatment when it comes to development, with domestic and international investors enjoying the same rights and opportunities. Indeed, he says, “we took some important steps to make our economic environment even more friendly and attractive for foreign investors,” and he notes that “nothing proves this better than the adoption of specific pieces of legislation that were tailored to the needs of Magna-Steyr, which started to build new plant near Maribor.”

In addition, Perpar says, “the parliament has recently also adopted new legislation to facilitate the process for obtaining construction permits, to make things easier and more attractive for foreign and domestic investors.” He asserts that Slovenia is “definitely more open today towards foreign investors than it was ten or more years ago.”

“It all has to do with the current economic situation,” he says. “Most company owners see the current state as a peak of the economic situation, and they are trying to make the best out of it – and that is why we are experiencing high number of sales lately.” He provides an example: “One of

these transactions was the sale of one of the largest insurance companies in Slovenia, Adriatic Slovenica, which was bought recently by Generali.” In addition, he reports, real estate market values, especially in Ljubljana and at the seaside, are again close to what they were before the crisis. And “Slovenia has been recognized as a country that is very friendly to crypto investments, as well as a lot of NPLs and also state projects. The

most important, I would say, is the construction of a second railway track between Divaca and the sole port, Luka Koper, for cargo transports.”

Ultimately, Perpar suggests, a strong economy rewards firms, like his, with strong transactional practices. “So while a couple of years ago Slovenian firms were busy with restructuring and insolvency, today we are back to M&A.”

By Hilda Fleischer

ROMANIA: JUNE 22, 2018

“Quite a political struggle right now”



“The current topics on the Romanian legal market are the GDPR’s implementation and the recent decision of the country’s Constitutional Court concerning the dismissal of the National Anticorruption Directorate’s chief,” says Germin Petcu, Partner at Dobre, Tulei & Asociatii in Bucharest. “There is quite a political struggle right now in Romania,” he adds, noting that in the long term this may affect businesses and foreign investment in the country.

In terms of the GDPR, Petcu says that he is still receiving mandates to look into clients’ compliance processes and to evaluate the risks that they might face for not being 100% GDPR-ready. “According to recent evaluations, only 25% of the Romanian companies were absolutely aware that they needed to be fully GDPR-compliant by May 25th. It doesn’t mean that these companies were actually compliant; it only means they knew about it.” In fact, he says, “the same statistics showed that virtually no company from Romania was fully GDPR-compliant by May 25th. Obviously, the level of compliance was higher among the big IT & telecom companies, banks and a few other industries, but if we are talking about

your average – not necessarily limited-liability – companies, which are also impacted by the act, the percentage is rather low.”

In Petcu’s opinion, the subject of personal data protection was never of great significance to average people in Romania. “Probably due to its recent historical and cultural background, people never paid real attention to these matters – never considered questioning why their personal data was required from them, [and were] never cautious about it,” he says. “There is no general awareness on the importance of personal data protection.” He adds that, “at company level the owners know about GDPR and its rather vast ramifications, but they do not dig into it. They rather know that the fines are really high and that is why they need to comply.”

Turning to the second topic that is currently keeping Romanian jurists wired, Petcu explains that lately the Romanian judicial system seems to have taken sides. “Upon the Justice Minister’s proposal to revoke and replace the head of the National Anticorruption Directorate, the Romanian President, who opposed the decision, was ultimately faced with the ruling of the Constitutional Court, which settled the matter, let’s say, in favor of the Ministry of Justice,” he says. “The decision sparked a lot of debate in the judicial academic environment, the political sphere, and even in the civil society.”

According to Petcu, “the name of the game is, ultimately, control,” and he reports that “some of the voices from the civil and political arena are saying that with this move the governing party is trying to place the country’s judicial system under political control.” The significance of the debate is not limited to the individuals involved, he says, adding that “because of this political turmoil, I believe investors might be more reluctant to come to Romania in the near future.”

Indeed, in Petcu’s opinion, foreign investment is already slowing worldwide due to global political instability, and the situation is reflected on the Romanian market. “Because of the commercial war between the US and the other major players, like China and the EU, foreign investors seem a bit reluctant to invest money. Look around: the stock exchanges are going down. And because business and politics are always connected, I would say that this is a turbulent period not only for Romania.”

By Hilda Fleischer

HAMALA · KLUCH · VÍGLASKÝ · Law Firm

We can transform your vision into real business

A Slovak law firm with a sense for business law

Corporate Law / M&A
Banking, Finance & Capital Markets
Real Estate & Construction
Energy, Infrastructure & Transport
Employment Law
Restructuring & Insolvency
Dispute Resolution



Find more info

www.hkv.sk

CEE REAL ESTATE LANDSCAPE – THE MARKET AT A GLANCE

By Gregor Famira and Wojciech Koczara,
Partners, CMS

The widespread perception remains that the real estate market in CEE is undervalued and continues to offer exciting opportunities for investors. It would seem this is with good reason and early signs suggest that this year we may approach record levels of activity in the sector.

Funds from continental Europe, including Germany and Austria, remain the most active in the region. An interesting development is the evidence of a heightened level of interest from the Middle East and Asia, particularly in terms of the long-expected arrival of Chinese capital.

The market sentiment and investment approach parallels that of 2017. The vast majority of investors are long-term property holders with a view of owning the property for decades rather than years. First and foremost, investors are seeking income-producing assets and yield compression continues.

The shortage of core real estate investment opportunities has naturally resulted in increased demand. Investors are particularly attracted by properties which can readily be leased to good tenants under long term lease agreements. This is par-

ticularly the case in regional cities, if such assets are available.

Analysis of Asset Classes in CEE

The above qualities in real estate continue to be the key drivers of investment in the sector, yet there are several noteworthy developments with respect to interest in asset classes.

High-end offices continue to attract a substantial amount of attention from investors as demand increases for hyper-modern spaces which can accommodate and lure the interest of millennial employees.

Meanwhile, as a result of the shortage of supply for high quality commercial real estate, there has been an increased interest in prime residential assets by international property funds.

There was also another sound year of transactions in the hotels sector, although there is an observable gap in SEE between the high demand and low offer of all quality hotels for sale, especially along the Adriatic coast. This gap is expected to grow as a result of the current anti-short-term lodging propaganda.

With respect to logistics, activity was exceptionally high in Eastern Europe, with the market share averaging above 30%.

The largest talking point remains the relationship between the retail and logistics spheres. As has been widely reported, the US retail market has hit the floor and leasing rates have had to be adjusted accordingly. Suggestions have been made that CEE may go down the same path. State-of-the-art retail properties which showed a world of promise in the 80s and 90s now appear empty and dysfunctional and many have suggested that in capital cities the market has been saturated with available retail space over the recent decades, resulting in many dormant shopping malls.

It can largely be said that the prediction the retail market would collapse, to be replaced by high tech e-retail and consequent distribution real estate, has yet to be borne out. In 2017 transactions in the retail sector far outperformed any other asset class and the market remains as buoyant as ever.

Particularly in SEE, traditional shopping mall targets have attracted a significant



amount of attention in recent times – as opposed to office buildings or heavy-weight logistic centers. We have also witnessed a growing interest in the social infrastructure facilities, including elderly housing solutions. This corresponds directly with the demographic trends in CEE that resemble those in continental Europe and the UK, but this is also a very regulated sector and finding the right operating model can be challenging. It will be interesting to see whether this will develop into an increased interest in general housing or student housing solutions or other forms of assisted living, healthcare, and medical facilities.

It would appear that the retail market is being pulled in different directions throughout CEE. On the one hand there are surging economies with growing prosperity, yet the market is perhaps being compromised by the swelling demand for e-retail.

Unlike the United States, we have yet to see any significant evidence of the closing down of shopping centers, and rental costs for retail space remain as expensive as ever, especially with major new international retailers entering the market.

Notably, across CEE we also see many new shopping centers under construction.

Modern premises have been substantially adapted to modern technology. In the regional cities of Poland and the Czech Republic the implementation of technology – for instance in various forms of rapid self-service checkouts – is advancing at an unprecedented pace.

It is interesting to consider the typical elements of a shopping center, which include various retail outlets, a supermarket, a parking area, a gym, a food court, and cinemas. To varying extents it would seem the need or desire for these elements can be questioned, although with respect to gyms, wellness centers, cinemas, and food courts it is hard to see any viable replacement.

It is these sorts of social elements of shopping malls that appears to be immune from advancements in technology. Particularly in the parts of CEE countries that are far from national capitals, shopping malls are viewed as trendy and attractive meeting places which many would designate as the landmark of their community.

It remains to be seen if the path of US will be followed, but as one of the most rapidly changing areas in real estate, investors will certainly closely monitor how retail evolves in the near future.

Outlook Moving On to 2019

As is typically the case in CEE, the market will be dictated by how the economies of the CEE countries will perform, and more importantly how the world's economy will perform. If we continue to see strong economic growth in the region the demand for real estate will continue at the current level.

A slowdown in the world's economy would have an immediate strong impact on the emerging markets, including CEE. Particular places to watch are Romania and Bulgaria, which due to an econom-



Gregor Famira



Wojciech Koczara

ic boom have experienced a substantial growth in demand for real estate.

On a more high-tech note, it will be interesting to watch and shape the effects of blockchain, augmented reality, machine learning, and AI on the movements on the real estate market. It will be more important than ever to keep an eye on developments in the IT industry.

More than ever, lawyers should be able to quickly adapt and adopt these new technologies. For industry middlemen such as realtors and other agents, the unstoppable rise of peer-to-peer communication continues to serve as a secondary channel of services and represents a significant threat to them of being by-passed.

FRESHFIELDS' IML IN CEE

Freshfields boasts of its “international mobile lawyers” – but, in this part of the world, few are as international or mobile as Freshfields’ Partner Sebastian Lawson.



In 1987, 15-year-old Sebastian Lawson arrived in Prague as part of a school trip – his first venture behind the Iron Curtain – and discovered the “wonderful other world” the English teenager had previously known almost nothing about.

“Prague was a complete revelation,” Lawson recalls with a smile. “A wonderful medieval city. Nothing was as I imagined – I was completely captivated by the cultural and historical aspects and the beauty of the city, but also the classical and jazz music.”

Back at school, Lawson’s passion for Central and Eastern Europe was encouraged by his instructors, many of whom had personal ties to the region. One of his Russian teachers, he recalls, had es-

caped a collapsing Russian monarchy in the early decades of the 20th century. “He was around his seventies or eighties when he taught me,” Lawson says, “having come from a Russian aristocratic family, his family having fled Russia (with my teacher hid under a cabbage-leaf on a horse-drawn cart), and lost all their money – he really had a remarkable life.” With teachers encouraging his interest, Lawson was eager to learn more about Russia’s culture and literature, which he described as “seeming simultaneously exotic and yet quite familiar.”

In 1990, after the Berlin Wall had fallen, and with revolution in the Eastern European air, Lawson, then a first-year student at Oxford, responded to his university’s call for volunteers to teach English in Ro-

mania. He went to Bucharest that summer – and then again the next – and then returned in 1994 yet again to conduct research for his Master’s thesis on the politics of Romania and Moldova.

Ultimately, Lawson’s youthful affinity for the cultures, languages, and lands of Central and Eastern Europe set his path. Almost thirty years later he is now a widely-respected Partner at Freshfields Bruckhaus Deringer, speaks English, French, German, Romanian, and Russian, has spent the better part of one decade lawyering in Romania and the better part of another in Russia, and he has worked on many of the largest deals in CEE and CIS. The student of CEE’s cultures and languages, who has recently relocated again to Vienna, is a familiar face across



indication early on that Lawson's career would take the path it did, as he started with Freshfields in the early years of the 21st century with a resolutely English (and non-transactional) practice. "I was just another City of London lawyer," he laughs, pointing out that "being a corporate tax lawyer is one of the least international practices you can have as a lawyer." Still, and resolutely cheerful, Lawson describes those early years as "interesting and enjoyable."

A couple years later, Lawson came across an open call for lawyers to join a different Magic Circle firm in the Romanian city he had spent several summers in during his studies. "When I became a tax lawyer, I did not really expect to be working overseas," he says. "Certainly, to see an advert from Linklaters seeking a lawyer to join the office in Romania was a huge surprise."

Intrigued and encouraged, Lawson made some inquiries, received an offer, and spent 2003 and 2004 as part of Linklaters' legendary Bucharest-based CEE "Flying Team."

At the end of 2004, however, he agreed to return to Freshfields, to help build up the firm's practice in South-Eastern Europe. Although the firm had no office in

Bucharest Lawson stayed there, making weekly commutes to the firm's nearest office in Budapest.

Stage Two: Settling in CEE

In the first decade of this century Romania was ramping up to join the EU (it eventually did so in 2007), and business was thriving. "There were numerous opportunities for privatizations, large investments in the banking and energy sectors, and growing interest of investors from the West," Lawson recollects, while hastening to note that business was growing in Bulgaria and the former Yugoslavian markets he covered as well.

Nonetheless, competition was fierce, and Lawson faced the challenge of Freshfields having less of an on-the-ground CEE presence than many of the firms he was competing against. "We were not always well-known, and persuading people that even without having a local office we could add value to projects in the region was not always easy," he says.

In 2009, after five years working outside the firm's office network, Lawson returned to London, timing his return with his promotion to the firm's partnership.

Stephen Revell, now a Senior Corporate

the region.

Lift-Off: A Different Plan

Surprisingly, looking back on a successful career with one of the best-known and highest-regarded law firm brands on the planet, Lawson admits that the law wasn't his first choice. "When I was at school and university, I never considered law, to be honest," he admits. "My hope was to stay at the university and do a Doctorate in East European politics and economics, but then I did a Masters and found academic life a bit restricting." He decided to replace his original plans with, as he says, "something less limited, but equally intellectually challenging."

Still, even within the law, there was little



Lawson (holding camera) with school group in Prague's Old Town Square in 1987.



Willibald Plesser

“Lawson has a particular talent, which is his networking capability. He is in the position to really quickly build strong, stable, and widespread networks, in particular across Eastern Europe. He has a great talent in bringing people together.”

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

Partner in Freshfields’ Asia practice, has known Lawson from the Oxford graduate’s earliest days in the firm’s London office, and who became a good friend of Lawson, says his candidacy was an easy call. “I was a very strong supporter of him becoming a partner at Freshfields. I think Seb is an extremely good lawyer who is always rigorous in his approach. He is always willing to really understand the local law and to get involved in the analysis with local lawyers – as a result he brings to bear his experience from not only the UK, but all of CEE and CIS.”

Once Again Into the Breach: Moving Back to CEE

After two years back in London, Lawson once again packed his suitcase and moved to Freshfields office in Moscow. He remembers adapting to life in the Russian capital as a wholly new experience. “I was overwhelmed,” Lawson says of his first months in Russia. “The scale of Moscow ... the city is much greater than anything you find in Eastern Europe. The work that we do in Moscow is not fundamentally different, but the cultural shock you get when you arrive in Moscow has its

impact.” As a result, he says, it took him several months to adjust to the new environment.

Lawson found Russian clients different from those he had been working with in the UK as well, though he insists “not in a negative way.” According to him, “they are intelligent, quick, and sophisticated, and they challenge you to think about the basic first principles on how you do a deal.” Whereas in London, he says, where the long history of practice means that basic advice is rarely questioned, “in Moscow you can expect clients not to accept the argument that ‘we do this because we have always done it like this.’ You always need to be much more thoughtful when you are dealing with Russian clients.”

Lawson eventually spent six years in Moscow, working with clients such as Rosneft, Russian Railways, and many private Russian companies, including a number in the steel industry and transport sector. As the head of Freshfields’ English-law corporate practice in Moscow, he also advised international investors on opportunities in Russia.



Stephen Revell

Even then, Lawson’s practice was not limited to Russia, and Revell, who moved to Hong Kong about the same time Lawson moved to Moscow, recalls many of the deals the two worked on in various emerging markets. “He and I have worked in many countries across the region: we worked on IPOs and M&As in Kazakhstan, IPOs in Serbia and Croatia, M&As in Bulgaria, a project in Lithuania ... the list goes on.”



Florian Klimscha

“Seb absolutely is a calm and reassuring type of lawyer. He shows clients a way forward and how issues can be resolved. Sebastian usually opens perspectives in difficult situations, [which is] only one of the reasons why clients enjoy working with him.”

– Florian Klimscha, Partner, Freshfields



Lawson in Romania while conducting research for Master's thesis in 1994.



Lawson in front of the People's Palace in Bucharest in 2002, sightseeing before the interview with Linklaters.

Vienna Calling: From the Land of the Tsars to the Land of the Hapsburgs

Several years later, however, Western sanctions imposed against Putin's Russia in 2014 took a toll on incoming investment into the country, which the simultaneous drop in global oil prices exacerbated. As a result, the Russian legal market became more domestic in nature, and although Lawson says some deals are still done under English law, "now it is more common to have Russian clients on both sides of the table," which reduces the need for expatriate involvement.

Thus, it was decided that having one of Freshfields' key CEE/CIS experts based in Moscow made little sense in the current situation, and Lawson moved to Vienna in January 2018. Freshfields Partner Willibald Plesser, who co-heads Freshfields' CEE/CIS group, had been instrumental in bringing Lawson back to the firm from Linklaters in 2004, and was so again in encouraging Lawson to join him in Vienna this year. He expresses enthusiasm about finally being able to work in the same office as his long-time friend and colleague, describing Lawson as a "great negotiator and an excellent jurist with a good analytical mind," and reports that he has "the highest respect for him."

And Lawson believes that joining Freshfields in Vienna – an office the firm has built up over the course of many years as the regional hub for CEE and CIS coun-

tries – fits his practice well. He says, "I don't want to be limited to one particular market, instead of working throughout the region and following the deals. Having a base in the Vienna office is very important for me. The ability to be in the same office as my finance or arbitration colleagues is helpful and good for me and my clients."

Lawson sees many similarities between the city he's now based in and the one he recently left, describing both post-imperial cities as having a rich history, providing cultural facilities that few others in Europe can match. But he doesn't deny the significant differences. "Business here has a clear strategy," he says, "and though the Austrian market is small on its own, everybody is outward looking. Moscow is a much more inward looking place." Indeed, while imperialistic glories of both countries are a thing of the past, he says, "Moscow hasn't come in to terms with that yet, while Vienna is much more at ease, as it adjusted to its new circumstances a long time ago, and is much more comfortable in its own skin." This comfort is noticeable in other ways as well, he says. "People in Austria have a very fine sense of work/life balance," though he admits with a laugh that "I don't think I have found it yet."

In addition, Austria's relative proximity to the UK matters as well, as it allows Lawson to stay more closely connected with his two young children back home. "When I was in Moscow, I travelled back

to see them usually every other weekend – and now I travel back every weekend." It's not the ideal solution, perhaps, but he looks on the bright side. "I am very lucky with modern technology. It's not completely easy, but I Skype with them every evening, and in terms of time that we spend in video conferencing, it is probably more than I would spend talking to them if I were burning the midnight oil in our London office."

"One word that would characterize Sebastian is "excellence." After the first couple of transactions, it became evident that Sebastian would be our top choice for M&A legal counseling, because of his unparalleled know-how & expertise coupled with his truly pragmatic approach. Sebastian tries to make the best win-win situations, and he takes extremely good care of his clients' interests."

– George Agioutantis, Head of Business Strategy and Corporate Development, National Bank of Greece.

Conclusion

It is probably premature to predict Lawson will be in Vienna forever, but he insists he expects to stay. And he reflects with pride on the practice he's created in this part of the world. "I think it is incredibly important to lawyers to understand the countries where they operate," Lawson says. "The culture, the history, and the politics: without understanding all of these things intimately, you won't be able to give the same quality advice to your clients. It is partly having that background knowledge, but it is also partly having the enthusiasm and the excitement to do the job. I find my job incredibly interesting, and I think I made the right career decision. Combining it with the countries I find so interesting makes it a dream career for me."

Mayya Kelova

TAKE THE STAGE: LEGAL TECH FALLACIES AND THE STRUCTURAL TRANSFORMATION OF THE LEGAL PROFESSION



It was in early 2009, within a London Business School program, when I was first faced with a clearly articulated and empirically supported argument about the advent of legal technology and the structural transformations in the legal services market that were likely to ensue.

Since then, in more or less a decade, we have all become very familiar, at least at the “legal talk” level, with the concepts of the “digitalization” and “commoditization” of legal services. Many companies these days actively use various legal technology tools and do significant legal data processing via customized legal software platforms; most of them employ “legal tech analysts” assigned dedicated functions and retain specialized staff to manage the “Legal-IT interface.” Tech-based standardization of legal instruments and “legal sampling” or legal process design programs are projects common to general counsels in big businesses and SMEs alike, and law firms of course invest in tech tools and expand in what is generally referred to as “client-attorney cyberspace.”

But the Legal Services Market is Improperly Reduced to a “Client-Attorney Cyberspace”

There is no doubt that certain legal processes, precisely because they suppose a level of routine and repetition, have become more standardized through technology. These entail a true cyberspace which is being produced and managed, where content is being built, where software administrators and analysts operate, and so on. Regulatory and compliance tasks and legal due diligence work and document production projects, to give a few examples, will of course be faster and more efficiently delivered on a tech-based formula.

But legal processes which can be easily digitalized amount to only a small por-

tion of legal services, and – even where certain ancillary legal assistance needs are created within the digitalization itself – a commoditization of all processes occurs eventually. Therefore, the underlying legal process turns into a “legal product,” which in turn becomes governed by the rules of retail sale. The paradox here is that legal processes and legal products become, throughout the standardization stage, a sort of quasi-legal process, and precisely due to this transformation, are fully internalized or are delivered within the organization through non-legal staff as corporate procedures, or are fully outsourced to specialized consultants, and not to law firms (e.g., recently, GDPR consultants).

That Is, Mistaking “Legal Processes” for Legal Service is a Legal Tech Fallacy.

It is true that automation will result in some lawyers losing their jobs – perhaps many lawyers in certain areas – but that will happen not necessarily due to legal tech tools being made available, but because lawyers are perceived as no longer offering proper value for money. And also, it won’t happen because the demand for legal services narrows, but because more efficient ways to meet that demand have been found.

In fact, the demand for legal services has increased and become more complex as the global economy continues to grow and new markets are being unlocked. Revenues of global law firms has increased. Corporations have built in larger legal departments. Some say that legal expertise has moved in-house – and some argue the opposite, that the legal function within the organizations is getting outsourced. This is only an illusionary conflict, as the changes reflect the dynamics of a structural transformation of the legal services market, steered by development of legal tech.

I believe though that this happens indirectly, through a reshaping of certain corporate functions within organizations that are traditionally of key interest for the legal services sector, such as: (i) corporate-secretarial and business administration; (ii) compliance and control; (iii) procurement; (iv) HR and resource management; and (v) private-public interface.

We’re facing a structural transformation of the legal services market; one that shakes corporate lawyers’ standard value proposition and changes their pricing, billing, and revenue formats, their operational model, and ultimately, their forms of organization.

Ultimately, legal tech tools and the client-attorney cyberspace fueled a binary process of fragmentation and also of consolidation of the legal services sector. Legal assistance tasks which could be broken down into processes were automatized, further commoditized, and outsourced to non-legal consultants and technicians. But at the same time, when a very specifically framed legal assignment task turns out to be a far more complex one, a true legal project management mission arises.

We see more and more how law firms are assigned complex kinds of management agreements that cover projects, transactions, claims, and compliance altogether, under a plan contracted on and driven by true key performance indicators.

Legal analysts and technicians are required in order to build and operate legal data bases, tech tools, and IT platforms, but corporations’ needs in terms of legal compliance and transaction, claim and project management more generally are constantly increasing. And they demand lawyers.

**Florian Nitu, Managing Partner,
Popovici Nitu Stoica & Asociatii**

INSIDE INSIGHT: INTERVIEW WITH MILJAN MALOVIC OF BANCA INTESA

Miljan Malovic is the Head of the Business Legal Advisory Office of Banca Intesa Belgrade. He graduated from the Faculty of Law at the University of Belgrade in 2001, and joined Banca Intesa in 2006.



CEELM: Can you walk us through your career?

M.M.: My professional career started some 16 years ago. Upon graduating from the Faculty of Law at the University of Belgrade, I got a job as a law clerk in a law firm. After two years of practice, I took and passed the Bar exam, which is the precondition for becoming a practicing attorney-at-law. Even though private practice was my first occupational choice, professional curiosity took me to Banca Intesa in 2006 where I first served as Senior Legal Advisor and then took the post of Head of the Business Legal Advisory Office, which I have held since 2014.

CEELM: What did you ultimately find so appealing about the banking sector, to stay so long?

M.M.: I would say that one of the most significant things that influenced my career path and definitely drew me to the banking sector was the period of credit expansion in Serbia. This major change in the Serbian banking sector began in 2006 and consequently led to an increased demand for new corporate positions and various expert profiles in the legal department of banks operating in the domestic market. Having this in mind, it was a real professional challenge for me to start working for Banca Intesa, the number one bank in the local market, which is part of the international Intesa Sanpaolo banking group.

CEELM: Are you satisfied with Serbian legislation for the banking sector? If there is one part of the legislative framework you would like to see changed, what would it be?

M.M.: Speaking in general, Serbia has taken its course towards the EU, and for more than a decade it has been working on harmonizing and aligning its regulations with the EU acquis. It is not an easy road – it is a road full of challenges – but

beyond any doubt, progress is evident. On a more specific note, I would say that the era of digitalization, where information is available in a split of a second, has brought about specific changes in the legal environment. On the one hand, digitalization leads to faster and more accurate and up-to-date operational processes, providing us with great efficiency in obtaining required documentation and information while providing legal services. On the other hand, it opens the field of “e-business,” which has to be regulated in detail by laws, which implies a series of challenges involving the legal formatting of e-signatures, validity and accuracy of e-documents, customer data protection, and so on. Those who are able to adapt faster to the requirements of digitalization will be more competitive on the market.

CEELM: What is your biggest success or most significant achievement with Banca Intesa?

M.M.: It is difficult for me to single out a particular success or an achievement. Banca Intesa has given me the opportunity to work on a number of various projects and gain experience in different areas, from corporate governance to legal risk assessment. That is the beauty of my job. Still, what was particularly important to me was the chance I was given to further improve myself professionally and earn an MBA thanks to the bank’s commitment to ensuring professional training and development for its employees.

CEELM: What does a typical work day look like for you?

M.M.: Not a single day is typical or the same; for each there is something specific. What is typical for each day is the professionalism, enthusiasm, and teamwork I get to share with my colleagues.

CEELM: You said your original plan was to work in private practice. Why did you

decide to go – and stay – in-house?

M.M.: Private practice is a great place for every young person to start their career in law. I believe the experience I gained there was a perfect stepping stone for what followed in my professional life, exposing me to many different aspects of the law and allowing me to work with clients. Both private practice and in-house have their pros and cons, but I guess in my case being part of an in-house legal team of a large, developed system such as Banca Intesa turned out to be a better fit. First and foremost, it was a challenge, not only in terms of expertise, but also in the managerial sense.

CEELM: What do you do to relax?

M.M.: Traveling and spending time with my family is definitely what relaxes me best. I also enjoy reading an interesting book or watching a good movie after a day’s work.

CEELM: Ok, we’ll bite. What are your favorite books and movies?

M.M.: I have several favorites. When it comes to books, I enjoy *The Stranger* by Albert Camus, *Shogun* by James Clavell, and *The Count of Monte Cristo* by Alexandre Dumas, among others, while among my favorite movies are *Casablanca*, *The English Patient*, *The Pursuit of Happiness*.

CEELM: If you would move from Serbia, what other country would you most like to work and live in?

M.M.: I like living in Serbia, but there is something about the Mediterranean that is so appealing to me, both personally and professionally, so I guess in that case I would opt for a country such as Italy, Greece, France, Spain, or Portugal.

Hilda Fleischer

MARKET SPOTLIGHT: CZECH REPUBLIC



In this section:

- | | |
|---|---------|
| ■ Guest Editorial: A Quarter Century in the Czech Legal Market | Page 33 |
| ■ Serving the Start-Ups: A Czech and Slovak Round Table | Page 34 |
| ■ Market Snapshot | Page 42 |
| ■ Inside Out: Czech Media Invest's Acquisition of CEE Radio Businesses from Lagardere | Page 44 |
| ■ Expat on the Market: Rita Ran Pang of Kinstellar | Page 46 |

GUEST EDITORIAL: A QUARTER CENTURY IN THE CZECH LEGAL MARKET

I started my legal career back in 1993 as a student clerk, and over the past 25 years I have literally grown up with the firm. I've had the pleasure of advising clients during some of the most exciting periods in Czech history – from the “Wild Wild East” of the nineties, to EU accession, through the global financial crisis and recovery.

Looking back at the last 25 years, here are a few observations about what the transformation of the Czech market means to us as lawyers.

A Crowded Playing Field

In 1991, there were three international law firms in the Czech Republic, so as one of my first mentors said, each of us had a 33% chance of winning. Life was easy. No one was looking at costs, hourly billing was the only thing clients knew, and no one counted the hours.

Since then, many firms have come and gone, and today there are over 40 Chambers-ranked law firms in the Czech Republic, all fighting for a piece of the pie.

What separates the successful firms from those that fade away? First, you've got to be good. If you deliver value, clients will keep coming back. Second, you have to be dedicated. The firms which have survived are those which remained committed to the Czech market and kept going through the ups and downs of the economy. Finally, you need to be flexible and find ways to deliver services better, faster, and cheaper.

24/7 Lawyering

It's hard to imagine how we survived before smartphones, but in some ways our lives as lawyers were simpler then. In the early nineties, no one in his right mind thought of giving legal advice by email. A fax came in on Monday, confirmation was sent on Tuesday, work was done the day after and sent to the client on Friday. In between, lawyers had plenty of time to think, discuss, bill time, and enjoy life.

Today, all this happens within hours, if not minutes. I have a client who forwards me an internal message with a question mark and expects to hear back within five minutes. If he doesn't get a response, he sends two question marks, sometimes followed by an exclamation mark.

Clients expect us to be available 24/7, and they want an answer right away. As one of our clients said recently, “the worst thing a lawyer can do is say it cannot be done.” As lawyers at reputable firms, clients already assume we are good. Often what makes the difference between winning and losing is how fast we respond.

Knowing Where to Look

After the revolution, the laws in the Czech Republic were

relatively easy to navigate, understand, and interpret. But as a result of legal reforms, Czech law has swelled up like a sponge and is often so complex that even some judges get lost. If you add the cross-border element into the mix, it is clear that practicing law today is significantly harder than it was before.



So do you need a photographic memory to be a good lawyer? No, but you do need a solid foundation of basic legal knowledge. You also need to know where to go to find information. That often means reaching out to a colleague in a different office or practice who has the knowledge your client needs.

Finding the Right Motivation

For law school graduates in Prague in the nineties, working for a large international law firm was the holy grail. Influenced by movies like “The Firm” and “The Devil's Advocate,” we were keen to jump into private practice. Working long hours made us feel closer to Wall Street. We wanted to save the world and get paid for it.

Now, young lawyers want a more balanced life; they want to start families, and they don't necessarily need to get rich. This is not laziness, as many of my generation claim – lawyers today have to work faster and deal with more complexity than ever before. Rather, they have different priorities and more choices, so they can afford to be picky. In addition to having more law firms to choose from, being a judge or a general counsel with a major corporation are now dream jobs for many young lawyers.

Good people are harder to find, so our job as leaders is to inspire and motivate them. In my experience, the best motivation for talented lawyers is still the chance to do interesting work for great clients, and the opportunity to learn from the best.

Love What You Do

As JFK said, “*change is the law of life, and those who look only to the past or the present are certain to miss the future.*” As lawyers, we need to be open to change, but at the same time, keep doing what we do best and have fun doing it.

Perhaps in the end, all we need to do is keep trying to save the world and get paid for it.

**Ladislav Storek, Czech Republic Managing Partner,
Dentons**

SERVING THE START-UPS: A CZECH AND SLOVAK ROUND TABLE

STARTUP

Start-Ups represent a unique subset of clients for major law firms, as they are often unable to pay the fees those firms generally require, but – particularly in the tech sector – hold out the potential of significant profitability down the road. Intrigued by the unique challenges and opportunities for law firms offering their services to these cash-poor but potential-high clients, we invited partners from four prominent law firms in the Czech Republic and Slovakia to share their strategies and experiences with Start-ups with us in the offices of Kocian Solc Balastik in Prague. KSB Partner Christian Blatchford moderated the conversation.



Round Table Participants:

- Christian Blatchford, Partner, Kocian Solc Balastik (Moderator)
- Vladimir Cizek, Partner, Schoenherr Prague
- Miroslav Dubovsky, Partner, DLA Piper Prague
- Lukas Michalik, Partner, Hamala Kluch Viglasky

Christian: Let's start by introducing ourselves and describing one recent start-up/tech deal we've advised on. One matter that worked on recently was for Skoda Auto Digilab, the Skoda accelerator, helping them to commission and acquire a mobile application enabling car sharing. This was interesting for several reasons, in part because the very good technical people on the other side knew absolutely everything about technology, marketing, and how to get this thing onto your mobile phone, but they didn't really know a lot about the legal side. So we had to slow them down and explain: this is an asset – and this is how you transfer it; this is a share – and this is how you transfer it. We ended up doing a kind of synthetic deal. We did an asset transfer into an SPV and transferred that SPV to our client. There other things too, such as third party services to make the app work, that needed to be transferred to entered into afresh.

Lukas: I am Lukas Michalik, Partner Hamala Kluch Viglasky in Slovakia. Recently we worked with Volkswagen Slovakia. They have the biggest car plant in Slovakia, and they just recently started working with the municipality and an NGO and started to test a car sharing project in Bratislava, consisting of renting a car to specific clients which includes a virtual tour guide through the city. They installed an app in various vehicles that includes pre-recorded tours through Bratislava, where visitors get a guide with the navigation system explaining what they're looking at. It is a more like a pro bono project – not a huge deal for now – but they are growing it and they plan to develop it further in Slovakia.

CEELM: I assume that a common element is assisting start-ups at discounted rates or pro bono, with the assumption if they hit gold you keep that relationship and make it profitable. Is that correct?

Lukas: Absolutely.

Miroslav: I am Miroslav Dubovsky, Managing Partner at DLA Piper in Prague. We do a lot of technology work here in the Czech Republic and around the world.



Christian Blatchford



Vladimir Cizek



Miroslav Dubovsky



Lukas Michalik

What we have done recently was an acquisition of a Czech start-up for US technology company Mirantis. What is quite common for those transactions is that the consideration includes payment of part of the purchase price through shares of the parent company which sometimes are publicly traded. This is very interesting and makes the transactions quite complex, because different legal systems and different markets are involved.

Vladimir: I am Vladimir Cizek, Partner at Schoenherr. I would highlight two transactions, although they are very different in nature. The first is our assistance in the planned exit from kiwi.com, an online ticket booking platform, which was unique mainly in terms of its structure and the complex set of relationships between existing shareholders – representing a typical start-up structure with a wide group of investors whose interests are not necessarily aligned. The second would be advising FlixBus on setting up greenfield operations in the Czech Republic, with all this entails, including commercial, corporate, and regulatory advice. FlixBus is unique because of its operational structure, requiring individual legal and regulatory tailoring in each jurisdiction. So, what I'm trying to point out is that start-up advisory is highly diverse, and involves multiple legal practices.

Christian: Do you find start-up clients, who may not have much experience with legal and finance issues, different to work with?

Lukas: Certainly. Our firm has a quite a good share both of strong, developed clients, and start-ups who are beginners in the field. With start-ups it is a completely different story, where you have to adapt your strategy and your fee structure. Everything is quite different.

CEELM: To some extent every client is unique: some of them put more pressure on hourly rates, and some demand alternative fee structures altogether. But are start-up clients even more demanding than other clients? Is this another kind of client, in that way?

Lukas: I think so, absolutely. They look at different fee structures and at completely different setups that law firms are not used to yet. We have had offers, when the potential clients are even willing to offer some portion of their shares.

Christian: Can you do that? Don't you think it would create a conflict of interest?

Lukas: That is what we are dealing with right now. We haven't done it yet. We don't think it is okay, with the conflict and everything. But it is one way some start-ups are thinking about the fee structure for law firms.

CEELM: Do you get such offers as well, Christian?

Christian: Not really. There are different ways for lawyers to try to get start-up work. Obviously there are reduced rates and deferred payments. Another possibility is that you produce a simple set of documents, like articles of association and subscription agreements, which you then give away as a way for the entrepreneur to get the ball rolling without incurring big legal fees. Have you guys started doing that?

Vladimir: I would say we are ultimately seeking different benefits in advising start-up structures. We aren't really looking at share acquisitions. What we may actually be looking for are start-ups that we want to work with and ultimately help develop their product further. This is basically what we are looking into right now with our NewTech team in Vienna. This brings me to the other point – obviously the start-ups scene itself works completely differently in Prague compared to other places. It's all driven by location. The experience is different, say, in Vienna and Prague in terms of the business opportunities, but in terms of legal products (packages) and the knowledge – these are fully transferable.

CEELM: I was wondering whether the Czech Republic and Slovakia are more alike in terms of the tech and start-up



markets than the Czech Market is with Austria. Is Austria a different animal, or are they on the same level?

Vladimir: Well, Vienna and a couple of other cities. It is a city-driven exercise.

Miroslav: You need to look at it from a broader perspective, because start-ups are actually any company, not only FinTech. All the start-ups are having the same issues and need similar know-how. And if you look in the region and FinTech only then I believe that the Czech Republic is one of the strongest markets, which is driven through the technical schools that we have, and people specifically involved in technology.

Christian: Do you find, when these potential clients come to you – a lawyer with a large network of connections – that you can help them out by putting them together with people who may be able to provide financial backing or further know-how? Are you able to provide them with benefits through your contacts, not just legal know-how?

Lukas: Yes, in a lot of cases the people that come to seek our services are tech-

nical people or IT specialists. They are often not familiar with what is required to run a complete business and so they have questions like, “how do I do accounting?”, and they come to us as to service providers who can help connect them to other people who will help with all the requirements for running a businesses. In addition to that, sometimes they also want to learn how it works with local politics, the municipality, how to apply for grants and fund and we try to get them to meet responsible people in this area. We have the contacts and try to put them in touch, even if they are small.

Miroslav: Basically what we have seen is that they start with friends and family, so they usually acquire all the know-how about legal, tax, IPO, and everything by themselves, and only then, when they are able to progress to a certain level, will they search for more complex providers. In the early stages, at least, they try to use their friends, or tools provided by their universities or on the web. Only once they develop to the stage when they can really seek external help are they willing to talk to a more established counsel, to help them with everything from produc-

tion and management to financing, legal, and accounting.

Christian: Yes, I think there is a missing link here that is present in other places, which is a developed venture capital market. Between friends and family on the one hand and a private equity disposal or IPO on the other I don't see a lot venture capital. There are of course family offices of high net-worth individuals, but you wouldn't necessarily call it venture capitalism.

Miroslav: I do see a lot venture capital but it is not structured. There are individuals developing start-ups in the region, and the first seed money comes from them.

Christian: Have any of you worked for a start-up for long enough to test whether a client stays loyal when they make it to the next stage? Do you have experience of helping somebody out at the beginning only for them to go somewhere else for more sophisticated work?

Vladimir: In my opinion that connects with the previous question. We are an international law firm, and that means that from the local start-up perspective, they

SKILLED AT START-UPS

The four participants in the Round Table can point to significant experience in the Start-Up Tech sector. Among their recent mandates in the sector are:

Kocian Solc Balastik: Advised Skoda Auto DigiLab on the HoppyGo project – a car-sharing application which brings car owners together with drivers who want to rent a vehicle, which had been developed to order for SADL and then sold to it by CreativeDock. The transaction involved both asset deal elements (including the transfer of trademarks, databases, and other assets to a project company) and share deal (transferring shares in the SPV that operates the project) elements.

DLA Piper: Advised Mirantis Inc. on its acquisition of TCP Cloud, a Czech start-up providing services in the area of cloud infrastructure. The transaction included payment through shares of the parent company, which are publicly traded.

Schoenherr: Advised FlixBus on rolling out a German business operational model in the Czech market. According to Schoenherr, “owing to FlixBus’ unique operational structure, the project was complex and required extensive commercial, corporate, and regulatory legal advice.”

Hamala Kluch Viglasky: Advised PMK Invest on its equity investment into Green Post – an alternative postal service. According to HKV, “it involved the early stage structuring as well as implementation of the deal. This has turned out to be one of the successful startups and it is now well operating company with steadily growing turnover.”

will not come to us for legal support in the first round. But I may be on their radar in the second or the third round, because at that point the founders or investors are ready for more comprehensive advice. Ultimately, the initial contact will either depend on personal connections or loyalty.

CEELM: That leads to the question of how you identify which clients you’re going to work with?

Christian: We are quite conservative and haven’t been actively pursuing start-ups so far, but people have come to us, and they have stayed with us and we have stayed with them. You get involved professionally and also emotionally. For example, we helped a start-up ten years ago called House of Wine. They import South African wines and now they’re the third largest in the country. And that kind of became an emotional thing: you know the founder, and you know the product. We helped set them up. And now we handle their corporate stuff, some employment stuff, whatever they need for their day-to-day business.

CEELM: Some of those clients must never actually pay off, in strictly financial terms.

Christian: They generally do. We may not be doing IPOs or huge transactions for all of these clients, but we are happy to help them with their day-to-day needs.

Miroslav: Of course, it’s worth pointing out that probably all of us work more for the investors than for the start-ups themselves. Because it is difficult to get to start-ups until a certain stage.

CEELM: Is that right? Do you all tend to work more with the investors than with the start-ups?

Lukas: Well, our firm works usually in the early stages with start-ups. We can choose, and as I said sometimes choosing the right start-ups to work with is a bit emotional, sometimes the deals come from friends and acquaintances. Of course the “bigger” work is with the investors.

Christian: If you had to describe where this kind of work comes from, what

would you say? Where do you get the work? How do you get the work?

Vladimir: It is primarily linked to the areas we’re known for as a commercial law firm or where we traditionally provide legal advice, like corporate, financing, or IP law. In those areas I would say we naturally know who to talk to and people know you.

CEELM: Do you also try to attend conferences, Vladimir?

Vladimir: Yes, from time to time. We were just discussing the CEE M&A and Corporate Financing conference in Vienna by Mergermarket. When I looked at the investors there, I saw interest in Serbia, Bulgaria or Romania. And to answer one of the previous questions about where we get clients: sometimes investors just come through connections and recommendations.

Christian: Have you ever agreed to meet with somebody and give an hour of your time answering questions, with no fee? What I mean is, somebody is open enough to say “I’ve got an idea and I

would like to talk about some legal stuff.” And then you say, “OK, come in and we’ll have an hour and a half for a chat.”

Lukas: It never happened to me apart from some friends and acquaintances. We do give free advice but it is not often that people come to firms and say that will not pay you and ask for two hours of your time.

CEELM: I assume you mean that for friends and family you do it, but less so for strangers calling you up and asking for free advice?

Lukas: Certainly not just friends and family – it would be acquaintances as well. I do it for people I know, with whom I have at least some sort of connection, and I do it as a show of good will.

Miroslav: I assume all of us do it to a certain extent. If someone calls me randomly, and I don’t know him, I would talk to him and give him advice on the spot –and then I would see after that initial meeting whether it is progressing or not. It is an opportunity cost.

Christian: I can imagine a long line in the street in front of your office. (laughter). Turning to another subject: Once we have got the start-up job, are there special skills and knowledge that we need? Are we giving our junior lawyers training in these skills?

Vladimir: As long as they can use all iPhone functions they will probably fit in (laughter).

CEELM: You assume your lawyers are smart enough that they can answer any questions that may arise?

Vladimir: Well, what I meant was that those potential clients probably know me or know of us because of our past work or because of a recommendation, so they will probably be aware of our capabilities. I believe that as long as I understand the basics of a product, I can work with that. At the end of the day, we are lawyers and we can’t understand all the engineering and technical details, but our advice still

has to work for those products.

Miroslav: I agree with Vladimir, because at the end of the day what you need is corporate advice, some financing advice, some IP, *etc.* and then perhaps a lawyer with know-how from the technology sector and the industry. I have the benefit of being in a global firm and have access to latest know-how in those areas. At the end of the day I believe we all are able and capable.

Christian: I think this is very true. Once you identify all the bits and pieces of the deal you just have to arrange them in a certain way and explain a bit more how everything works, but in essence you are dealing with nothing new.

CEELM: But I could imagine a 60-65 year old partner frankly not being good at this kind of work. Does it require youth, and familiarity with modern technology that perhaps older lawyers don’t have?

Miroslav: Of course start-ups are associated with the younger generation, but generally they require fairly standard assistance. At the same time, young high-tech guys often prefer to receive legal services in a different way – much more broad than just connecting it to the start-up scene. And of course they prefer to

operate differently and deal with the lawyers from the same generation. So this is an issue for any law firm, but is not limited to start ups – just a different generation.

Lukas: I was going to say that start-up clients are not a lot different than other clients. They have their vision and their business idea, they communicate to you in certain jargon that you have to understand – and that requires a certain skill-set, which is actually having the right business understanding. I am lucky that most of my colleagues have this and also nowadays young lawyers are familiar with modern technologies, so it goes hand in hand. But they are not lot different from other clients.

CEELM: Do you find start-up clients skeptical about traditional ways of doing business, or do they want a more conservative lawyer?

Vladimir: I believe it depends on the particular start-up. If you talk to a financial investor behind a start-up project, this will most likely be a rather experienced person, who wants a clear-cut answer. If you talk to the founders of a start-up project, the expectation is that the legal advisor should point out what they





need in order to get their project off the ground. If the project is at point A and it needs to get to point B, I need to provide guidance on how to get them there. So I am taking an almost project management role, which is what is so different from five to ten years ago. Clients actually are looking for comprehensive advice, and by comprehensive I don't mean financing, but rather "tell me what I should do and guide me."

Christian: Tech does involve a lot of jargon, and that can be difficult for lawyers to understand. But if both sides say, "it basically means ABC," then certainly we can understand each other. When we were closing a tech acquisition, I asked the guy on the other side, who developed the product for our client, "what is your product?" and he thought it was the app on his phone. I turned him around and showed him a table full of documents and said: "for me, that's your product." There are two perspectives of the same thing.

Miroslav: What was his response and his reaction?

Christian: I think he was much happier about his phone than fifty pieces of paper.

Vladimir: Sometimes you may also have problems with cultural perceptions. For example, we worked on a project with a German financial investor who was unfamiliar with the Czech commercial environment. The expectation was that we would complete in hours tasks that in actuality require months of approvals. It takes time to explain these realities, return to these points repeatedly, and manage their expectations.

CEELM: What are of the peculiarities of these markets legally and culturally in terms of getting funding? Are these good markets to be a tech start up in? Or, in general, are the Czech Republic and Slovakia not ideal markets to start up a business in right now?

Christian: Getting a bunch of people together, maybe getting some office space, or sharing office space, that is pretty easy. Miroslav mentioned the very good technical education people get in these countries. I think it is a good place for tech start-ups. That may not be true for a more traditional business, in pharma or something.

CEELM: Might it be different in pharma than in tech?

Christian: If a market is regulated, if I

need to get my stamps from various government agencies, I imagine perhaps in other countries it's easier.

Lukas: From the perspective of tech start-ups I don't think it is a bad environment. I think it is quite good, once you pass the initial stage, where you have certain formalities and bureaucracy.

CEELM: And funding is generally available?

Lukas: It is not that difficult, there are some options.

CEELM: Miroslav mentioned that venture capital is not as readily available here as it is in some places.

Miroslav: No. It is available, but not in the institutional way. If you are looking for VC funds, there are only few, but the capital here is coming through various individual sponsors –wealthy individuals.

Lukas: The same applies to Slovakia. We have these strong investors, and they take things that interest them and they invest there, but they don't have specific funds structured for these investments. They do it personally, and from their other individual business structures.

CEELM: Is your role ever helping the start-ups connect with potential investors? Is that something you do? If someone comes to you with an idea and says, "where should we go to find the start-up capital we need?", can you help them with that?

Vladimir: It is absolutely part of your job, of course. If you can connect people, it doesn't cost you anything and you stand to benefit from the relationship that may be formed. I try to do whatever I can to help.

Christian: We have spoken a little about tech. Are there any other sectors which you work in for start-ups, where you can actually apply knowledge and skills you acquire?

Vladimir: I think the vast majority of our expertise is transferable. Looking at last



year, we extensively applied the knowledge acquired in the GDPR enrollment process in several tech start-up projects that rely heavily on the handling of data (such as customer data) as their core asset. Overall, this was a troublesome process, since clients did not consider this aspect to be vital, but our data protection experience was crucial in these cases.

David: How big is the start-up sector for your firm? How much pressure is management exerting on you to develop this practice, and how much of your time do you spend thinking of ways to generate this sort of work?

Christian: I don't think the firm focuses on it as a special case. I would say that the client that I mentioned in the beginning is one of my key clients and I do my best to move with them and to allocate them the time and energy they need.

David: So there is no major initiative at the moment to expand it, but is it something the firm is more aware of now than it was ten years ago?

Christian: Yes, it is something that is happening and growing.

Lukas: We see the potential there, and our lawyers seem to be becoming interested in this area and we think it is growing and we believe it will be good and essential business in the future.

CEELM: Is there a sense that you would like to hit a home run – to find the next really big hitter that you can be associated with? Is that always the goal?

Lukas: No, I would not say so. To get to the point when you acquire a client it becomes a home run, there is such a long period that you usually forget about it by the time it happens.

Vladimir: We are putting more effort into this now. Our Vienna M&A team has been successfully positioning itself in the start-up scene for a couple of years now, and we are obviously trying to export their knowledge.

David: You mean they are trying to export this Vienna project to other markets?

Vladimir: Yes, certain knowledge is transferrable. I believe we are three or five years behind Vienna in terms of accelerator platforms. Here, if you want to talk to

someone, to seek financing and potential investors, you have to talk to three, five, ten people or a couple of family offices. I find that this is different in Vienna where there are structured platforms, and a couple of my Vienna colleagues are working closely with them to generate high-potential business opportunities.

CEELM: Do you see a change in the Czech Republic though? Do you see it moving in that direction?

Vladimir: I hope to see such accelerator platforms taking root here as well, but I don't see things moving in that direction, yet.

Miroslav: I am not sure I agree with you. I believe that it is not so bad here, because there are hubs that are very actively working with start-ups, so I'm more optimistic. And definitely we are not behind Vienna.

On that optimistic note the conversation drew to a close. CEE Legal Matters thanks Christian Blatchford and Kocian Solc Balastik for hosting the gathering.

Mayya Kelova

MARKET SNAPSHOT: CZECH REPUBLIC

CHANGES IN REAL ESTATE DUE DILIGENCE ON THE HORIZON?



Martin Kubanek,
Managing Partner,
Schoenherr

When acquiring a company owning real estate or an independent property, a check of the seller's title to the real estate is an integral part of the due diligence process. The scope of the due diligence that is necessary is about to be narrowed.

The new Czech Civil Code (NCC) and the new Czech Cadastral Act will have an impact. The NCC enshrines the principle of material publicity, which protects the good faith of the buyer registered in the Land Register. Under Section 984 (1) of the NCC, where the status registered in the public register does not correspond with the actual legal status, the registered status will be in favor of the person who acquired the right *in rem* in good faith from the person authorized to do so according to the registered status.

Several conditions have to be met in order to become the rightful owner of real estate, even if this right is acquired from an unauthorized person.

First, there must be a discrepancy between the actual status and the status registered in the Land Register – *e.g.*, due to a non-book entry or lapse of the right, an initial absence or additional failure of the legal basis for the claim of ownership, or an incorrect entry.

Second, the acquisition of the real estate must be based on a legal act: namely, an act for a consideration. The provision does not protect other acquisition options, such as inheritance, donation, or auction.

Finally, the most important condition is the buyer's good faith

in the accuracy of the data in the Land Register. The buyer shall be considered to be in good faith unless he or she did not know and could not have known upon exercising a usual degree of caution that the person registered in the Land Register did not have title to the real estate.

Therefore, if there are no legal defects arising from the entry in the Land Register or any other entry indicating such defects, the buyer is not obliged to check the acquisition titles and other documents in the Collection of Deeds of the Land Register or to find the restitution claims, *etc.*

Although Section 984 of the NCC does not make this explicit, a negative condition must also be fulfilled in order to acquire real estate from an unauthorized person; namely, that the actual owner has not filed a so-called “discrepancy note” or a note on the disputability of a registration pursuant to Sections 985 and 986 of the NCC.

Put simply, if more than three years have lapsed since the seller registered title to the real estate in the Land Register, and if it is not apparent from the extract or other records that the title has been challenged, the title of a buyer who is in good faith at the time of purchase cannot be questioned.

However, buyers may lose their right if the three-year period has not yet expired, even if they were in good faith at the time the real estate was acquired. This only happens when the original owner who disputes the registered status in the Land Register has not been properly informed about the registration in favor of the seller.

In practice, the following alternatives may occur during the due diligence of title to real estate:

If a buyer purchases real estate from a seller whose right was entered in the Land Register before the NCC came into force – *i.e.*, before January 1, 2014 – the three-year period for seeking the disputability note expired on December 31, 2017. Af-

ter that date, all real estate buyers who acquired the right *in rem* for a consideration from the seller in good faith in the entry in the Land Register shall be protected.

If a buyer purchases real estate from a seller whose right was entered in the Land Register after the NCC came into force, and the three-year period has expired and the potential buyer is in good faith that the seller's entry is correct, then the potential buyer will become the rightful owner of the real estate, and the previous acquisition titles do not need to be checked.

Thus, after January 1, 2018, the scope of the due diligence of the seller's title to the real estate prior to its acquisition can be narrowed to a check of the data in the extract from the Land Register and, for example, a check of donated or inherited real estate or restitution claims.

**By Martin Kubanek, Managing Partner,
Schoenherr Prague**

REGULATION ON ADDRESSING UNJUSTIFIED GEO-BLOCKING AND OTHER FORMS OF DISCRIMINATION



Josef Aujezdsky,
Partner,
eAdvokacie

Internet traders, who have not yet managed to recover fully from the effects of the GDPR on their activities, are already facing another regulation likely to have a significant impact on technical solutions used in the operation of Internet businesses. In March 2018, Regulation (EU) 2018/302 (the “Regulation”) was adopted, the purpose of which is to solve so-called “unjustified geo-blocking” by removing certain obstacles to the operation of the internal market and by preventing discrimination based on nationality, place of residence, or place of establishment in cross-border online transactions.

Paradoxically, the Regulation does not apply to the provision of multimedia content, allowing traders to apply different conditions – including different prices – for identical or similar services in different EU Member States. In its Preamble, the Regulation acknowledges that differences in EU Member States’ legislation continue to represent significant barriers to cross-border trade. In the case of the Czech Republic, a language barrier poses a further obstacle to cross-border trade.

The Regulation, which will enter into effect on December 3, 2018, deals with three primary issues: (a) access to (online) interface of an e-shop; (b) a prohibition against offering different terms of business for customers from various countries of the EU; and (c) a prohibition against discriminating for reasons relating to payment for goods or services.

Access to Online Interfaces

The Regulation prohibits Internet traders from blocking or limiting (whether by technical or other means) a customer's access to the trader's e-shop's online interface for reasons related to the customer's nationality, place of residence, or place of establishment. Redirection of a customer to a different language version of the e-shop is also prohibited for the same reasons, unless the customer has explicitly consented to that redirection in advance. Therefore, automatic redirection of a customer to a different language version of an e-shop without the customer's consent will be prohibited. The Regulation also provides that even when the customer provides explicit consent for the redirection, the version of the trader's online interface to which the customer initially sought access will remain easily accessible to that customer. It is, in particular, compliance with this obligation that may mean that multi-language e-shops will have to change the technical arrangements of their user interface.

Access to Goods or Services

The Regulation also prohibits using different terms of business for customers from different countries of the EU. In particular, it states that a trader shall not apply different general conditions of access to goods or services for reasons related to a customer's nationality, place of residence, or place of establishment. This means, for instance, that if a customer from Austria orders a delivery of goods to an address in the Czech Republic, a Czech trader may not apply conditions for that delivery that are different than those it offers Czech customers. The Regulation expressly states that mere compliance with this prohibition of discrimination by a trader should not lead traders to specifically aim their activities at Austrian customers. It is known that the question of which country a trader aims its activity at may be very important for determining in which country the trader can be sued, as well as for the choice of applicable law in the relationship between the customer and the trader. Ensuring equal access to goods and services will not require in this case that the trader comply with obligations prescribed by Austrian law, or that the trader has a duty to inform customers of these requirements.

Non-Discrimination for Reasons Related to Payment

The Regulation also prohibits discriminatory conditions relating to payments for goods or services. In particular, if the requirements specified in the Regulation are met, traders may not, within the range of means of payment they accept, apply different economic conditions for individual customers for reasons “related to a customer's nationality, place of residence, or place of establishment, the location of the payment account, the place of establishment of the payment service provider, or the place of issue of the payment instrument within the Union.”

By Josef Aujezdsky, Partner, eAdvokacie

INSIDE OUT:

Czech Media Invest's Acquisition of CEE Radio Businesses from Lagardere



The Deal: On April 25, 2018, CEE Legal Matters reported that Clifford Chance had advised Czech Media Invest on its acquisition of Lagardere's sale of its radio businesses in the Czech Republic, Slovakia, and Romania. Herbert Smith Freehills and Wolf Theiss advised Lagardere on the deal.

Czech Media Invest is 50% owned by Czech investor Daniel Kretinsky – who also owns the EPH energy group – and 50% owned by Patrik Tkac and Roman Korbacka.

We spoke to Clifford Chance Prague Managing Partner Alex Cook about his team's work on the deal.

CEELM: How did you and Clifford Chance originally become involved with Czech Media Invest in this matter?

A.C.: It was a pitch process. We know EPH well, have done a lot of their financing work, though less of their corporate work. The pitch came from one of our former finance colleagues who moved to EPH a year or two ago – I forget exactly when. We were approached with the RFP in November 2017 and instructed in February this year.

CEELM: At what stage in the process were you brought on board, and what, exactly, was Clifford Chance's initial mandate?

A.C.: EPH tends to be quite hands on – they have a strong internal team – so our original remit was subsequently reformulated to DD support in Poland and Romania and SPA support on French law issues through our colleagues at CC Paris.

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

A.C.: Stanislav Holec in Prague acted as overall coordinator and interface with the client. Additional team members included Partner Laurent Schoenstein and Counsel Xavier Petet in Paris (French law SPA); Counsel Krzysztof Hajdamowicz and Associates Zuzanna Potoczna and



Aleksandra Wlaszczuk in Warsaw (Polish DD, merger filing); and Counsel Mihai Macelaru and Associates Radu Costin and Claudia Grosu in Bucharest (Romanian DD)

CEELM: How was the transaction structured, and how did you help it get there?

A.C.: Czech Media Invest acquired certain affiliates of Lagadere Active Radio International SAS. The structuring of the transaction was done primarily by EPH internally.

CEELM: How long did the process take, overall?

A.C.: It was a relatively quick process, certainly as far as our involvement was concerned. The deal was signed in April, only two months after we were instructed – although clearly commercial discussions had been ongoing for longer.

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

A.C.: Nothing really – frustrating that the client did a lot of the work themselves!

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



Alex Cook

A.C.: It was smooth from the point of view of being quick – a focused, commercially driven transaction.

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

A.C.: See above – our scope of work reduced as the client team did more of the work.

CEELM: What specific individuals at Czech Media Invest directed you, and how would you describe your working relationship with them?

A.C.: Although the client did a lot of the work themselves we developed an excellent relationship (and have since been instructed on a larger deal where our involvement will inevitably be greater). The deal was primarily done over the phone as far as our role was concerned; the client did much/most of the negotiating and transaction document drafting themselves. The client was pleased about our responsiveness, particularly close to signing when our team was always available at short notice.

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

A.C.: Quite limited, to be honest.

David Stuckey

EXPAT ON THE MARKET: INTERVIEW WITH RITA RAN PANG OF KINSTELLAR

Rita Ran Pang is a Chinese-qualified lawyer and a member of Kinstellar's business development team, focussing on the Chinese market. Before joining Kinstellar in Prague, she worked for a Chinese law firm in Shanghai for five years, where she focused on foreign investment, cross-border transactions, merger & acquisitions, and outbound investment.

CEELM: Run us through your background, and how you ended up in your current role with Kinstellar.

R.P.: I'm a lawyer 100% made in China! I studied, lived, and worked in Shanghai. I moved to Prague ten months ago and landed with Kinstellar as an associate, focusing on maintaining and developing Chinese-related investment across Kinstellar's ten markets.

Yes, I moved to another country, from China to the Czech Republic! People do this most likely for one of two reasons: you need a change in your life and love to travel, or you fell in love. Well, I have both. I fell in love with a charming man next to me during the flight from Shanghai to Prague, on my first trip to Prague. The timing was perfect as I had just resigned from my previous job. After spending some time together, I made the bold decision to move to Prague.

I was fortunate to be introduced to Jason Mogg, Senior Partner at Kinstellar and I subsequently survived interviews with ten partners from different countries. The process showed me how Kinstellar takes things seriously as well as the

effort it puts on China-related business development. Kinstellar is a great firm for me to start my new professional life.

I always believe you should work for somebody who values your talents, hard work, and loyalty. This is exactly what Kinstellar offers me! Also, these are the qualities of my colleagues!

CEELM: Was it always your goal to work in Europe?

R.P.: Yes. My original plan was to work for another four or five years in China and then move to Spain as I love the Spanish language. But you can never plan your life as it is full of surprises! I have to admit, it has been a good decision to settle down in Prague, and with Kinstellar.

CEELM: Tell us briefly about your practice – your role at Kinstellar. What is it, exactly?

R.P.: As you know, law is jurisdictional, though the concept would be the same. As a result, I cannot practice here. I am dedicated to supporting firm-wide business development focussed on the Chinese market by helping the firm develop, refine, and execute its business

development strategy for the Chinese market, as well as project managing on China-related matters.

CEELM: What do your clients appreciate most about you?

R.P.: I would say that I am responsive, positive, open, hardworking, and stand my ground. In the words of one of my clients, "though she is young, she stands by her views when being questioned by senior lawyers."

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

R.P.: The legal system in most CEE countries is a civil law system, which is the same in China. However, differences do exist. One thing I want to highlight is *timing*. In certain ways, China is a highly-controlled country. Multiple approvals/filings are required from different authorities in terms of outbound investments, which can take weeks. Sending funds out of China also requires the blessing of the foreign exchange



authority. In addition, if the company is state-owned, a green light from the ultimate shareholder is required. Together with typical Chinese negotiation tactics, the process is often very slow. Sometimes, this can be a deal breaker.

While in most CEE countries, it would not involve such a complex approval/filing process.

CEELM: How about the cultures? What differences strike you as most resonant and significant?

R.P.: Not that many. Czechs look more serious and behave in a more direct way. The trust-building process is relatively fast despite the different cultures. I believe it would be the same case across other CEE countries. Chinese are generally more sensitive and less direct in their manner. When dealing with Chinese

investors, having another Chinese face on your team helps considerably in making the clients relax and feel reassured.

One common thing I believe Czechs – and people in most CEE countries – share with Chinese is that we are all hard-working and driven and want to develop our professional careers.

CEELM: Do you plan to return to China at some point?

R.P.: I have no immediate plans to return to China. There is so much to explore in CEE/Europe.

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

R.P.: This is a tough question, as I enjoy traveling. It is a learning process and I always get inspired by my travels to different countries and different nations.

Slovakia: Nice people, cozy environment, and robust economic growth. Hungary: a perfect combination of a dynamic business environment and serious people. Serbia: a hub for major Chinese state-owned enterprises spreading

business in CEE, and a very pro-Chinese society. Croatia: unforgettable amazing strawberries as well as a beautiful countryside.

CEELM: What's your favorite place to take visitors in Prague?

R.P.: I have two places where I visit at least once a week. The first is Nase Maso – in English, “Our Meat.” It is actually a butcher shop but a very good place for a great meal. Not only because it has the best beef tartar in Prague, but also because of the people working there. They are positive, caring, and energetic. You can feel their passion and love for their job and customers. They continually remind me of the attitude I should always have and what my colleagues have already had – do what you love and love what you do! Plus, people there know me well, and make me feel at home.

The second is Vysehrad – in English, “Upper Castle.” It is a quiet place where you can enjoy the sunshine during the weekend or have a beer with your friends after work. The most important thing is, it is not crowded.

David Stuckey



Pang with a Furry Friend



In this section:

- | | |
|--|----------------|
| ■ Guest Editorial: Making Choices | Page 49 |
| ■ The Transforming Legal Market: A Scarcity of Skilled Slovak Associates | Page 50 |
| ■ Market Snapshot | Page 55 |
| ■ Inside Out: CNIC Corporation's Acquisition of Prologis Park Galanta-Gan in Slovakia | Page 56 |

GUEST EDITORIAL: MAKING CHOICES

When I was first asked to write an Editorial for CEE Legal Matters, I was told that it should be something personal or funny. As “funny,” by definition, does not get along with the legal profession very well, I will have to stick to reflecting on my 20-year career. I will share a few thoughts on the dilemma of whether to pursue a legal career in London or in Bratislava and on the changing world around us that impacts (and arguably, enhances) the lives of legal practitioners in one of the CEE countries.

When I started to work for a large international law firm in Bratislava 18 years ago, it was a shock. I realized that I knew nothing about law, my English was not good enough, and I was learning everything from scratch. I was completely flabbergasted when on the first day I was left on my own to handle a phone call with an English-speaking client. The overall situation on the market did not help either. It was the era of privatizations of state enterprises – once-in-a-lifetime transactions – and we were literally camping in the office. Hence, the learning process was happening on the go. Even if it was a tough lesson, I benefitted from the experience. It was then that I started to appreciate the jump-into-the-water-and-swim attitude.

My secondment to London was like leaving for holidays. I was filling in figures and names in template facility agreements and bond documentation, and although I was working on deals of enormous value, I felt like an assembly line worker. I thought this was the way it worked in London. For a couple of weeks it was nice, but after a while it started to get boring. Of course, today I know that I was handling the most junior work. And of course, today I know that there are tons of extremely sharp lawyers in the City, and for sure, assembly-line work is not what they do.

Five years of working 16-hour shifts (including weekends) left me tired and burned-out. I considered quitting the law, but instead I went back to school. After earning my Master’s degree in London I considered staying and re-starting my career in the City, and I qualified as a solicitor of England and Wales. Someone told me that, ultimately, I had to choose between being a large fish in a small pool and being a small fish in a large pool. The decision-making process was long and painful. At the end I returned to Slovakia and started my own law firm.

The legal profession in this “small pool” post-communist country has its pros and cons. On the one hand, we are frustrated by the failures and inefficiencies of public institutions, the lack of communication within courts, a lack of openness, by a generally-accepted “take a shortcut” attitude, and by a skepticism and cynicism about political

and civic involvement. We are tired of explaining the unexplainable to foreign clients: “this is the way it works here, and you have to accept it.”

But I realize that there have been changes for the better, and I have to concede that indeed there have been positive developments – even though, given our limited lifespans, the speed is agonizingly slow.

I believe that the smaller pool enables those who want to exert more influence on shaping the legal environment. As a result, for instance, while fifteen years ago a simple transfer of shares in a limited liability company took half a year to register, today I can make the filing from behind my desk and have it processed within a few days. Throughout the region, we have had to become familiar with legal, financial, business terms, and structures and institutions that did not previously exist in our markets, and we were required to adapt them and make them work in our own legal system. Thus, we now have our own legal system, which we played a major role in creating. This was indeed an exciting and adventurous journey.

By saying this, I have to admit there is no clear answer as to whether to pursue a professional career in Bratislava or London. It is certain that both worlds influenced me profoundly and made me who I am today. I am grateful for the people I have met on my professional journey, the transactions I have worked on, and the challenges I have had to face. Regardless whether it is London or Bratislava, no matter how large the law firm is and how many zeroes appear in the transaction value, clients have their expectations, and in order to meet them lawyers must be one hundred percent committed.

Technologies, new generations of lawyers, life-work balance, artificial intelligence – all of these will pose new challenges for us. The great thing is that the world once locked behind the Iron Curtain has now been freed – and hopefully it will remain that way. Nothing contributes to personal and professional growth as much as an involvement with different people, cultures, ideas, and points of view.



Katarina Mihalikova, Partner,
Majernik & Mihalikova

THE TRANSFORMING LEGAL MARKET: A SCARCITY OF SKILLED SLOVAK ASSOCIATES



Against the backdrop of concerns that changes in technology may cost law firms jobs come reports that law firms in Slovakia are having trouble finding the skilled law school graduates to fill their associate ranks. Whether because of a decrease in the perceived attractiveness of a career in a law firm, a prolonged mandatory traineeship period, or some other reason, many see a serious problem developing.

A Noticeable Change

Veronika Pazmanyova, the Head of the Slovak office of Glatzova & Co., says the problem affected her recent efforts to expand her team. “While we had couple of great candidates for mid-level and senior associates and for students looking for part-time legal jobs, we struggled to find junior associates,” she says. “Ten years ago, we would have had *hundreds* of CVs for this type of position. Now we received only around twenty.”

And the change in the level of interest was apparent even among those that did apply, Pazmanyova says. “Some of the candidates didn’t even show up for arranged interviews or get back to us – and we hear similar stories from other law firms. This is despite the attractive package being offered.”

This transformation in the market is puzzling, Pazmanyova says, as good opportunities abound. “The legal market is doing well in general,” she reports. “Our law firm doubled its revenue over the past three years, which forced us to expand our team – but it took a *lot* of effort to find the right candidates.” In short, she sighs, “there is great demand for good lawyers on the market, but there are fewer and fewer motivated law school graduates.”

Andrea Erdosova, Vice Dean for the Bachelors and Masters Studies at the Faculty of Law of Bratislava’s Pan European University, also sees “less quality and less motivation” among fresh law school graduates, even though she believes an increasing number of law firms in Slovakia means that “the possibilities to find a good job really exist.” But young lawyers are less interested in working at law firms



Andrea Erdosova

than before, she says, due to the demanding law firm environment and what she describes as low pay for the first few years of practice.

Not everyone is put off by that environment, of course, and Erdosova is quick to point to the graduates from her school who *are* excited about law firm opportunities. “It depends on the personality,” she says. “I have dozens of examples of young highly motivated, smart, and hard-working graduates, who perceive being a good lawyer as a mission, not just a job.”

Slovakia's Extended Traineeship

In addition to the high number of hours demanded of young lawyers, many point to the Slovak Bar Association's 2013 extending of the mandatory traineeship period from three years to five (described extensively in a special report in the October 2014 issue of the CEE Legal Matters magazine) as a reason for the decreased number of private practitioners coming out of Slovak law schools.

Roman Vydra, a legal trainee in the Bratislava office of the BBH law firm, says the extended traineeship period was felt acutely in his class. “When the extension was just introduced nobody knew where it would lead us,” he says. “It caught many students by surprise, including me.” He suggests the result was impossible to deny. “We are already seeing the consequences, and I am afraid the real impact will be felt dramatically in the upcoming years, because current students are already aware of the situation and that has impacted on quality and quantity of students, significantly decreasing its number.”

In addition to requiring all would-be lawyers to commit another two years to their traineeship before passing the Bar, many believe the five year traineeship period imposes a particular burden on young female lawyers. As Martin Magal, Partner at Allen & Overy in Bratislava, explains, “many young women choose not to go down that road, as they would have to invest a lot of time in establishing their reputation and career and then either take

a break to have a family or really sacrifice their private lives and pursue their career, which most are unwilling to do.”

Majernik & Mihalikova Partner Katarina Mihalikova does not mince her words. “In my view it discriminates against women.”

The declared goal of the Slovak Bar Association in extending the traineeship period was to improve the quality of attorneys in the country. According to Andrea Erdosova, “the Slovak Bar Association claimed that the three year traineeship was not enough, as many of the [law firms] did not provide the proper preparation to trainees to help them pass very difficult exams, nor to prepare them for the demanding profession.”

Martin Magal believes that the change implemented by the Bar Association was necessary – and he suggests that, if the current dearth of quality lawyers coming out of law school is the result, it may be a good thing. “We saw an unhealthy influx of new lawyers that started 15 years ago and lasted for a decade, and supply by far exceeded the needs of the market,” he says. “The current situation could be perceived as a correction of the unhealthy recent past, and the numbers we are starting to see now are a more accurate reflection of the market's needs.”

In any event, Magal doesn't believe the shrinking supply of quality young lawyers is properly attributed to the extended trainee period. “Those who are more determined to become advocates and to be in a private practice will do whatever it takes to achieve that goal,” he says. “So at the end of the five-year period, you will have young attorneys who are more knowledgeable and passionate about the work.” Viewed properly, he proposes, the extended traineeship period simply weeds out those who aren't serious about a law firm career to begin with. “Three years looks like an interesting alternative and a trial period. You cannot have the same attitude with a five-year traineeship period.”

Roman Vydra, who was among the first to face the five year traineeship, and who



Jana Vydrova



Katarina Mihalikova



Martin Magal

acknowledges that the traineeship extension may have dissuaded some of his classmates from pursuing a career in private practice, agrees that the difference between three and five years is ultimately not significant. “If you want to do this job for the rest of your life, this change should not impact your choice of studying law. Thus, even if the traineeship were seven years I would still do it.”

In addition, Vydra says, the extended traineeship period doesn’t affect the ability of young lawyers to do good work anyway. “From my experience, if you are good enough and you perform well, you can have a good position at a firm and do responsible and interesting work, even if you are formally just a trainee,” he says. “This does not really matter, because your performance is what matters at law firms – not the status.” He points out that, although he will only complete his traineeship in the fall and take the Bar exam in winter, at BBH he already holds the position of Senior Associate.

Finally, while noting the problematic nature of the extended traineeship on women, Erdosova evinces a similar skepticism about its affect on the market for young lawyers overall. “To become a good attorney is not a question of the length of the practice, as the whole professional life might not be enough if you are not personally built and ready to perform for it. There are many other instruments to raise the quality of the preparation than the length of the traineeship.”

Educational and Professional Opportunities Across the Border

Some believe the declining numbers of quality young law school graduates is more properly attributed to the better educational and professional opportunities waiting for Slovak law students across the border in the Czech Republic. Slovak Jana Vydrova, a corporate associate at Allen & Overy in Prague, reports that she conducted research on the quality of law schools in Slovakia and the surrounding CEE countries before deciding where to study. She says her choice of Charles University in Prague – she received her

Master’s degree from that Czech university in 2011 – ultimately was based on its reputation, its curriculum, and its support system for students, as well as what she believes are its more attractive partner universities (such as the University of Sheffield in England, where she spent one year). After considering all these factors, she reports, “studying in the Czech Republic was an easy decision.”

Financial concerns do not play a significant role in that analysis, as Slovak students are able to attend Czech universities on the same financial terms as their Czech classmates. According to Vydrova, “if you study in the Czech language, you don’t have to pay tuition in the Czech Republic.” In fact, in 2001, based on the 1997 Convention on the Recognition of Qualifications Concerning Higher Education in the European Region, an intergovernmental agreement was signed asserting the Mutual Recognition of the Equality of Educational Documents issued in the Czech Republic and Slovak Republic, guaranteeing the same conditions for Slovaks in the Czech Republic in studies and admissions, allowing Vydrova to say, “Slovak and local students are treated the same in this respect.”

With financial concerns put aside, many believe the quality of legal education to be better in the country to the west. Timotej Usak is another Slovak who chose to study in the Czech Republic – in his case at Masaryk University in Brno. “The reason I decided not to study in Slovakia,” he says, “was that I thought – and I still think – that the quality of Czech universities compared to the Slovak ones is much higher, which can be proven by university ranking within the top 500 universities worldwide.” Indeed, according to the US News and World Report’s 2018 Best Global Universities ranking, three Czech universities are listed among the top 500 worldwide (Charles University

at #196, Czech Technical University at #410, and Palacky University Olomouc at #479), while no Slovakian universities make the list.

Slovak lawyer Katarina Mihalikova affirms the appeal of the law schools across the border. “Czech universities offer better education, a hands-on approach, and qualified teachers” she says. “All these combined together, and given the proximity of the languages and the proximity of the legal order in the past, attracted many Slovak lawyers.”

“I am afraid the real impact will be felt dramatically in the upcoming years, because current students are already aware of the situation and that has impacted on quality and quantity of students, significantly decreasing its number.”

Unsurprisingly, Andrea Erdosova, at Bratislava’s Pan European University, resists the claim that Czech universities are better, as evidenced, she says, by the Czech nationals who choose to study in Slovakia. “We count a fairly large number of Czech students in our Pan European University – they like the dynamics of the private law school, they like Bratislava with its great location and a friendly environment of still existing common spirit of the historical federation (the former common state) and, let’s say, the brotherhood between the nation of Czechs and Slovaks.”

Perhaps. Still, many believe that, after studying in Czech universities, it is inevitable that many Slovaks will choose to stay in the country on Slovakia’s western border. As Mihalikova notes, “once they start building up a professional career through studying in the Czech Republic, it makes sense to look for jobs there after graduation.”

Vydrova agrees, reflecting on her own path. “It was pretty natural at that time



Roman Vydra



Timotej Usak



Veronika Pazmanyova

to stay in the Czech Republic, as I already had network and practical experience here.” Internships are part of the process, she says, noting that she worked in the legal profession during her studies, and that “played a role as well.” Ultimately, she says, “There are more job opportunities for graduates and qualified lawyers in the private sector in the Czech Republic, mainly due to the size of the market.”

Roman Vydra puts it simply. “Prague is a big and multinational legal market, which is developed much more than Slovakia,”

he says. “After Prague, Bratislava is too small.”

And the Czech legal market is larger, and offers more offices of international law firms – with at least 11 offices of law firms based in the US, UK, or Germany – than its Slovakian counterpart, which offers only six. “It is a regional hub for many companies, [and] the opportunities and competition are much higher,” Mihalikova says. “Given the size of the market, the salaries might be much higher and cost of living are comparable.”

But Martin Magal expressed skepticism that there’s a new trend of Slovak lawyers working in the Czech capital that can account for the current dearth of quality fresh graduates in Slovakia. “Czech colleagues are always complaining about the ‘invasion,’ but this has been happening for the last 30-40 years,” he says. “You can easily find 50-year-old Slovak lawyers working in Prague.”

And as Magal notes, most Slovakian lawyers stay at home. “They are well-aware of the fact that the grass is not necessarily greener on the other side. They want to stay closer to home by setting up the basis for their career where their families’ roots are.”

In fact, of course, the fact that the two countries share a border makes it possible to be simultaneously abroad and close to home. Indeed, Roman Vydra explains that his decision to study in Brno was influenced by its proximity to his home. “It was rather a geographical decision,” he says. “I wanted to stay in touch with my home, where I had personal connections: family and friends. Brno was a compromise: getting a Czech quality education but being only one and half hours from home by train.”

Political Considerations

Of course, there are other factors influencing student decisions beyond Slovakia’s extended traineeship period and the potentially superior educational and professional opportunities in the Czech Republic. Timotej Usak, who moved to Prague after graduating from Masaryk

University in Brno this year, pointed to the continuing fall-out from the February 25 killings of Slovak journalist Jan Kuciak and his fiancée, which – among other things – led to the Slovak Prime Minister’s resignation. “One of the reasons [for my move] is the political factor, as the situation in Slovakia is extremely bad. I have a feeling there is a motion to sweep everything under the rug. So, for me there is no motivation to go back to such a country.”

Reversing the Change

There’s no suggestion the situation is irrevocable, of course, and according to Glatzova & Co.’s Veronika Pazmanyova, many are calling for the traineeship period to be put back to its previous three-year form, although, she says, despite “several initiatives to achieve it, [there is] no real political will yet.” She, for one, hopes those calls are heard. “Changing it [traineeship] back would help the legal market. I don’t think lawyers should be afraid of a little competition.” She insists that, instead of pushing law students away from the profession, it is up to law firms to adapt to the changing requirements of young people about to enter the market. “Their sense of purpose and ethical values may shape the way business is done around the world in the future,” she says.

Katarina Mihalikova also believes the current dearth of quality law school graduates seeking to enter the legal profession can be fixed by shortening the traineeship period, but she points to a need to improve the country’s educational system as well – though she concedes that “it is not an easy and quick solution.”

Conclusion

Ebbs and flows in the market for good young lawyers are hardly uncommon, and trying to parse the reasons for changing interests and motivations in fresh graduates is an imprecise science, at best. In Slovakia, at least, the market is ebbing ... and that science is a subject of hot conversation.

Mayya Kelova

MARKET SNAPSHOT: SLOVAKIA

CORPORATE M&A IN SLOVAKIA



Helen Rodwell,
Managing Partner,
CMS Prague and Bratislava

After undergoing healthy levels of Corporate/M&A activity in recent times, as we move towards 2019 we expect the Slovak market to remain stable. A notable exception, however, is in the logistics asset class, where we project in-bound investment to soar.

After historically lagging behind the likes of the Czech Republic and Poland in terms of market maturity, it seems Slovakia is catching up at a rapid pace. The economic forecast remains healthy and stable, unemployment figures are low, and greenfield investment is at an all-time high. Underlying this excitement for investment in the region is apparently the sentiment that the market is no longer as distinguishable from its CEE neighbors as it was five to ten years ago.

Legal Changes Affecting Mergers of Companies

Without question the most significant legislative change is an extensive amendment to the Commercial Code. Most changes came into effect on January 1, 2018, though certain provisions will apply from September 1, 2018. The changes relate to various corporate issues including business transfers, capital funds, liquidations, and the responsibilities of statutory bodies.

In order to address issues surrounding the unfair merger of companies, there are stricter rules with respect to mergers, demergers, and amalgamations. Additionally, the protections provided to creditors and shareholders participating in a merger will be enhanced.

According to the amendment, in order to undertake a merger in Slovakia in accordance with the Commercial Code, the following criteria must now be satisfied: (1) the dissolving company must deliver notice of the drawing up of the draft merger agreement within 60 days of the General Meeting ap-

proving the draft merger agreement to: (i) the respective Tax Administrator; and (ii) the pledgee (if its ownership interests are subject to pledge); (2) the companies participating in the merger are not subject to liquidation, bankruptcy, restructuring, or court proceedings of dissolution; (3) the value of the assets of the successor company exceeds the value of its liabilities (excluding subordinated debts) as of the effective merger date, confirmed by an auditor's report attached to the petition for registration of the merger with the Commercial Register; and (4) the petition to register the merger in the Commercial Register by all companies participating in the merger is filed within 30 days after the date of approval of the merger agreement by General Meetings of the companies.

The new rules were adopted in response to the current application issues associated with chain mergers, which have been used as a means to evade the statutory obligations that are applicable in the event of liquidation or bankruptcy of a company.

Should companies participating in the merger not fulfill the above-mentioned conditions, their executive directors shall be liable for damage caused by the merger to the creditors.

It is expected that the amendment will increase the administrative burden on companies participating in mergers and will result in greater liability for executive directors. Nevertheless, it appears it will bring more legal certainty to the Slovak business environment and help prevent unfair practices when dissolving companies.

By Helen Rodwell, Managing Partner, CMS Prague and Bratislava, and Petra Corba Stark, Counsel, CMS Bratislava



Petra Corba Stark,
Counsel,
CMS Bratislava

INSIDE OUT: CNIC Corporation's Acquisition of Prologis Park Galanta-Gan in Slovakia



The Deal: On October 4, 2017, CEE Legal Matters reported that Dentons' Bratislava office had advised CNIC Corporation Ltd., an investment company owned by the Chinese government, on its acquisition of Prologis Park Galanta-Gan in Slovakia – which Dentons described as “the largest logistics asset, both by area and investment volume, ever sold in the CEE region” – from Prologis, and that Kinstellar had advised Prologis on the deal.

The Players:

- Counsel for CNIC Corporation:
Martin Mendel, Partner,
Dentons Bratislava

- Counsel for Prologis:
Roman Oleksik, Partner,
Kinstellar Bratislava

CEELM: Roman, how did you and Kinstellar originally become involved with Prologis in this matter?

R.O.: We've been advising Prologis since

they entered the Slovak market back in 2006. We've been involved in many interesting and challenging transactions with the Prologis team over the years. We had just finished assisting them with the sale of the logistics park in Nove Mesto nad Vahom [to Arete Invest – ed.] at the beginning of 2017. The Prologis team was happy with our work and it was probably natural for them to approach us with the Galanta transaction.

Our mandate was clearly defined from the very beginning and included assisting Prologis with the set-up of the data room, answering questions of the buyer related to the due diligence, negotiating all transaction documents, as well as assisting it with signing and closing.

CEELM: Had CNIC already expressed its interest in Galanta-Gan before you were retained, or did you actually help Prologis find CNIC?

R.O.: No, we were not involved in finding CNIC and we are not able to say when

exactly CNIC expressed their interest in the transaction.

CEELM: Were you tasked with assisting in negotiations over price and other terms?

R.O.: No, we were not asked to handle the business terms of the transaction. Our involvement was limited to negotiating the legal text and assisting the client with the business decisions which arise during such negotiations.

CEELM: What about you, Martin? How and when were you and Dentons brought on board?

M.M.: We were requested to prepare our fee proposal on Friday, April 7, 2017. The client sent its request by e-mail at 9.00 am in the morning and asked for our proposal on the very same date. Thanks to our marketing department and very swift response by our Managing Partner (Peter Kubina), who received the initial e-mail, we were able to clarify the main points of the client request and prepare our fee

proposal that same day. I understand that the client requested fee proposals from various international law firms in Slovakia. After an initial review by the client our fee proposal was finalized on April 11, 2017 and we met the client on April 24, 2017 to present our fee proposal and our team. The client made its decision after the personal meeting. Next day, we were already discussing the time plan of the transaction and our services.

Our initial mandate was pretty standard – to perform legal due diligence and to prepare/revise transaction documentation and advise the client in negotiation of the contracts.

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

R.O.: I led this transaction on behalf of Kinstellar. In addition to being the supervising partner on this matter, I was actually engaged in almost every single document exchanged on the matter and thus did a very hands-on job for the client. The team had strong support in Miroslav Kapinaj and Michaela Nemethova, as both are very talented and hardworking lawyers.

M.M.: Our team consisted of five people. I led the team and dealt with day-to-day issues both for the due diligence and the transaction. Finalization of the transaction took much longer than initially contemplated – ten weeks (the purchase price was paid to the sellers on Oct 13, 2017 (nearly five and half months after we commenced our work)) – so we had to deal with substitutions. During my absence, Miroslava Jesikova was the main contact for the client in negotiating the shares purchase agreement and escrow agreement. Tatiana Mergesova also worked on the transaction – in particular she drafted and negotiated various documents and agreements executed by the parties at the signing meeting in addition to the main share purchase agreement. Both of them also did due diligence, with Miroslava reviewing lease agreements and Tatiana examining documents relat-

ed to title of SPVs to real estate (land and buildings in Galanta). In addition, Katarina Pecnova reviewed corporate documents provided in the data room.

My involvement in legal due diligence was limited to guidance (if and when needed) and the final revision of the due diligence report before we sent it to the client. The final member of our team, Peter Kubina, monitored the project and became involved when strategic decisions were needed.

CEELM: How was the transaction structured, and how did you help it get there?

R.O.: The transaction was structured as a share deal – sale of shares in four entities of Prologis. The purchase price was transferred to an escrow account and paid to the seller after the share transfer was registered in the Commercial Registry.

M.M.: The transaction was a quite standard share deal in which six Dutch and Luxembourg sellers entered into a long form share purchase agreement with a Luxembourg purchaser. The same parties entered into an escrow agreement with UniCredit Bank in Slovakia. And finally, on the very same date, the parties executed also short form transfer agreements that were registered with the Commercial Register.

CEELM: How long did the process take, overall, from your first contact with your clients until signing?

R.O.: We were approached by Prologis in March 2017. The deal was signed in September 2017. It was probably not my fastest transaction, but given the size and importance of the deal, it went relatively fast.

M.M.: Our work started on April 25, 2017 when we had kick-off meeting with CNIC. The share purchase agreement was signed on September 25, 2017. That means it took five months to get there.

CEELM: Roman, you describe it as not being particularly fast. Why was that?



Martin Mendel

We've heard that Chinese investors require more time, usually, than local investors, to get the necessary approvals and authorizations. Was that why?

R.O.: The deal was quite big and it is probably not surprising that it took longer to close. Moreover, the negotiations continued during summer vacation season which usually has impact on timing. Of course, CNIC had to obtain all internal approvals. I do not have insight into how such internal approval procedures worked, but I did not have the feeling that they were unusually burdensome or delayed.

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

R.O.: I do not think that there was any feeling of frustration in this transaction. Of course, negotiations were not always easy, but in my view they were fair, productive, and to the point on both sides. As often is the case in such deals, the challenge was to meet the deadline for signing agreed by the parties. There are always last minute changes, some documents are missing apostille, and so on.

M.M.: The difference between the legal systems and cultures of (i) our client and the sellers on one side, and (ii) our client and the Slovak jurisdiction – the jurisdiction of the target companies – on the other side meant that we had to spend more time explaining certain specifics of

the transaction and the Slovak legal system (for example, the mandatory use of electronic mailboxes by legal entities and the legal risks related thereto).

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

R.O.: Prologis logistics parks are valuable assets. This results from a combination of factors: location, quality of construction, no compromises when it comes to management services, a very good portfolio of tenants, balanced lease terms, and professional legal support from the outset. Therefore, it is no surprise that the structure of the transaction did not involve any changes. I think that the outcome of the due diligence was more than satisfactory for the buyer. There was no need to implement any additional material measures to improve the shape of the assets or negotiate any complex conditions precedents or conditions for the release of the purchase price. All this allowed the parties to proceed with the registration of the transfer of shares immediately after the signing and timely payment of the purchase price.

M.M.: Thanks to the smooth cooperation with Kinstellar, discussion of due diligence findings and arranging for remedies was extremely swift and needed nearly no client involvement.

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

R.O.: There were no material changes in the scope of the mandate and so we were more or less able to stick to our original fee estimates.

M.M.: We performed our original mandate to the full extent and we had to do much more than that. We advised the client on establishing the entity in Luxembourg that was used as a purchaser, we cooperated with tax advisors in order to explain the distribution of net profit from Slovak SPVs in relation to

the “company in crisis” concept of the Slovak Commercial code, we assisted the client in obtaining residency permits in Slovakia, and so on.

CEELM: What specific individuals at Prologis directed you, and how would you describe your working relationship with them?

R.O.: Ildiko Kollar [Legal Counsel CEE at Prologis – ed.] supervised all legal aspects of the transaction. Daan van den Hoven and Martin Polak [Prologis Vice President Transactions, Europe and Prologis Senior Vice President – ed.] took the lead on the commercial side of the deal. The Prologis team are of a type that never loses sight of all pieces in a transaction (including all legal aspects). They are able to communicate with their external counsels in an effective way, understand the legal issues at stake, and take the most appropriate commercial decisions (without the need to accuse their lawyers of making their lives difficult or the transaction more complicated).

M.M.: I worked with Siwei Kirk Lai, project manager at CNIC Corporation. Our cooperation was very intensive. In addition to a regular exchange of e-mails, it was not unusual to have three or more phone calls a day. Kirk was working very hard to have the deal closed and despite the time difference he responded to e-mails anytime, as if he never slept.

CEELM: Roman, how would you describe the working relationship with your counterparts at Dentons on the deal?

R.O.: We made our fee estimate subject to the assumption that the buyer would be represented by a law firm that not only understood how to run complex transactions, but also had a real grasp of the particular issues in the local real estate market. I can confirm that the qualities of the local Dentons team were in line with all our assumptions. Another aspect which I personally appreciated is that Dentons has no urge to decorate their meeting rooms with the scalps of the lawyers representing the other side. This allowed



Roman Oleksik

us to concentrate on real issues. It was a great pleasure working with Martin Mendel and his team.

CEELM: And Martin, what are your feelings about working with your counterparts at Kinstellar?

M.M.: Kinstellar and especially Roman Oleksik demonstrated extremely wide experience in transactions of this type. Despite the complexity of the deal, Roman’s approach significantly helped to negotiate all transaction documents in a very effective and professional way without needing to play a “game” for the client, pretending a fierce fight between lawyers to earn their fees. It was really a great pleasure to work with Roman and I look forward to having such an opportunity again.

CEELM: How would you describe the significance of the deal in Slovakia, and the region?

R.O.: Is the purchase of Galanta logistics parks by CNIC part of One Belt One Road initiative run by China? – one can only speculate. In any regard, I believe the transaction has an important place in the development of economic relationships between CEE and China.

M.M.: The deal proves that a balanced project (technically and commercially) in Slovakia has no problem in attracting investments from any part of the world.

David Stuckey



Kapolyi Law Firm

Kapolyi Ügyvédi Iroda

20 YEARS IN HUNGARY

Connected across Europe

www.kapolyi.com

European Law Firm®
★★★★★★★★★★★★

EXPERTS REVIEW: REAL ESTATE



At least some of the CEE Legal Matters editorial team are sports fans, so in honor of the 2018 World Cup, we're ranking the Experts Review articles in this issue – all on the subject of Real Estate – in order of each country's most successful World Cup finish as an independent country. In other words, neither Belarus nor Russia (nor Lithuania, Moldova, or Ukraine) can take credit for the Soviet Union's 4th-place finish in 1966, neither Serbia nor Slovenia (nor Croatia nor Montenegro) can take credit for Yugoslavia's 4th place finish in 1962, and neither the Czech Republic nor Slovakia can take credit for Czechoslovakia's 2nd place finishes in 1934 and 1962.

Thus, since no CEE country has (at least before this year – come on Poland, Croatia, Serbia, and Russia!) won the World Cup, the articles from Austria, Croatia, and Turkey, all of which lost in the semi-finals (in 1954, 1998, and 2002), are first, and those from Belarus, Lithuania, Moldova, and Montenegro, which have never appeared in a World Cup at all, come last.

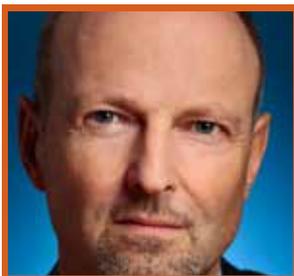
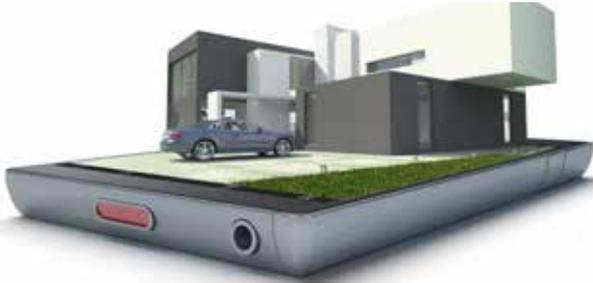


In This Section:

| | |
|-------------------------------|---------|
| ■ Austria (3rd – 1954) | Page 62 |
| ■ Croatia (3rd – 1998) | Page 63 |
| ■ Turkey (3rd – 2002) | Page 64 |
| ■ Bulgaria (4th – 1994) | Page 65 |
| ■ Czech Republic (6th – 1990) | Page 66 |
| ■ Romania (6th – 1994) | Page 67 |
| ■ Ukraine (8th – 2006) | Page 68 |
| ■ Serbia (10th – 1998) | Page 69 |
| ■ Greece (13th – 2014) | Page 70 |
| ■ Slovakia (16th – 2010) | Page 71 |
| ■ Russia (18th – 1990) | Page 72 |
| ■ Slovenia (18th – 2010) | Page 73 |
| ■ Belarus (0) | Page 74 |
| ■ Lithuania (0) | Page 75 |
| ■ Moldova (0) | Page 76 |
| ■ Montenegro (0) | Page 78 |

AUSTRIA

PropTech – What Does It Mean for the CEE Legal World?



Peter Oberlechner

A new buzzword has reached the Real Estate world and its service providers, including the legal community: “PropTech.” PropTech – or “Property Technology” – is simply shorthand for various IT applications that are specifically designed to address the needs of the real estate industry.

One of the earliest true PropTech applications was Building Information Modeling (BIM) – defined by the US National BIM Standard Project Committee as “a digital representation of physical and functional characteristics of a facility.” The first BIM software programs were developed around 1980. Since that time, most IT applications for real estate have been fairly basic (such as, for instance, programs for property management). Recently, however, a flurry of innovative tools and applications have appeared for the real estate industry, such as virtual reality tools enabling potential purchasers to look at properties without leaving their homes or offices, Internet platforms facilitating P2P or B2B rentals, cloud-based appraisal tools, cloud property management software solutions, and, last but not least, the application of Blockchain in the real estate world.

PropTech currently seems to be for the real estate universe of the late 2010s what the Dotcom-Economy was at the end of the last millennium: a source of an innumerable amount of startups, investors with deep pockets trying to separate the wheat from the chaff, and traditional brick-and-mortar-economy players desperately attempting to rejuvenate themselves by creating innovation or “disruption” departments and hanging around at a multitude of PropTech events.

The PropTech wave has now also reached the shores of Central and Eastern Europe. On June 5, 2018, Poland’s first PropTech conference took place. PropTech events in Berlin, London, and Vienna are emerging as platforms for the presentation of Prop-

Tech pioneers from Central and Eastern Europe. There will be much more to come, because CEE economies will turn out to be – on grounds of favorable tax and employment law systems, and a relatively easy-to-handle corporate environment – a fertile ground for startups.

As this is a promising new field of work for lawyers as well, what is there to know about PropTech for law firms and lawyers working in the CEE region?

From a legal viewpoint, PropTech is not, nor will it be, a new legal field. There is unlikely to be specific legislation or legal rules applicable to Property Technology. For a lawyer to work in the field of PropTech requires a combination of skills and knowledge of various legal disciplines. As always with legal matters involving real estate – as with other business fields and industries – a high degree of understanding of the practical and economic aspects of the field is indispensable. The individual legal specialties of relevance to PropTech are Corporate law, Tax law, Employment law, IP/IT law, and – last but not least – Data Protection law, owing to the fact that the most valuable resource that PropTech has at its core is not real estate, but data. It is surprising to learn that so many PropTech startups are so completely unaware of the data protection considerations relevant to their work and work product, which are even more relevant in light of the recent changes in EU Data Protection law.

The broad combination of legal disciplines involved makes it unlikely that smaller firms or solo practitioners will ever play a significant role in dealing with the legal aspects of PropTech. Instead, PropTech will be in the hands of larger firms that have the necessary experience in setting up investor-friendly legal structures, with the ability to protect the intellectual achievements and work products of their clients against the attacks of suitors and competitors, with knowledge in Corporate Finance, and – very importantly – with the legal skills necessary to set up compensation systems for employees that are not exclusively based on cash compensation, but rather on awarding stock options or “phantom shares,” which are among the most favored means of compensation for startups.

What remains to be seen is whether the law firms that are particularly active in this new field of legal advice will seek to have startups that they are advising compensate them with stock or stock options, as happened at the peak of the Dotcom-frenzy of the late 1990s/early 2000s. As this turned out to be a lottery with a substantial number of blanks last time, there is the question whether people have become any wiser since, or whether greed will again prevail. Because one thing that can be seen at all investor presentations and pitches that the PropTech industry is good at organizing seems pretty clear: most of the startups that sound interesting at first will unfortunately fail, and only a few will survive to be successful.

Peter Oberlechner, Partner, Wolf Theiss

CROATIA

Public Trust in Land Registry – Can the Mortgage Holders Finally Have a Good Night’s Sleep?



Vjekoslav Ivancic

In the Croatian legal system, the relation between two legal principles – the principle that no one can transfer more rights to another than he himself has, on the one hand, and the principle of public trust in land registry, on the other – has been the subject of significant analysis and numerous discussions and Croatian Constitutional Court decisions.

The relation between these two principles is often analyzed from the perspective of the mortgagees (*e.g.*, banks) who acquire their mortgages in reliance on the land registry status of the real estate. However, at the moment of enforcing their mortgages and collecting their receivables, mortgagees are sometimes confronted with third party non-registered owners of the real estate, who often successfully challenge the validity of the mortgage, claiming that the person registered in the land registry as the owner of the real estate, who provided the mortgage, is not in fact the actual owner. The impact that this may have on legal certainty and the principle of legitimate expectations is disastrous. Acquiring real estate rights (including a mortgage) on the basis of public trust in the land registry should represent a simple legal institute, which may be summarized in the following manner: (1) an acquirer of a real estate right concludes an agreement with a person who is registered in the land registry as the owner of the relevant parcel of land; (2) at the same time, the legal status of the real estate parcel registered in the land registry differs from the actual (non-registered) legal status of the property, however the acquirer has no knowledge of this mismatch. Now, to avoid being forced to investigate and determine the actual legal status of real estate, potential buyers may

acquire a registered real estate right in its entirety on the basis of an agreement and acting on the principle of public trust in land registry, notwithstanding any third parties’ non-registered rights. In Croatian court practice however, this seemingly simple legal institute has become an extremely complex topic, to the extent that questions have arisen whether Croatian law supports public trust in the land registry at all.

This topic was analyzed in decision no. U-III-103/2008, dated June 14, 2011 of the Croatian Constitutional Court. The court considered a mortgage of a bank which was contested by the spouse of the person registered as the (entire) owner of the mortgaged real estate, where the (non-registered)

spouse claimed that she was the non-registered owner of one half of the ideal part of the real estate parcel and that consequently the mortgage was null and void with respect to that half. In prior similar cases, the Croatian Constitutional Court had emphasized that the principle that no one can transfer more rights to another than he himself has supersedes the principle of public trust in land registry. This resulted in complete legal uncertainty for the banks and other mortgage holders. In the June 14, 2011 decision, however, the court altered its position, stating that in disputes between banks holding mortgages and non-registered spouses, the courts should determine the good faith of all parties. This decision represented a step forward in protecting the legitimate interests of mortgagees and other security holders, but it did not solve all related doubts.

This however does not represent the end of mortgage holders’ struggles with the public trust in the land registry. Specifically, Croatian law provides that public trust in the land registry will not apply to real estate rights acquired before January 1, 2017 with respect to parcels of real estate which represented “social ownership” in the past (*i.e.* a type of ownership from the socialist period). This proved to be controversial in large real estate projects involving land sold to the investor by a municipality which was later determined to be owned by the state. Such situations resulted in both the investors and the banks losing title to the land and entering into multi-year real estate disputes. However, public trust in the land registry will fully apply to real estate rights acquired after January 1, 2017. This, together with the evolving court practice of the Croatian Constitutional Court, should provide an investment incentive to investors and credit institutions, significantly lowering legal risks with respect to real estate projects in Croatia.

Vjekoslav Ivancic, Partner, Ostermann & Partners

TURKEY

Zoning Peace in Turkey



Birturk Aydin

Crowded cities and unplanned urbanization have always plagued Turkey. According to the Ministry of Environment and Urbanization (the “Ministry”), more than ten million structures in the country violate zoning laws and regulations. These structures, including factories, shopping malls, and office buildings, are built without

a construction permit, used without an occupancy permit, or violate other laws.

On May 18, 2018, the Turkish government took an important step by introducing a new law, titled “Zoning Peace,” which determines and records structures violating the zoning laws.

The Zoning Peace also introduces the “Building Registration Certificate.” According to the Zoning Peace, Building Registration Certificates must be obtained for structures erected before December 31, 2017 (i) without a license, (ii) in violation of construction/occupancy permits, or (iii) in violation of the zoning laws.

Building Registration Certificate Issuance

To obtain a Building Registration Certificate, owners must apply to the Ministry and to the institutions authorized by the Ministry before October 31, 2018. Owners must pay a registration fee to obtain the certificate. That fee is 3% of the sum of the land’s property tax value and approximate construction costs for residential properties and 5% for commercial properties.

According to the Zoning Peace, the Ministry shall determine the approximate construction cost; although it is still unclear what principles the Ministry should use for this determination. The Ministry will likely determine the procedure for the issuance of the Building Registration Certificate before the Turkish general election.

Advantages of Obtaining a Building Registration Certificate

The most remarkable action prescribed by the Zoning Peace is the revocation of demolition decisions and outstanding administrative fines for unlicensed structures or structures built contrary to the terms of their licenses. For the time being, unlicensed structures no longer run the risk of demolition.

In principle, independent units in an unlicensed structure cannot be converted into a “condominium structure.” Therefore those unlicensed structures are still regarded as “land” in the Land Registry, and each owner’s land share is proportional to the area of his or her independent unit.

With the Zoning Peace, if all unit owners in an unlicensed structure unanimously decide to apply for a Building Registration

Certificate and the Building Registration Certificate is granted, the independent units will be converted into a condominium. The registration fee doubles for land use conversion and/or the establishment of condominium.

Validity Term of Building Registration Certificate

The Building Registration Certificate remains valid as long as the relevant building remains standing. In other words, unless the building is demolished, either voluntarily or due to urban transformation, the Building Registration Certificate remains in effect. Because the Building Registration Certificate expires after a building’s demolition, any new structure on the property must comply with the applicable zoning laws and regulations. The Building Registration Certificate does not grant a vested right to the owner.

A separate expiry date for the Building Registration Certificate under the Zoning Peace relates to buildings defined as “being subject to urban transformation.” If a structure with a Building Registration Certificate becomes subject to urban transformation, that building will not be protected by the Building Registration Certificate and will accordingly be demolished.

Exceptions

Certain parts of the Bosphorus coast line and preview area defined under Bosphorus Law No. 2960 and certain parts of the Istanbul Historical Peninsula and the area defined under Article 2(e) of the Law on Establishment of Directorate of Canakkale Wars Gelibolu Historical Area No. 6546 are exempt from the Zoning Peace.

Conclusion

The Building Registration Certificate allows unlicensed structures to avoid the risk of demolition, thereby increasing the credibility of the real property, as the unlicensed buildings can be shown as assets for the loans.

In addition, if condominium structures are established and each owner holds the title of the independent unit, it will be easier for the owners to sell their real properties or establish liens on the real property.

From a legal transactions perspective, unlicensed structures are among the most contentious issues during real estate and M&A transactions. The buyers usually introduce “bringing the structure into conformity with zoning laws and regulations” as a condition precedent to the transaction. However, sell-side of the M&A and real estate transactions with unlicensed structures cannot meet this condition due to technical reasons. The introduction of the Zoning Peace will allow the sell-side to obtain a Building Registration Certificate and thereby bring the structure into conformity with the law.



Kerem Kuscu

Birturk Aydin, Partner, and Kerem Kuscu, Senior Associate, Esin Attorney Partnership

BULGARIA

Specifics in the Acquisition of Property Ownership Title Upon Public Sale



Antonia Kehayova

Does buying land make you the owner of the buildings on that land as well? In many situations, the answer is yes, but in the context of the public sale of property within enforcement proceedings, this is not always the case.

The general rule in the Bulgarian Ownership Act and general real estate law is that when buyers acquire ownership over a property (land), they also become owner of the buildings and plantations on it, as long as those buildings are not subject to separate ownership rights. The basis for this concept is that if the previous owner had ownership rights on both the land and the buildings on it, the buyer, as the new owner, shall also receive the full title right over both the property and the buildings on it.

The essence of the ownership right transfer is the sale contract between the owner and the new proprietor. In the contract, the current owner expresses his will to transfer a specific property with a specific building on it for a certain price. In return, the proprietor expresses his will to acquire the property and pay that price. The contract is executed before a notary in the form of a notary deed for sale and purchase of property (this is the form required by Bulgarian law), and the proprietor pays the agreed-upon price. The executed notary deed has a transfer effect over the property, which from this moment on has a new owner. This is the most common scenario for transfer of property.

However, this is not exactly what happens when the acquisition

of a property (land) is a result of a public sale carried out within enforcement proceedings pursuant to the Bulgarian Civil Procedure Code. The public sale is the legal procedure for enforcement upon the debtor's property, transforming the debtor's property into cash against the debtor's will. It has a completely different nature than an ordinary property sale and excludes negotiations between the owner and the future proprietor. At the beginning, an enforcement agent imposes a restraint over the specific debtor's property so the latter cannot dispose of it for reasons other than satisfying the creditor's receivables. Then the enforcement agent announces the restrained property for public sale. Practically, any person or legal entity may decide and bid on the property. At the end of the public sale, the transfer effect of the own-

ership title over the property occurs with the payment of the purchase price by the buyer, on the one side, and with the entering into force of the award decree issued by the enforcement agent, on the other. The buyer in a public sale acquires all the rights that the debtor had on the property. The buyer cannot acquire ownership rights of the debtor which were not explicitly subject to the public sale and were not specifically in the enforcement agent's announcement of the public sale and in the award decree.

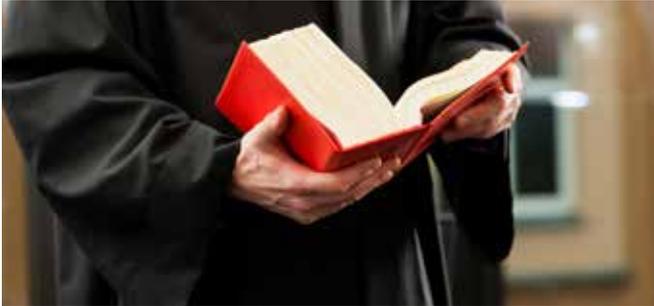
In light of this, the Bulgarian Supreme Court of Cassation ruled, in an Interpretative Judgment dated May 18, 2017 on interpretive case No. 5/2015, that as long as the building on the property subject to public sale (i) is not described in the enforcement agent's award decree, (ii) is not object to imposed restraint in the enforcement proceedings, (iii) is not described and evaluated by the enforcement agent, (iv) is not the subject of a public sale, and, most importantly, (v) represents a separate object of a separate ownership right, the ownership title on that building shall not be included in the transfer of the ownership title on the property in the public sale.

The Supreme Court of Cassation explicitly ruled, however, that serving buildings or edifices on the property subject to public sale that have no separate designation and are *not* separate subjects of ownership rights *do* represent part of that property and shall be transferred along with it, including when sold in a public sale. This applies especially for facility premises (*e.g.*, garages, sheds, fens, outbuildings, *etc.*) that have been designated only to serve the property or the building on it.

Antonia Kehayova, Head of Real Estate, CMS RRH Sofia

CZECH REPUBLIC

Four Years With a New Civil Code – Where Are We Now?



Erwin Hanslik

It has been more than four years since new legislation revolutionizing Czech private law came into effect, mainly through the adoption of a new Civil Code. Among the most affected industries was real estate, traditionally a very strong investment sector on the Czech market. How has life been since this revolution?

Good Faith as a Condition

The flagship of the new regulation was the strengthening of good faith in the registration status in the Real Estate Register, and the resulting increase in certainty within legal dealings. Thus, whoever is registered in the Real Estate Register as the owner or beneficiary of a certain right is regarded as the rightful owner or beneficiary of that right, provided the right was acquired in good faith and for consideration. With that, acquisition from a non-owner became possible.

This principle has been welcomed, by buyers and investors. Of course, registration status may not always reflect actual ownership status. Owners therefore must pay more attention to the status of registration in the Real Estate Register and dispute any wrongful registration by filing a law suit and ensuring entry of a dispute note within the time periods set by the Civil Code, which can be up to three years. As a result, due diligence has changed in scope significantly, and it is not rare for buyers, banks, or investors to rely only on the information registered in the Real Estate Register, or to instruct their lawyers to examine acquisition titles going back only three years, instead of the previously-standard examination period of ten years.

New Real Estate Instruments

The new Civil Code has also brought back the principle that the building forms part of the land (*superficies solo cedit*), thus uniting the previously impractically divided ownership of the

building and the land. Shortly after the new law came into force, the Real Estate Register carried out a convenient automatic unification of land plots and buildings in the ownership of one and the same owners where such unification was possible (e.g., when no right *in rem* registered to the land or building prevented the unification). Where the ownership can not be unified because there are different owners of the land and building, a preemption right between the owners exists.



Ivana Menhartova

Together with the unification of ownership, a new right *in rem* – the right of construction – has been introduced, allowing non-owners of land to build and place a building on foreign land on the basis of another legal title, along with lease or easement. Despite the right of construction being restricted in its duration to 99 years and being established on the basis of an agreement with subsequent registration in the Real Estate Register, it has been taken into account by banks and investors and included in the finance structures of transactions. Other newly introduced instruments – including the negative pledge and the prohibition on transference and encumbrance having effects towards third parties – have also been welcomed and used widely, especially by banks or private investors, allowing for better structuring and securing of the financing despite the nature of the instruments not being a security in the strictly legal sense of the word (*i.e.* having an accessory relation to the secured debt).

Good Acceptance on the Market

The market has responded positively to the new legislation. Owners, asset managers, investors, and banks have welcomed the new instruments, which enable them to better react to the specifics of each transaction. We now have more tools to manage, secure, and in general make better use of real estate. As a result, we have greater freedom – but also more responsibility – when structuring a project or a transaction, regardless of its size.

Naturally, the lack of case law relating to the new instruments prevents us from predicting with certainty how these instruments will be interpreted by the courts. When we hear talk of the future, we mostly hear that technology will dominate every possible area of life. Therefore, it may be that due diligence or valuations of real estate will be carried out by robots, and that transfer and construction agreements will be drafted by automated software. Regardless of how judges' opinions and artificial intelligence shape the future, real estate will remain what it has always been – a solid, palpable asset worthy of being legally right and well secured.

Erwin Hanslik, Managing Partner, and
Ivana Menhartova, Senior Associate, Taylor Wessing Prague

ROMANIA

Romanian Construction Legislation Up for a Facelift



Roxana Dudau

Romanian authorities have been busy this year putting forward several pieces of legislation affecting the construction field, including, most importantly: (i) a draft of a new law on authorizing construction; (ii) a draft proposal for amending the current application norms for the existing Construction Law; and (iii) preliminary theses

for a long-awaited Urban Planning and Construction Code. These proposals were all designed to further the ambitious aim of unifying all the regulations on town planning and construction.

The situation created by such projects all being debated in parallel is somewhat puzzling, as it is not clear why the legislator would continue to work on an old piece of legislation (i.e., the application norms of the current Construction Law), while at the same time a new Construction Law is in public debate together with a unified Urban Planning and Construction Code (which already covers the area to be regulated by the new construction law).

The core Romanian regulation on building permitting, which dates back to 1991, has seen many amendments over the years. The law was twice republished in the Official Gazette and has been modified no less than 31 times, in an attempt to keep construction norms updated with the ever-evolving requirements of modern construction. But patching up an old cloth can never equal getting a new one. The same could be said about the new construction law currently in public debate, which has been heavily criticized for not being new and modern, made from scratch, but instead representing essentially a facelift of an old piece of legislation.

Among the positive amendments envisaged by the draft law is the “one stop shop” desk (committee) for gathering (almost) all the required preliminary endorsements and approvals for a building permit. The current rules require applicants to go “door to door” to the authorities to obtain all needed endorsements, only to return at the end with the complete package to the issuing authority. In addition, the much-needed conversion

to online communications within the permitting process is also envisaged.

The draft law also sets out to resolve the issue of permitting construction on and within the protected areas of historical monuments, representing another hot point in the permitting process. This has generated ample debate and even hilarious situations in the past (for instance, conducting a specific type of physical intervention onto a landmark was allowed without any special permitting requirements, but painting the inside of a building with landmark protection status was deemed a criminal offense).



Alexandru Dan

Other contentious points are also being debated, including: (i) the moment when plots pertaining to a real estate project must be merged (experts are lobbying to require that this moment be set prior to actual registration of the erected building in the land book, and not prior to the issuing of the building permit); and (ii) the impact that ongoing litigation should have on a project (in the past, some local authorities have refused to issue building permits for land plots affected by litigation, even though the investors were willing to take the risk and go forward with the project). The rules for this second issue are set to change, so that permits can be issued even under ongoing litigation, if the applicant declares a willingness to accept the risk that the outcome of the litigation may impose new burdens on authorized construction.

However, the new draft comes with a few drawbacks as well, which experts hope will be resolved before the law is passed and comes into force. For example, the current Construction Law contains the only remaining legal ground for concession rights on land plots belonging to the private domain of the state and local administrative units. The new draft law, which is set to completely replace the existing law, does not provide (either itself or in any another regulation or legal text) the grounds for such concession rights. Therefore, concession rights would cease to exist as a type of title to real estate owned by public entities, leaving a legislative void in this area and adding to the debate about whether the concession of such real estate is still possible.

Experts and investors alike are happy to see the government’s commitment to working on construction legislation. They can only hope that the proposals to update the law that are currently under debate will provide more clarity and predictability in the permitting procedure, ultimately helping to create a more attractive investment environment in Romania.

Roxana Dudau, Associated Partner, and Alexandru Dan, Senior Associate, Noerr Romania

UKRAINE

Infrastructure Projects in Ukraine Expected to Boost Development of Commercial and Industrial Real Estate in 2018-2019



Oleg Matiusha

Many real estate experts and market players are upbeat about the positive trends on the Ukrainian real estate market, which is recovering after a significant downturn in 2013–2015. As the political and economic situation improves and the conflict in the south-west of the country stabilizes, foreign investors, attracted by market opportunities, are showing increasing interest in Ukraine.

At the end of 2017 and the beginning of 2018 the local real estate market recorded an increase in the volume of acquisition in the office, retail, and logistics sectors. This was driven by improved market dynamics and the intention of a number of banks to dispose of foreclosed assets. At the same time, increased tenant activity resulted in an almost 50% reduction of vacancies in the office sector year-on-year to 17%, and to 5% in the retail sector and 3.7% in logistics. Based on recent trends, many experts expect rents to increase in 2018 by 10–15%. The further development of the market, the launch of new development projects, and new acquisitions are also expected during the year.

To support these changes, Ukraine is rolling out a transformative program of infrastructure projects, which should become a driver for further development of the commercial and industrial real estate market. The government intends to renovate existing infrastructure and to build new transport, logistics, agricultural and energy facilities. Ambitious plans for the next several years include the development of a logistics park in the Lviv region, a new metro line in Kyiv, concessions for the USD 45 million modernization of the Kherson Sea Trade Port, the USD 250 million construction of new terminal and berths at Sea Port Olvia, the reconstruction of the Gostomel and Uzhgorod Airports, and the USD 150–300 million construction of a new runway at Boryspil International Airport.

Depending on the goals, type of infrastructure, and complexity, infrastructure projects in Ukraine are usually structured using a mix of general construction contracts, leases of state and municipal property and land, investment and services agreements, and sometimes concessions.

Currently, most infrastructure projects in Ukraine are financed by the state and implemented on the basis of general construction agreements. Due to the lack of qualified local contractors able to implement such projects at the highest standards, foreign companies are sought after in Ukraine. As an example, a number of Turkish and Chinese companies recently won tenders for the reconstruction of roads and dredging works at the Yuzhny Sea Port. To further attract foreign investment, the government is adopting measures to relax the requirements for foreign companies to register a legal presence in Ukraine and to clarify the terms for construction licensing. The government and Ministry of Infrastructure of Ukraine recommend using FIDIC-based contracts for certain infrastructure projects financed from the state budget. It should be noted, however, that FIDIC contracts in Ukraine should be used with care, as they require significant adaptation to meet the requirements of Ukrainian law.

When deciding to enter the Ukrainian market, foreign contractors should remember that design and construction activity in Ukraine is subject to licensing and that the form of their legal presence in Ukraine may have different implications when it comes to obtaining construction licenses, taxation, customs procedures, and property management.

Many of the above-mentioned projects are planned to be structured as concessions. International financial institutions such as the World Bank, the EBRD, the EIB, and the IFC have already confirmed their readiness to provide financing for infrastructure projects. Recently, as a result of close cooperation among the EBRD, businesses, and the Ukrainian government, a new draft “On Concessions” law was adopted by parliament in the first reading. Among other things, the draft law aims to ensure a fair distribution of risks between the state and concessioner, to establish a clear procedure for the selection of concessioners, to enable a pledge of rights under concession agreements, and to make land allocation procedures less complicated. It also simplifies the procedure for obtaining construction permits, provides for the liberalization of the currency control regime for concessioners, and enables the transformation of a state property lease into a concession.

The adoption of this draft law should give further impulse for concessions in Ukraine, while the implementation of infrastructure projects should have a further positive impact on the country’s economy and create opportunities for foreign contractors and investors to enter the local market and start doing business in Ukraine.

Oleg Matiusha, Head of Real Estate, Kinstellar Kyiv

SERBIA

Amendments to the Planning and Construction Act – No Break in Reforms



Milan Dakic

The Serbian Ministry of Construction, Transportation and Infrastructure has initiated the process of amending the country's Planning and Construction Act, with the aim of boosting the construction industry and making the legal environment in the sector more predictable, reliable, and investor-friendly. The Serbi-

an construction law has been revolutionized the last few years, with the introduction of e-permits and the uncluttering of many sclerotic procedural labyrinths, so the readiness of the Serbian government to continue with the reforms and modernization is generating new excitement in the construction sector.

We have singled out a few of the amendments in the pipeline which show the direction in which Serbia's construction policy is headed.

The validity of location conditions – one of the first and most important papers in the permitting process, which shows the investor what can be built on certain piece of land and under which conditions – is to be extended from one to two years. Similarly, the period for commencing work under a construction permit is to be extended from two to three years, and the conditions for extending this period have been relaxed. These amendments will allow investors more time to raise funds and make proper preparations for their investment cycles.

The procedure for amending planning documents is set to be simplified where the proposed amendment affects less than 50% of the area covered under the plan. This amendment will allow faster adaptation of the planning documents, thus shortening the path to changing the parameters of develop-

ment where both investors and authorities agree on the need to modify the existing planning features of certain locations. Of course, diminishing public participation in changes which may dramatically affect almost half of the area covered by a planning document can be seen as excessive and ripe for misuse. Hopefully, the bylaws that will regulate this matter in more detail will properly set the procedural rules so as to eliminate these risks.

The existing law allows the development of certain types of facilities (such as infrastructure, energy facilities, *etc.*) on agricultural land, subject to approval of the ministry competent for agriculture. The draft law will also allow such facilities to be built on forestry land as well, and abolishes the requirement for ministerial approval. While the concept of approval under the existing law was under-regulated, thus giving too much discretion to the ministry, the new solution seems to go to the opposite extreme, neglecting the importance

of preserving agricultural and forestry land.

Instead of listing all the facilities for which no permit is required, or which require a simplified construction permit, the amendments envisage that the ministry will specify such facilities in its bylaws. Such approach promises more flexibility, because a bylaw list can be more easily adapted to the requirements of the market than a list set out in the law.

These are just some of the innovations that the amendments will introduce. In addition, the amendments should clarify some of existing provisions and regulate certain matters in more detail, thus responding to the inconsistencies and ambiguities that appeared in the implementation of the law so far.

Nevertheless, some points requiring action by the legislator still remained unaddressed. This is the case with licenses for contractors and designers, for example, as, even though the market is deficient in licensed contractors and designers for complex projects such as large infrastructure facilities and renewable energy projects, the ministry is still not willing to relax the requirements for obtaining licenses or at least to allow engagement of licensed subcontractors to be sufficient to fulfill the licensing requirements. Hopefully, by the time the draft amendments are ready for parliamentary procedure, the ministry will recognize and address this issue.

To conclude, the upcoming amendments are more than welcome – and they will be even better if they pick up the outstanding licensing issues. Readiness for prompt implementation of the amendments, which also includes a swift adoption of all necessary bylaws, remains a challenge – one which all the investors expect to be successfully addressed.

Milan Dakic, Partner, BDK Advokati

GREECE

Sharing Economy via Digital Platforms: How is Greece Treating Airbnb-Style Rentals?



Panagiotis Drakopoulos

With the Greek peak summer holiday season fast approaching, hosts leasing out their properties through sharing-economy digital platforms are seeking the best way to make themselves compliant with the applicable regulatory framework.

The current regime on short-term leases sets out a series of requirements that property managers – individuals or legal entities responsible for posting properties on digital platforms and general leasing arrangements – need to fulfill in order to ensure that the property is properly uploaded on a platform and registered with the competent registries and authorities. Such requirements do not apply to rentals via sharing economy platforms made before January 1, 2018 and/or properties that have already been awarded a license from Greece's National Tourism Organization.

The general rule extends the 90-day qualifying period for short-term leases of the previous regime and requires that leases do not exceed the maximum period of one year, with a 90-day or 60-day limit exception where certain "protection of housing" rules apply.

The new rules for Airbnb-style properties require property managers to enroll in the registry for short-term leases operated by the Independent Authority for Public Revenue (AADE), submit all information required per leased property such as income beneficiaries and percentages, and, subsequently, obtain a

unique registration code for each of the properties, which must be placed in a prominent position in each listing of the property on the digital platform. This last requirement applies to properties bearing an EOT-authorized license as well, in which case the number of the license should accompany all postings on the property. Failure

of the property managers to enroll in the AADE's electronic registry as per the requirements set by law or any property listing bearing an incorrect registration number may incur administrative penalties of as high as 5,000 euros.

Property managers that have been duly registered with the short-term lease registry are required to file individual reports related to each lease of their property with the registry. Such reports must include information such as the registration code of the property, information on tenants, duration of stay, the rental amount charged, the digital platform where the posting was uploaded, and the means of payment by the tenant, as well as any booking cancellation and applicable cancellation fees. The law requires that this reporting should take place immediately upon the tenant's departure and at the latest by midnight of the following business day.

As regards the tax aspects of the aforementioned real estate regulatory framework, the law provides for two distinct classes of income depending on the nature of the services provided alongside the lease of the property. More specifically, any income from short-term leases shall be treated as income from real estate and therefore be exempt from VAT, as long as the leases do not imply the provision of any other services except for bed linens. Where additional services are rendered, such income shall be considered to have derived from business activities.

Although all previous regulatory frameworks that have aspired to properly and efficiently regulate the sharing economy market have been ignored by the taxpayers potentially subject to them, the current legislation appears to be more user-friendly, as it imposes fewer restrictions on all stakeholders involved (such as property managers, income beneficiaries, property owners, *etc.*). The new registration and listing requirements provide for a more straightforward and less complicated procedure, making the short-term lease market an attractive business pole for property owners. However, the operational efficiency of the current framework will be assessed following the end of the summer tourist period, when there will be a clearer image of all the activities recorded with respect to short-leases. That compliance assessment should come up with more accurate results.



Mariliza Kyparissi

Panagiotis Drakopoulos, Senior Partner, and
Mariliza Kyparissi, Senior Associate, Drakopoulos

SLOVAKIA

Counter-Measures Against the Potential Overheating of the Real Estate Market



Pavol Rak

The demand for residential real estate is currently experiencing an unprecedented boom in Slovakia. According to official market surveys, the average price of flats has already exceeded the levels recorded before the outbreak of the world financial crisis, and further price increases are expected due to lagging supply and readily available sources of cheap funding from domestic banks. Not surprisingly, these conditions have resulted in a significant increase in the indebtedness of private households, which are currently the highest in the CEE region.

Both the rising real estate prices and the increase in indebtedness require corrective measures in order to prevent the formation of price bubbles and to ensure that domestic households are able to service their loans even in case of a downturn in economic activity.

Stricter Rules for Disbursement of Mortgages

On May 29, 2018, the Slovak National Bank approved a measure to counter the situation prevailing on the finance side of the real estate market. This measure includes: (i) a change to the allowed peak ratio between the value of pledged real estate and the relevant loan (“loan-to-value,” or LTV), and (ii) the introduction of a loan ceiling of eight times the net yearly income of the loan applicant (“debt-to-income,” or DTI).

Under the new regime lenders will be capped at providing loans for only 90% of the value of the pledged real estate (down from 100%). Furthermore, loans which exceed 80% will be granted only under special conditions and can only make up a specified percentage of the lender’s total volume of loans secured by real estate. That percentage will initially be 35%, but will have to be reduced to 20% by no later than July 1, 2019. This change will force residential borrowers to save some money before applying for a loan.

The debt-to-income ratio is a newly introduced instrument intended to counter the very high mortgage debt ratio and to lower the risk that the borrowers will not be able to service their loans as a result of changing economic conditions. The granting of loans in which the value exceeds the cap of eight times the net yearly income of the loan applicant will also be limited. In this case the percentage will decrease from 20% until it reaches 5 + 5% on July 1, 2019. When assessing the customer’s overall level of indebtedness, all his or her loans (including pending mortgages), as well as credit cards and overdraft facilities on current accounts, are taken into consideration. Exemptions will apply only to borrowers up to 35 years of age with an income not exceeding 1.3 times their average wage; these borrowers can be granted loans which do not exceed the cap of nine times their net yearly income.



Martin Stelcl

The aforementioned changes will apply as of July 1, 2018 to new housing and consumer loans. It is worth emphasizing at this point that the implementation of these measures has already been anticipated by the European Central Bank, the International Monetary Fund, and Standard & Poor’s.

It is expected that the new regulation will have a throttling impact on the rising outstanding loan levels of Slovak households (which exceeded 38% of GDP in 2017, according to information published by the Slovak National Bank). During the commenting proceedings for the new regulation, the Slovak Bank Association expressed its opinion that the approved changes will have a serious impact on the housing and consumer loans sector as well as on the Slovak real estate market.

New Construction Act in the Making

The proposed measure of the Slovak National Bank is only a part of the solution on the financing side. A full solution requires the resolution of the lag in supply as well. Addressing the causes of the sharp decline in completed projects (mainly in Bratislava) and restoring normal supply is also an important factor in reducing the overall risks. Currently, expert groups are preparing a new Construction Act to help speed up the formal process by reducing the average length of the approval procedures, which is currently estimated at 286 days (while the European average is only 165 days).

However, as the new Construction Act is not yet finished, and its approval is uncertain, an increase in construction activity may be the only way to at least partially satisfy demand in heavily urbanized areas.

Pavol Rak, Partner, and Martin Stelcl, Associate, Noerr Slovakia

RUSSIA

Establishment and Operation of Agro-Industrial Parks in Russia

New Type of Industrial Parks



Thomas Mundry

Starting from the mid-2000s, industrial parks (IPs) have developed rapidly in Russia. By 2018, there were 166 IPs located across 51 constituent parts of Russia.

Recently, a new type of IP – the agro-industrial park (AIP) – was founded in Russia. AIPs have been gradually established in Rus-

sia over the last nine years, but only on February 28, 2018 were the basic requirements for this new type of IP formally established. According to the provisions of state standard GOST R 56301-2014, the AIP is a type of IP involving the production and agricultural products, raw materials, and food processing, as well as agricultural production maintenance services. Currently there are fewer than ten AIPs operating in Russia.

Advantages of Agro-Industrial Parks

Russian legislation provides for a range of state support measures intended to stimulate the establishment and functioning of both IPs in general and AIPs in particular.

The concept of the AIP was established to attract investment in the Russian agricultural and food industries. Potential investors may be interested in locating their agro-industrial projects within an AIP for a range of reasons. First, investors are being offered plots of land that are suitable for agro-industrial production and already demarcated and registered in the unified state real estate register. Second, AIPs are equipped with utilities (electricity, gas, water, sewage system, *etc.*) ready for connection. Thus, investors save a significant amount of time and resources when supplying and connecting utilities to their plots of land.

In terms of business process engineering, AIPs allow their residents to implement a complete production chain cycle including cultivation of agricultural products and livestock, product processing, logistics and distribution.

Managing Company

AIPs are managed by a designated management company (MC), tasked with creating the most convenient conditions possible for AIP residents.

In particular, MCs generally ensure the security of the AIP territories, access control, maintain the utilities, roads, and lighting within the AIP in proper condition, and can provide account-

ing, consulting, and other services to residents.

For this purpose, MCs enter into two types of contracts: (1) with AIP residents (for instance, lease or sale and purchase agreements related to plots of land, buildings or premises, agreements to carry out activities in park territory, and utilities and service contracts); and (2) outsourcing contracts with suppliers of different services provided by the MC for its residents (such as contracts for cleaning, security, telecommunication, marketing, *etc.*).



Anna Sorokina

State Support Measures

Russian legislation provides for three types of support measures: (1) applying to IPs in general, (2) applying only to AIPs and (2) applying to agricultural goods producers.

The support measures for IPs generally include the following: (1) provision of federal subsidies for the constituent parts of Russia to reimburse them for the costs incurred in building the infrastructure of IPs at the expense of federal taxes paid by the residents of IPs; and (2) provision of federal subsidies for the MCs of IPs to reimburse them for part of the interest charges on the loans obtained from Russian lending institutions for the financing of establishment and operation of IPs.

Designated state support measures applying only to AIPs include subsidies allocated for an entity of Russia to finance: (1) the development of energy and transport infrastructure; (2) connection to electricity supply network facilities; (3) installation of processing, engineering, production equipment, *etc.*; (4) purchase of equipment to ensure compliance with Russian legislation for the safety of people and to protect their life and health; (5) purchase of office furniture, computer hardware, and software for use by AIP residents.

In addition, the following tax incentives and preferences apply to agricultural goods producers (with details provided in the Russian Tax Code): (1) profit and transport taxes of 0%; (2) the land tax rate cannot exceed 0.3%, (3) reduced VAT rate (10%); and (4) an increased depreciation factor (not more than two for depreciable capital assets of agro-industrial organizations (such as livestock breeding complexes, state fur farms, and greenhouse facilities)).

Russian legislation still needs to be amended to provide more convenient conditions for AIP operation and measures of state support. However, the current trend is very positive and means that in the very near future up to 30 full-scale AIPs will be created, which will significantly increase the level of redistribution and will create added value in the agricultural sector.

Thomas Mundry, Partner, and Anna Sorokina, Senior Associate, Noerr Russia

SLOVENIA

Developments in the Real Estate Sector in Slovenia



Dunja Jandl

The continued rise in the number of sales in 2017 confirmed the revival of the Slovenian real estate market that began in 2014 (after the end of the economic crisis). While the prices of residential real estate in Slovenia hit bottom in 2015, last year they increased more than ten percent over the previous year. Real estate prices

have continued to rise in the first few months of this year as well.

The positive economic environment continues to stimulate growth in the demand for real estate. This applies mainly to residential real property and undeveloped land for construction of residential properties. The main factors influencing the growth in demand for residential real property include low interest rates for loans, a decrease in the unemployment rate, a rise of salaries, and a fall in the prices of flats during the crisis. The demand for land has increased because of the greater interest of potential investors in constructing new residential units. As a result of the relatively positive economic conditions, low interest rates, and increased interest of investors in real estate in Slovenia, there has also been an increase in sales of commercial real estate.

The years 2017 and 2018 also represent the beginning of a new construction cycle in Slovenia, as supply will try to keep up with the increase in demand. The stock of new apartments built during the crisis has emptied, and almost no new large buildings, whether residential or commercial, are on the market.

In 2018, the real estate sector in Slovenia is also expected to face some changes due to the entry into force of the new Construction Act (*Gradbeni zakon - GZ*) and new Spatial Management Act (*Zakon o urejanju prostora - ZUreP-2*) that were adopted on October 24, 2017 and became applicable on June 1, 2018.

Pursuant to this new legislation, building permits are no longer required for the demolition of buildings or for temporary structures. With respect to structures with environmental impact, the

procedures for obtaining building permits and environmental approval have now been merged into one unified procedure. Under the new Construction Act use permits are required for all buildings except simple structures, whereas under the previous Construction Act a use permit was not required for one-dwelling residential buildings or simple and non-complex constructions.



Vesna Tisler

Now, before applying for a building permit, investors can obtain a preliminary decision on the compliance of the planned construction with applicable spatial planning acts, which will help them decide if building on the subject land is feasible or not. The new Construction Act also contains the new requirement that investors notify the Administrative Unit responsible for the area on which the construction will take place and the Slovenian Inspectorate for Construction about the start of construction eight days before it begins. The new Construction Act also provides different methods of legalizing non-problematic illegal constructions.

The new Spatial Management Act has replaced previous several different laws related to spatial legislation, and it represents a comprehensive suite of different mechanisms for effective spatial management. It also provides for a new level of spatial management – a regional spatial planning act — that will be applicable on a regional level. The new construction and spatial management legislation is expected to ensure more rational and shorter procedures for obtaining building and use permits, reduce investment risks, ensure easier conciliation of different (public and private) interests, and provide greater legal safety for investors, more effective supervision of construction sites, and sustainable spatial development. The future will show whether and to what extent these objectives will be achieved.

In addition, in January 2018, the new Real Property Mass Valuation Act (*Zakon o množicnem vrednotenju nepremicnin – ZMVN-1*) entered into force. With the use of new evaluation models, the generalized market values that are currently attributed to real estate will be better approximated to actual value by taking into account the special circumstances of the particular piece of real estate.

Considering the current economic situation in Slovenia and the demand on the real estate market, investments in real estate as well as real estate prices are expected to rise. There has also been a significant increase in the construction of residential and hotel buildings, particularly in the Ljubljana market. In the light of the foregoing, it can be concluded that 2018 will be another good year for the real estate sector.

Dunja Jandl, Partner, and Vesna Tisler, Attorney-at-Law,
CMS Slovenia

BELARUS

Land Law of the Republic of Belarus



Dzmityry Viltovsky

Land relations can be a crucial issue for foreign investors considering whether or not to start a business in a particular country. Let us provide you with a summary of land legislation of Belarus and the opportunities it offers for business.

Land Rights of Individuals and Legal Entities

In the context of land relations, Belarusian legislation makes a big difference between the legal status of Belarusian and foreign individuals and legal entities.

Land plots can be privately owned by Belarusian citizens, private Belarus-based legal entities, foreign states, and international organizations. Foreign citizens may only own land that is inherited, although foreign individuals and legal entities may create a subsidiary in Belarus, which can enjoy all land relation rights available for Belarusian residents, even if 100% of its shares belong to foreigners.

Lease of a land plot is available to a broader categories of persons and legal entities, as foreign individuals, foreign legal entities, and their representative offices in Belarus can be a land plot lessee. As most land plots in Belarus are state-owned, leasing of land plots is also widespread among Belarus-based legal entities.

Land Rights Acquisition by Legal Entities

Generally, there are two ways for Belarus-based and foreign legal entities to obtain rights to land plots in Belarus.

The first involves the acquisition of real estate located on a land plot. When buyers purchase a building (including one on which construction has not yet been completed), they automatically obtain the same rights to the land plot that the seller had. However, if the buyer is a foreign legal entity, it can only lease the land plot, regardless of the land title the seller had.

In other cases, a legal entity can obtain rights to a land plot via a public tender held by local state executive committees. The tender item is the land plot for sale or the right to conclude a

lease agreement relating the land plot. The tender winner shall pay a tender price and conclude a lease agreement with the competent state authority.

In some cases it is not mandatory to hold a tender. Exceptions to the general rule include preferential regimes for national and foreign investors, conclusion of an investment agreement or a public-private partnership agreement with Belarus, and becoming a resident of the “Great Stone” China-Belarus Industrial Park or one of six other Free Economic Zones. Additionally, a legal entity can obtain a land plot in a rural area without a tender to construct industrial buildings.

All rights to real estate, including land plots, must be registered with the relevant state registration agency and shall be valid only after this registration.

Pledge of Rights to Land Plots

Lease rights to privately owned land plots may only be pledged as a security measure under a loan agreement. However, only Belarus-based banks with a special license, the International Finance Corporation, the Eurasian Development Bank, and the European Bank for Reconstruction and Development may be a pledgee in such cases. Buildings located on such land plots are automatically pledged as well. If the building is the primary subject of the pledge agreement there are no such restrictions to pledgees.

Lease Payments and Land Tax

Regarding land relations, lease payments and land tax are often mutually exclusive definitions. Individuals and legal entities having a land title or a right to permanent use of the land plot shall pay a land tax. Lessees shall pay only lease payments.

The amount of lease payments for state-owned land plots depends on two main factors: the cadaster value and a coefficient stipulated by a competent state body. For instance, the cadaster value of an industrial land plot in Minsk region may be BYN 120 (approximately EUR 60) per hectare, and the coefficient will be about 1.5. To determine the amount of lease payments these numbers are multiplied by the land plot area.

The land tax rate also depends on the land plot category (for example, the rate for arable lands can vary from BYN 0.84 to 11.48 per hectare). The local deputy council can make resolutions each year to decrease and increase the land tax rate up to 2.5 times for some categories of taxpayers and land each year.



Mikhail Khodosevich

Dzmityry Viltovsky, Partner, and Mikhail Khodosevich, Legal Assistant, Arzinger & Partners

LITHUANIA

Lease of State-Owned Land in Lithuania



Daina Senapediene

Issues relating to the lease of state-owned land in Lithuania are regulated by the country's Law on Land.

According to its general principle, state land shall be leased by auction to the person offering the highest rental price.

State-owned land shall be leased without an auction in limited cases prescribed by statute: 1) if land is built upon with buildings, structures, or installations that belong to natural or legal persons by the right of ownership, or are leased by them; 2) if a license to exploit subsurface resources or caves is obtained; 3) if it is required for the implementation of economic or cultural projects of national significance, regional socio-economic development, or infrastructure projects; 4) if the state-owned land parcels do not exceed a prescribed size, and are located between other state-owned land parcels leased to the lessees of such land parcels; 5) if it is required for the implementation of a concession project; 6) if it is necessary for the implementation of a general partnership agreement between the government and private entities; or 7) if aquaculture ponds are constructed upon it.

The most common situation in which state-owned land is leased without an auction is when the land is built over with buildings, structures, or installations that belong to natural or legal persons by the right of ownership or are leased by them. In such a case, when structures or facilities are leased by natural or legal persons, the land parcels shall be leased only for the term of the lease on these structures or facilities. The leased land parcels shall be of the size stipulated in the territorial planning documents or landholding projects, and required to operate the structures or facilities pursuant to their primary purpose.

The Law on Land requires that the lessee shall use the land in compliance with the principal purpose of the land use and by the method of use stipulated in the contract. The principal purpose of land use and the method of its use may be changed

when the possibility of changing the principal purpose of land use and its method of use is stipulated in the lease contract for the state-owned land, or in an amendment to the contract. Otherwise, the lease contract for the state-owned land may be terminated at the request of the lessor.



Anita Vanagaite

The lease of state-owned land without an auction is considered to be a lease on preferential terms. One of the objectives of such a lease is to enable lessees to properly exercise their property rights and legitimate interests.

Conversely, non-compliance with laws regulating the lease of state-owned land creates the preconditions for private persons to illegally lease state-owned land on privileged terms, and thereby avoid the payment of real (auctioned) prices for leased state-owned land, thus unjustly enriching themselves at the expense of the public, in clear violation of the public interest.

The National Land Service, being the state-owned land lessor and the main institution in the Republic of Lithuania charged with implementing state policy in the field of land management and administration, and having a duty to consider the termination of the lease contract when the right to lease state-owned land on preferential terms disappears, began initiating terminations of doubtful lease contracts for state-owned land. However, under the current regulation, a number of disputes arose, and the business environment for investors became uncertain.

In order to clarify the procedure for issuing a state-owned lease without an auction and establishing restrictions upon lessees who have obtained a lease without an auction on state-owned land which is built over with their buildings, an amendment to the Republic of Lithuania Law on Land has been proposed. The proposed amendments provide for the prohibition of the building of new constructions on state-owned land parcels, as the exception was intended to apply only to existing structures, engineering networks, or infrastructure. It was also proposed to prohibit the reconstruction of existing structures by increasing their land area by more than five percent, or by changing their use. It was proposed to exclude these provisions when construction or reconstruction is carried out on non-privatized land. Lessees would be allowed to build a new construction or to reconstruct an existing one only after paying a special one-time fee to the state, equal to 20% of the value of the parcel leased. However, these amendments have not yet been accepted by the Parliament of the Republic of Lithuania, and a new working group continues to work on the improvement of the legal framework.

*Daina Senapediene, Managing Partner, and
Anita Vanagaite, Associate, CEE Attorneys Vilnius*

MOLDOVA

General Requirements for Land Acquisitions by Foreigners in Moldova



Vladimir Iurkovski

Generally, foreigners in Moldova have the same rights and freedoms as Moldovan citizens. This general rule applies, *inter alia*, to acquisitions by foreigners of immovable assets. In other words, Moldovan legislation does not require that foreign individuals or legal entities obtain any permits to acquire land plots in the country

beyond those required for Moldovan citizens. However, certain exceptions and requirements apply when it comes to land acquisition.

Moldovan Act No. 200 dated 16 July 2010 “On the Regime of Foreigners in Moldova” guarantees the right of foreigners to privately own assets, including immovable assets (structures, land plots, *etc.*) on the territory of the country. Furthermore, Moldovan legislation grants foreigners the right to buy, hold in their private property, and freely sell land plots with any designation. However, Act No. 1308 dated 25 July 1997 on the “Normative Price of Land and Sale – Purchase Operations with Land Plots” imposes certain restrictions on the freedom of acquisition of land plots by foreigners. In particular, the law prohibits foreign legal or natural persons (including stateless persons) from acquiring ownership rights over agricultural and/or forest plots. In addition, Moldovan companies with share capital including foreign investments are prohibited from purchasing agricultural land plots in Moldova. Agricultural and/or forest plots can only be traded by and between Moldovan natural persons (individuals) and companies with no foreign capital.

The most common instrument for the transfer of ownership

title over a plot of land in Moldova is the sale-purchase agreement. Moldovan law does not provide particular regulations *vis-à-vis* land sale-purchase agreements. In this respect, the general rule is that the passing of risks is considered to have occurred upon the seller’s execution of its obligation to put the asset or good at the purchaser’s full disposal, unless otherwise provided by the concluded agreement (Art.759 Civil Code of Moldova). As a formal requirement, authentication of the purchase agreement by a notary is generally required under Moldovan law, including as a condition for the registration of the transaction in the land register.



Andrian Guzun

Under Moldovan law, rights *in rem* over immovable assets are subject to registration in the land register (*Registrul bunurilor imobile*), which is part of the cadaster of immovable assets (*cadastrul bunurilor imobile*), and they only become effective and opposable towards third parties upon registration. All records in the land registers are presumed to be authentic and complete unless proven otherwise. Any person has the right to obtain information from land registers, and any person who relies on such information is protected from claims of third parties.

Failure to comply with the rule to register immovable assets in the land register does not automatically make the sale-purchase agreement invalid. However, the new owner will be precluded from concluding valid agreements with immovable assets or exercising his/her ownership right prior to registration in the land register.

Another important aspect of acquisition of land in Moldova relates to fees and taxes, which are payable in connection with the acquisition. These include the income tax payable by the seller (7%, 12%, or 18% depending on the amount of income and the status of the seller (*i.e.*, whether it is a natural person or a legal entity)); the state fee authenticating the acquisition agreement (0.5% of the purchase price); the notary fee (between 0.1% - 1.3% of the purchase price); and the registration fee (which depends on how fast the new owner needs to make the registration and usually does not exceed MDL 1,000 (approximately EUR 50)).

All in all, acquisition of land by foreigners in Moldova is not a mission impossible (if the acquisition does not involve agricultural and/or forest plots). However, the legal requirements generally indicated above need to be taken into consideration in order to ensure a cost-and-time efficient transfer of the ownership title, on one side, and an effective exercise of the ownership rights, on the other.

Vladimir Iurkovski, Partner, and Andrian Guzun, Associate,
Schoenherr Moldova



C/M/S/

Law . Tax

Excellence in CEE

- Only firm to be top ranked by Chambers Global for every CEE category
- More M&A deals successfully completed than any other firm
- 600+ lawyers across 17 CEE offices
- Advising clients in CEE for over 25 years
- More UK and US lawyers on the ground than any other firm
- German, English and local language advice from every office

CMS is an international law firm that helps clients to thrive through technical rigour, strategic expertise and a deep focus on partnerships.

Your World First
cms.law

MONTENEGRO

The New Montenegrin Spatial Planning and Construction Act



Dijana Grujic

In 2017, the Parliament of Montenegro adopted a new Law on Spatial Planning and Construction of Facilities (the “Law”), introducing major innovations in the field of spatial planning and construction. The Law entered into force on October 8, 2017.

Among other things, the Law was designed to implement EU standards and harmonize Montenegrin laws with EU law through increased transparency and accountability of spatial planning and development processes. Additionally, the Law employs a number of environmental, societal, and spatial planning principles, including integral approach principles in the planning process, a focus on spatial development sustainability and increased quality of spatial and urban planning and construction, an emphasis on horizontal and vertical integration, and striking a balance between protecting the public interest and protecting individual interests.

Given that the new legislation introduces important changes, it is expected that the overall process of obtaining necessary approvals for construction and use of constructed facilities will be significantly easier and faster for investors, resulting in a more favorable environment for investments in Montenegro.

The main innovations in the Law are:

Centralization of the Construction System and Decision-Making. The new Law shifts spatial planning and construction powers from local authorities to the Ministry of Sustainable Development and Tourism (the “Ministry”).

New instances are introduced in the form of the chief state architect and chief local architect. The chief state architect approves urban projects and protects the authenticity of space and identity of settlements, while the chief local architect approves conceptual solutions for buildings, squares, and other public areas within settlements and the facades of temporary facilities, and attests the compliance of the conceptual solutions with urban projects.

The Ministry is given the authority to maintain a Central Register of Construction, where each facility under construction will be registered jointly with technical documentation.

Decrease in the Number of Planning Documents. While previous legislation distinguished between eight different planning documents, the new Law envisages only two: (i) the spatial plan of Montenegro (a strategic document determining state goals and measures for spatial development (including guidelines), to be enacted for a 20-year period), and (ii) the plan of

general regulation (to be enacted for a 10-year period). Both documents will be enacted by the Parliament of Montenegro.

The plan of general regulation is to be enacted within 36 months of the date of entry into force of the Law, which will annul all state and local planning documents except the Spatial Plan of Montenegro.



Ana Vukcevic

Abolishment of Construction and Operational Permit for Simple Projects. The Law abolished the obligation to formally obtain (i) a construction permit prior to the commencement of construction, and (ii) an operational permit before using the facility, except for energy and heavy industry facilities (i.e., complex engineering facilities). This is a significant departure from the previous law.

Save for exceptional cases, construction may now start once notification on commencement of work has been submitted to the relevant authority together with relevant technical documents.

This will result in a considerably shorter and simpler initial phase of construction.

Specific Terms of Legalization. The Law regulates the issue of the legalization of illegal buildings, which was previously regulated by the Law on the Regularization of Informal Facilities. To ensure the integrity and continuity of the system, especially in light of the significant new solutions proposed by this regulation, the need to regulate the matter of legalization was clear.

The key change envisaged by the Law in the field of illegal construction refers to the basic premise of legalization. Namely, the new solution “allows” legalization only and only if the illegal building is envisaged by the planning document.

Completion of Urban Parcel. The most common problem in Montenegro has been the development of urban parcels consisting of cadastral parcels owned by different owners.

In order to develop such a site, each owner of the cadastral parcels composing the urban parcel had to provide his or her consent, making it hard to achieve mutual agreement. This created major obstacles for investors.

The new Law makes it possible for the owner of the largest cadastral parcel to buy out the land required to complete the urban parcel from the other owners. If that owner does not use this right, other owners will be allowed to do so. The price of the buyout – i.e., the certified value – will be determined by the cadastre.

If no agreement on completion of the urban parcel is reached, either the provisions of the Law on Expropriation will apply or the land could be brought to its use based on the provisions of the Law.

Dijana Grujic, Senior Attorney at Law, and Ana Vukcevic, Associate, Moravcevic Vojnovic and Partners in cooperation with Schoenherr

Thank You To Our Country Knowledge Partners For Their
Invaluable Input and Support



Bulgaria



Czech Republic



Greece



Hungary



Poland



Montenegro



Romania



Slovenia



Turkey



Ukraine



BEYOND ADVICE BEYOND BORDERS

The leading global business law firm

We have offices in more than 40 major markets around the world. Understanding our clients' business needs and the people we work with makes a real difference.

This widespread presence allows us to operate at both a local and a global level, depending on the business issue you face. Our relationships with our clients are based on a deep knowledge of their business and the sectors in which they operate.

We do business where you do business

For more information about how we can help please contact:

DLA Piper Prague LLP, Panská 2, 110 00 Prague, Czech Republic

T: +420 222 817 111 | prague@dlapiper.com

www.dlapiper.com

Copyright © 2018 DLA Piper. All rights reserved. | MAY18 | 3273757