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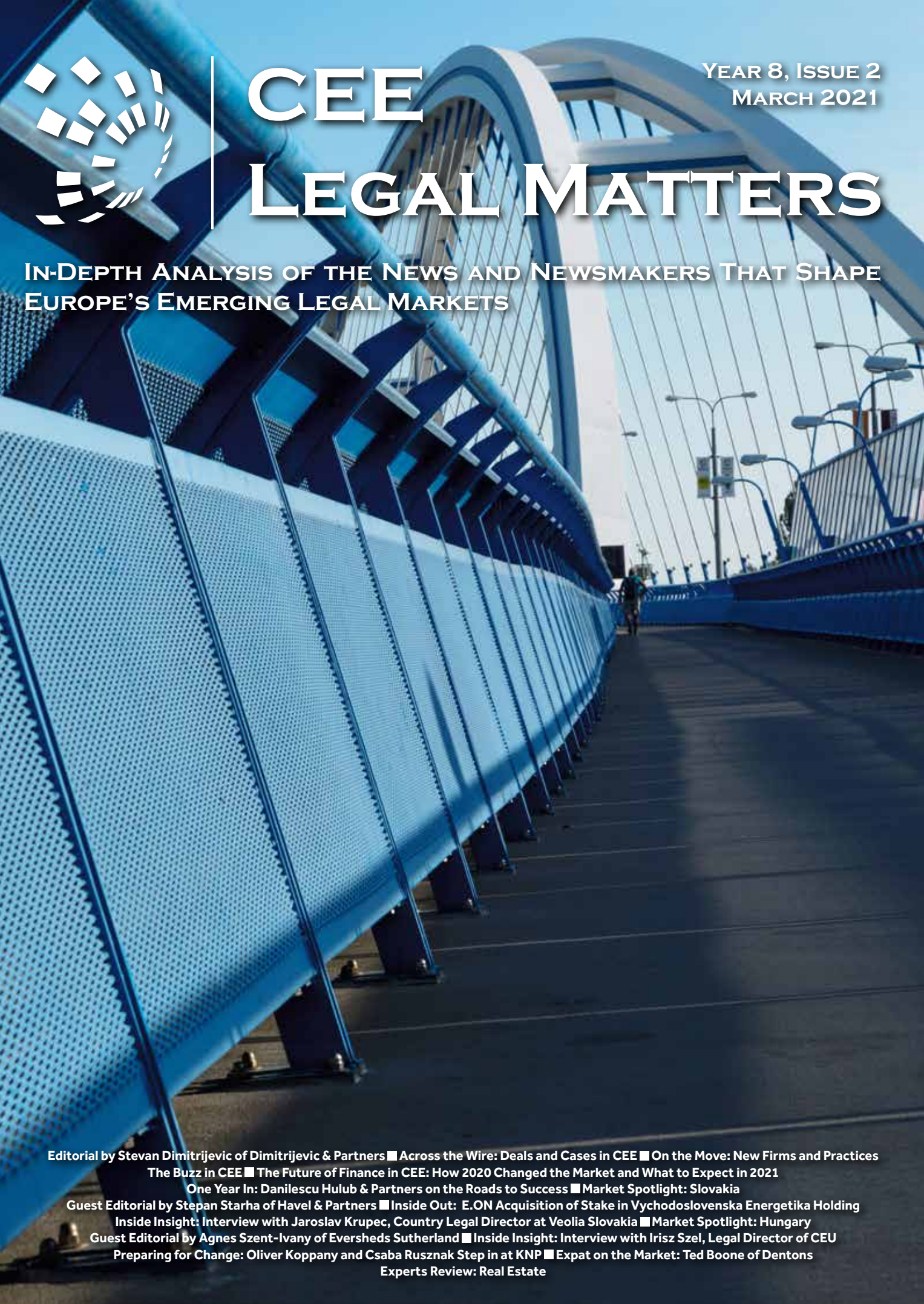
CEE Legal Matters

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



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EDITORIAL: THE FOREST (F)OR THE TREES

By David Stuckey

We've avoided focusing too much on the COVID-19 crisis over the year since the novel coronavirus first appeared in Europe, both because it's unlikely we'd be able to say anything particularly new or revelatory about it, but also because it's been difficult to get a real grasp on its meaning, even for the legal industry. Will the results be transformative? Are its effects significant, or lasting? Who knows? Almost all the evidence, at this point, is anecdotal, at best.

Yet, although the editors of CEE Legal Matters have avoided dedicating special issues to the pandemic and have rejected proposals that we focus special reports or features on its ramifications, certainly any number of the legal experts whose voices appear in the CEE Legal Matters magazine have touched on the subject, claiming, generally, that business remains strong, deals are still being made, and the eventual consequences of the pandemic are likely to include increased implementation and use of technology in the industry and, perhaps, greater comfort with telecommuting (what's known in the region as "home office").

I do not doubt it. Yet, I mentioned those assertions to a friend recently, who said, "but … of course nothing's really going to change."

He wasn't being critical or cynical. Indeed, he was making a reassuring point. The practice of law – at least, of commercial/business law – is, at its root, fundamental. Lawyers will continue to help their clients make and secure deals, perform valuable due diligence exercises, defend clients' interests when deals (or potential deals) fall apart, and so on. Lawyers continue to get up in the morning, turn to their clients' needs, and fill the day doing the same kind of business as before.

Sure, courts may hold more hearings online, and more work may be done from home than it was before, but, after all, some firms were already offering more work-from-home options than other even before this pandemic spread, so to a large extent the analysis being offered boils down to "this crisis is forcing some law firm managers who resisted the flexibility provided by available technology to reconsider that resistance, and to do so sooner, than they probably would have otherwise."

Which, as we say, "fair enough," but … at the end of the day, it's probably not something you'd call "transformative." It's worth noting … but perhaps not worth devoting an entire issue to.

And yet … I'm also struck by the insistence by everyone we speak to that business is more or less the same as before, and that while some of CEE's many economies may be wobbling, none are under any real threat. Indeed, say the lawyers we speak to, their firms remain as busy as before, more or less; by its very nature there are times of activity and times of calm, they say, and there's nothing to suggest that – to the extent any of them are facing a particular period of calm at the moment – that calm is likely to last or is reflective of a greater problem.

I heard many of the same assertions when I moved to CEE in the fall of 2007, and throughout 2008, as the global economic crisis began to catch and spread. "Well," I was often told, "we may have to move associates around from one practice to another or limit discretionary spending for a little while, but at the end of the day, we're strong and confident."

They weren't lying. The problem is, though, that … again, because the nature of the industry itself, which – for many firms – depends on the arrival of larger client mandates to compensate for times of slowness, it can be difficult, from the eye of the hurricane, to know whether any particular period of calm is truly temporary or not – to distinguish a short-term lull from a more profound problem.

This isn't an editorial where I have a particular solution to offer, or even a particular conclusion to draw. Ultimately, like many of the lawyers we speak to, I don't know where this will all end up. In the meantime, all we can do is … ride it out, report on the deals that do happen, and hope that, sooner rather than later, we're all back to business as normal. ■

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

GUEST EDITORIAL: LEGAL PROFESSION AND HEALTH

By Stevan Dimitrijevic, Partner, Dimitrijevic & Partners

Analyses of the practical and economic impacts of the ongoing COVID-19 pandemic on the legal profession are abundant, and not much new can be added. Similarly, considerations of the economy and business in general are also often covered with elaborate views of the current situation and familiar projections of often gloomy futures.

Still, general health issues connected with the lifestyle of lawyers are not so commonly discussed. And this topic is especially relevant in the context of the novel virus outbreak. How can we remain healthy and protect others? And, against the backdrop of a still expanding global pandemic, how do we preserve our mental health?

About the novel virus, it seems that we know all that is currently available – or at least we know how much we do not know. Thus, it seems reasonable to speak about health in a broader sense, and especially about the mental health of lawyers. This area is often neglected by lawyers in our urge for perfection;
a particular danger considering how serious mental health issues are becoming in the new context of the Covid pandemic.

I remember the International Bar Association gathering in Budapest at the occasion of the 14th Annual Bar Leaders Conference in 2019. It was there where I heard for the first time the topic of lawyers' mental health and well-being discussed in depth. Striking examples were shared, including situations of substance abuse and serious broader negative social and health consequences.

Always pushed by the imperatives to succeed – to master the profession at the highest level – we fail to notice the toll that the "busy lawyer lifestyle" takes on our mental status and overall health. Lawyers are not the only one to suffer, of course – their families, friends, and colleagues suffer from the fallout as well. Last but not least, clients can also be impacted by the failure by their lawyers to provide smooth and secure service due to mental disruptions.

Many members of the legal profession suffer from depression, anxiety, and addiction, whether we are aware of it or not. This has always been the case, and it is occurring at an ever-increasing rate due to the pressure of potential job losses and the generally grim atmosphere the novel virus is imposing on all of us, across all jurisdictions. Prospects for the future do not look encouraging – there seems little reason to believe things will get better soon. Or maybe I am wrong?

The impact of the novel virus is still not fully understood, and its full consequences will emerge after time. In the interim, we hope that the easing of restraints will arrive soon, along with the development of a cure, the degradation of the virus, and the development of effective vaccines. What will remain constant is the need to establish and maintain a work-life balance not only during the days of Covid, but also once they pass.

As the pandemic has opened up different perspectives on our general health and social issues and on the need to have a proper health base to be able to survive the obstacles of everyday life, I ask myself whether we are now better equipped to recognize the core values of human society, in its entirety. We should not forget that being human and healthy is the biggest gift. And to be human means to be among other humans and respect their needs and interests and have an understanding of their personalities in the widest sense possible. If we start from there, and act with the care and compassion necessary to understand the needs not only of the profession but of the business world in general, and the significant role it plays in our day-to-day lives, we will be making a good start. And we will be able, at the same time, both to meet the highest demands of our profession (which should include the highest ethical norms), and do good for business.

If we adopt that, the future will be significantly less gloomy and we will be able to see the light at the end of the tunnel. ■

TABLE OF CONTENTS

PRELIMINARY MATTERS

ACROSS THE WIRE

LEGAL MATTERS

MARKET SPOTLIGHT: HUNGARY

MARKET SPOTLIGHT: SLOVAKIA

EXPERTS REVIEW

ACROSS THE WIRE: DEALS SUMMARY

Date covered	Firms Involved	Deal/Litigation	Value	Country
19-Jan	Abreu Advogados; Baker Mckenzie; Clifford Chance	Baker McKenzie advised Kelag on the acquisition of 25 power plants in France and Portugal from the RWE Group. Local expertise for Portugal was provided by the Portuguese law firm Abreu Advogados, while the Dusseldorf office of Clifford Chance advised the RWE Group on the deal.	N/A	Austria
25-Jan	Allen & Overy; BPV Huegel; Siwe Rechtsanwalte Sinzger & Partner	BPV Huegel advised Austria's Herold and Germany's Dogado Group – both subsidiaries of the EDSA Group – on their merger. Allen & Overy advised the EDSA Group, and SIWE Rechtsanwalte Sinzger & Partner also advised the Dogado Group.	N/A	Austria
25-Jan	Fangda Partners; Fellner Wratzfeld & Partner; Weber & Co.	Fellner Wratzfeld & Partners advised Robert Kanduth, the founder of GREENoneTEC, on his repurchase of 51% of the shares in GREENoneTEC Solarindustrie from China's Haier Group. Fangda Partners in China and Weber & Co. in Austria advised the seller on the deal.	N/A	Austria
26-Jan	Eisenberger + Herzog; Herbst Kinsky	Herbst Kinsky advised the founders of Xaleon and investor eQventure on the sale of the company to TeamViewer. Eisenberger & Herzog advised the buyer on the deal.	N/A	Austria
26-Jan	Cerha Hempel	Cerha Hempel advised Switzerland's Stadler Bussnang on its successful participation in a tender procedure for the sale of up to 20 new fire-fighting and rescue trains to the Austrian Federal Railways.	EUR 240 million	Austria
29-Jan	Schoenherr; Wolf Theiss	Schoenherr advised joint lead managers DZ Bank, Erste Group, Helaba, and Raiffeisen Bank International on the successful issue of notes by Upper Austria-based Oberbank Aktiengesellschaft, which was advised by Wolf Theiss.	EUR 250 million	Austria
8-Feb	Eisenberger + Herzog; Herbst Kinsky	E+H advised the shareholders of Curecomp Software on the sale of the company to the ProALPHA Group. Herbst Kinsky advised the buyer.	N/A	Austria
9-Feb	42 Law; Herbst Kinsky; Linklaters	Herbst Kinsky, working with lead counsel Linklaters, advised Neovia Logistics Holdings on its acquisition of two unidentified companies from Austria's Temmel Logistik Group. 42 Law advised the seller.	N/A	Austria
10-Feb	Allen & Overy	Allen & Overy advised Oesterreichische Kontrollbank on its issue of USD 1.5 billion 0.500% guaranteed global notes due 2026.	USD 1.5 billion	Austria
11-Feb	Cerha Hempel	Cerha Hempel advised the RHI Magnesita Group on the sale of its participation in RHI Normag AS and Premier Periclase Ltd to Callista Private Equity.	N/A	Austria
15-Feb	Graf & Pitkowitz	Graf & Pitkowitz advised Germany's Hubert Burda Media group on its acquisition of digital brands Netdoktor.at and Netdoktor.ch from Vienna-based Netdoktor.at GmbH.	N/A	Austria
19-Jan	Cobalt	Cobalt advised sports-betting and gaming group Entain on its public offer to acquire all of the shares in Enlabs AB.	EUR 276 million	Belarus; Estonia; Latvia; Lithuania

Date covered	Firms Involved	Deal/Litigation	Value	Country
22-Jan	Cobalt; Ellex (Klavins)	Cobalt advised BaltCap Private Equity Fund III and its co-investor Sven Nuutmann on the acquisition of Baltic Ticket Holdings OU. Ellex advised the sellers on the transaction.	N/A	Belarus; Estonia; Latvia; Lithuania
4-Feb	Sajic	Sajic successfully represented Elektropenos BiH a.d. Banjaluka in a commercial dispute.	EUR 31 million	Bosnia and Herzegovina
21-Jan	Kinstellar; Sajic	Sajic and Kinstellar advised NLB Bank on its take-over of the majority of shares in Komercijalna Banka a.d. Beograd.	N/A	Bosnia and Herzegovina; Serbia
18-Jan	Djingov, Gouginski, Kyutchukov & Velichkov	DGKV successfully represented Bulgaria's Mezzanine Partners Consortium before the Fund Manager of Financial Instruments in Bulgaria EAD, the Bulgarian Commission for Protection of Competition, and the Bulgarian Supreme Administrative Court, in a public procurement tender (and related disputes) for a manager of the Mezzanine Fund/ Growth Fund.	BGN 75.4 million	Bulgaria
21-Jan	Ivanov & Tsoncheva	Ivanov & Tsoncheva advised Bulgarian startup Quendoo on financing it received from Bulgarian VC fund Vitosha Venture Partners.	EUR 750,000	Bulgaria
28-Jan	Penkov Markov & Partners	Penkov, Markov & Partners helped CEZ a.s. obtain approval from the Bulgarian Energy and Water Regulatory Commission for its disposal of 67% of its shares in CEZ Distribution Bulgaria to Eastern European Electric Company B.V. (which is part of the Eurohold Group).	N/A	Bulgaria
4-Feb	Boyanov & Co.	Boyanov & Co. defended the interests of European airline Wizz Air in an appeal before the Supreme Administrative Court of Bulgaria, involving its "unjust discrimination" challenge to the terminal charges set by Sofia Airport.	N/A	Bulgaria
9-Feb	Djingov, Gouginski, Kyutchukov & Velichkov; Hogan Lovells; Schoenherr	DGKV advised California's Sanmina Corporation on its acquisition of Osram EOOD, a Bulgarian lights and lighting devices manufacturer owned by Germany's Osram GmbH. Hogan Lovells was lead counsel to Sanmina on the deal. Schoenherr advised Osram GmbH on the deal.	N/A	Bulgaria
19-Jan	Allen & Overy; Divjak Topic Bahtijarevic & Krka	Divjak, Topic, Bahtijarevic & Krka, working alongside Allen & Overy, advised J&T Bank, the arranger on a public offering of senior secured bonds.	N/A	Croatia; Czech Republic; Slovakia
18-Jan	Clifford Chance	Clifford Chance's advised Gramexo on the sale of an office building in Prague's Karlin district to J&T Banka.	CZK 2.1 billion	Czech Republic
25-Jan	DLA Piper; Schoenherr	DLA Piper advised Zip Co Limited on its investment in Twisto Payments. Schoenherr advised Twisto Payments on the deal.	N/A	Czech Republic
25-Jan	Corvel; Kocian Solc Balastik; Noerr	Kocian Solc Balastik advised Prague-based Daquas on the sale of its shares to ALSO Holding. Noerr, working with Germany's Corvel, advised the buyer on the deal.	N/A	Czech Republic
25-Jan	BPV Braun Partners; Liska & Sobolova	BPV Braun Partners advised Kappenberger + Braun on the sale of 100% of its shares in K + B Expert to Electro World, a subsidiary of Slovakia's NAY Group. Liska & Sabolova advised the buyer on the deal.	N/A	Czech Republic
25-Jan	Eversheds Sutherland; Jicha & Holman	Eversheds Sutherland advised the Conseq investment fund on the acquisition of Retail Park Podebradska in Prague from KPD Group and Exafin, which were advised by Jicha & Holman.	N/A	Czech Republic
25-Jan	Dentons; Wilson & Partners	Dentons advised Skanska on the sale of the Parkview office building in Prague to Deka Immobilien. Wilson & Partners advised Deka Immobilien on the deal.	N/A	Czech Republic
26-Jan	White & Case	White & Case advised Memsource and its majority shareholder The Carlyle Group on the acquisition of a majority stake in German software localization platform Phrase.	N/A	Czech Republic

Date covered	Firms Involved	Deal/Litigation	Value	Country
26-Jan	BBH; Latham & Watkins; Shearman & Sterling	BBH, working with lead counsel Shearman & Sterling, advised Citrix on Czech aspects of the USD 2.25 billion acquisition of project management software company Wrike from Vista Equity Partners. Latham & Watkins advised the seller on the deal.	USD 2.25 billion	Czech Republic
27-Jan	Nauta Dutilh; PRH Partners	PRK Partners advised CD Cargo on a EUR 130 million loan from the European Investment Bank. Nauta Dutilh advised CD Cargo on Luxembourg elements of the transaction.	EUR 130 million	Czech Republic
27-Jan	Allen & Overy; White & Case	White & Case advised the banks on the establishment of a EUR 5 billion international mortgage-covered bonds program by Komercni Banka and the issue of EUR 500 million 0.01% fixed rate mortgage-covered bonds due 2026 under the program. Allen & Overy advised Komercni Banka throughout the process.	EUR 5 billion	Czech Republic
29-Jan	BBH	BBH advised the Czech-Moravian Development Bank on the launch of its IPO Fund and signing of a cooperation agreement with the Prague Stock Exchange to support new entities wishing to list on its START market.	N/A	Czech Republic
1-Feb	Havel & Partners	Havel & Partners helped Sprava Zeleznic organize an international architectural competition to design the first Czech high-speed railway terminal.	N/A	Czech Republic
5-Feb	Ashurst; Clifford Chance; Schoenherr	Clifford Chance, working with Latham & Watkins, advised the steering committee of the credit financiers, including Commerzbank AG, DZ Bank AG, Erste Group Bank AG, Landesbank Baden-Wurttemberg, and Norddeutsche Landesbank, on the restructuring of the Benteler Group. Ashurst and Schoenherr advised Benteler on the deal.	N/A	Czech Republic
9-Feb	Dentons	Dentons advised CPI Property on the issuance of EUR 650 million 1.500% senior notes due 27 January 2031 and EUR 400 million 3.750% resettable undated subordinated notes callable in July 2028.	EUR 1 billion	Czech Republic
12-Feb	Havel & Partners	Havel & Partners advised entrepreneur Jaroslav Rudolf on the sale of Salvator Strechy s.r.o., a specialized roofing material company, to an unidentified construction material company.	N/A	Czech Republic
12-Feb	CMS; Havel & Partners; Linklaters; PRK Partners	CMS advised AnaCap Financial Partners on its sale of the Equa Bank to Raiffeisen Bank International, acting through its Czech subsidiary. Havel & Partners and Linklaters advised the buyer on the deal, and PRK Partners advised Equa Bank and its management.	N/A	Czech Republic
15-Feb	Dentons	Dentons advised automotive supplier Brandl Industries on the sale of its operating subsidiaries in the Czech Republic and Romania and its German management service company to International Alexander Holding.	N/A	Czech Republic; Romania
19-Jan	Sorainen	Sorainen advised the Estonian Ministry of Foreign Affairs on the establishment of a cooperation agency with the Estonian Center of Eastern Partnership, a training and research center focusing on the six countries of the EU's Eastern Partnership.	N/A	Estonia
25-Jan	Ellex (Raidla)	Ellex Raidla advised United Angels VC and Superangel on their EUR 800,000 investment in Vok Bikes, a Tallinn-based electric cargo bike producer.	N/A	Estonia
28-Jan	Sorainen	Sorainen advised Kaamos Real Estate, a subsidiary of Estonia's Kaamos Group, on the sale of the Tridens logistics center.	N/A	Estonia
28-Jan	Cobalt; TGS Baltic	TGS Baltic advised real estate company Kapitel on the acquisition of a 50% holding in the Nordassets logistics property company from Logassets OU. Cobalt advised Logassets on the transaction.	N/A	Estonia
28-Jan	Cobalt	Cobalt successfully represented AS Tallinna Sadam in a dispute with Worldwide Cargo Establishment.	N/A	Estonia
28-Jan	Walless	Walless advised the Laane-Nigula municipality of Estonia on termination of preparatory work on a special plan and environmental assessment for a wind farm construction project planned by Enefit Green.	N/A	Estonia

Date covered	Firms Involved	Deal/Litigation	Value	Country
28-Jan	Magnusson	The Circuit Court of Tallinn, acting on a motion made by Magnusson Estonia's Attorney-at-Law Martin Hirvoja, ordered the Estonian Central Prosecution Office to initiate a criminal investigation into the leak of files from the Danske Bank money-laundering case.	N/A	Estonia
29-Jan	TGS Baltic	TGS Baltic obtained a positive interim judgment for Coffee IN in judicial proceedings against Apollo Cinema.	N/A	Estonia
1-Feb	Magnusson	Magnusson represented special purpose companies Envst United Action, KTZL Action Group, MNTHR Action Group, and more than 2000 international and local investors in their fraud claims against three crowdfunding platforms.	EUR 15 million	Estonia
4-Feb	Walless	Walless helped Funderbeam obtain an investment firm license from the Estonian Financial Supervision Authority, allowing the company to continue operations in the European Economic Area after Brexit.	N/A	Estonia
5-Feb	TGS Baltic	TGS Baltic represented Juri Roosa and Freddy Tomingas, members of the Estonian punk rock band Vanemode Veljo Vingissar, in a dispute over the band's name with former member Andrus Kerstenbeck.	N/A	Estonia
5-Feb	TGS Baltic	TGS Baltic successfully represented Dubai-based La Campana General Trading in a dispute with Cryotech Nordic AS regarding claims arising from an exclusive distribution agreement.	EUR 87,000	Estonia
10-Feb	Ellex (Raidla); Triniti	Ellex Raidla advised United Utilities on its sale of its 35.3% stake in AS Tallinna Vesi to the City of Tallinn and Utilitas. Triniti advised the buyers on the deal.	EUR 100.2 million	Estonia
11-Feb	Cobalt	Cobalt advised the shareholders of Kids Network Television OU, including its management, on the sale of the business to MM Grupp OU.	N/A	Estonia
12-Feb	TGS Baltic	TGS Baltic successfully represented entrepreneur Toomas Tamm, the former owner of Kivioli Keemiatoostus, in a dispute involving a guarantee issued by OU AP-Terminaal.	N/A	Estonia
26-Jan	Kirkland & Ellis; Latham & Watkins; Sorainen	Sorainen and Kirkland & Ellis advised Vista Equity Partners an unspecified investment in Estonia's Pipedrive, a cloud-based provider of customer relationship management services. Latham & Watkins advised Pipedrive on the deal.	N/A	Estonia; Latvia
5-Feb	TGS Baltic	TGS Baltic advised SIA BRC's Estonian subsidiaries Balti Realiseerimiskeskus OU and BR Merger OU on their internal merger into SIA BRC.	N/A	Estonia; Latvia
18-Jan	Bernitsas; Moratis Passas; Orrick	Bernitsas acted as local advisor to Piraeus Bank on the public NPE securitization in Greece. Moratis Passas and Orrick advised sole arranger UBS Europe SE on the deal.	EUR 1.92 billion	Greece
3-Feb	KLC	KLC advised SRH Marine SAIT on its agreement with Totoheo Maritime to form a new jointly-owned company, MAR360.	N/A	Greece
18-Jan	Kinstellar	Kinstellar advised Austria's KA Finanz on the sale of a Greek municipal loan portfolio to Piraeus Bank.	N/A	Greece; Serbia; Slovakia
21-Jan	Hengeller Mueller; Schoenherr	Schoenherr's Budapest office, working with lead counsel Hengeler Mueller, advised Andros Deutschland on its acquisition of fruit and vegetable processors Spreewaldkonserve Golssen in Germany and Schenk es Tarsa in Hungary.	N/A	Hungary
25-Jan	Clifford Chance; Dentons; Ogier	Dentons advised a syndicate of underwriters, including BNP Paribas, Citi, and J.P. Morgan, on Wizz Air's successful issue of EUR 500 million 1.350% fixed rate guaranteed notes due 2024 under Wizz Air's Euro Medium Term Note Program, which was oversubscribed with books exceeding EUR 2 billion. The notes were guaranteed by Wizz Air Holdings Plc. Clifford Chance and Ogier advised Wizz Air on the deal.	EUR 500 million	Hungary
28-Jan	Act Legal Ban & Karika	Act Ban & Karika helped Hungarian information database provider Opten Ltd. enter the international market with its new website, opten.eu, offering almost three million companies' public business information across six CEE countries.	N/A	Hungary

Date covered	Firms Involved	Deal/Litigation	Value	Country
3-Feb	Act Legal Ban & Karika	Act Ban & Karika helped Germany's Bader Group reorganize within the framework of the cross-border insolvency proceeding of its Hungarian subsidiary.	N/A	Hungary; Romania
21-Jan	Cobalt	Cobalt is representing legislature of the Republic of Latvia before the Latvian Constitutional Court regarding the compatibility of its administrative-territorial reform package with the country's Constitution and the European Charter of Local Self-Governments.	N/A	Latvia
5-Feb	Cobalt; PwC Legal	Cobalt advised Change Ventures on its participation in Berlin-based startup Inzmo's EUR 3.1 million round. Inzmo was advised by PwC Legal Germany.	EUR 3.1 million	Latvia
5-Feb	Cobalt	Cobalt successfully persuaded the Administrative Department of the Supreme Court Senate of Latvia to deny the appeal of the State Revenue Service of a decision by the District Administrative Court in favor of the firm's client, SIA Lielzeltini.	N/A	Latvia
8-Feb	Walless	Walless advised UCTAM Baltics SIA on the sale of several land plots in Riga to Urban Investors.	EUR 5.5 million	Latvia
10-Feb	TGS Baltic	TGS Baltic assisted Latvian warehousing and logistics park SIA Olaines Logistics Parks and holding company SIA Olaines Logistics with the former's merger into the latter.	N/A	Latvia
10-Feb	Ellex (Klavins); Sorainen	Ellex Klavins advised Danske Bank on the sale of its corporate portfolio to Luminor. Sorainen advised the buyer on the deal.	N/A	Latvia
11-Feb	Kirkland & Ellis; Sorainen	Sorainen, working with Kirkland & Ellis, advised AE Industrial Partners on its acquisition of UAV Factory.	N/A	Latvia
11-Feb	Walless	Walless advised Lumi Retail Property Fund on its acquisition of the Juglas Centrs shopping center in Riga from RCH Management.	N/A	Latvia
12-Feb	Walless	Walless advised the shareholders of SIA R&D Apdrosinasanas Brokers on the sale of a 60% stake in the company and its associated company SIA RD AB to Czech insurance service provider Renomia a.s.	N/A	Latvia
18-Jan	Cobalt	Cobalt advised Practica Capital on its participation in Lithuanian start-up Biomatter Designs' EUR 500 million investment round.	EUR 500 million	Lithuania
28-Jan	Sorainen; SPC Legal	Sorainen advised Open Circle Capital on its investment in Monimoto, a company developing a smart trackers for motorcycles. SPC Legal advised Monimoto on the deal.	EUR 400,000	Lithuania
1-Feb	Adon Legal	Adon Legal helped Paymont obtain an Electronic Money Institution license from the Bank of Lithuania.	N/A	Lithuania
2-Feb	Cobalt; Triniti	Cobalt advised venture capital fund Practica Capital on its participation in Lithuanian biotech startup Droplet Genomics' investment round. Triniti advised Droplet Genomics on the round.	EUR 1 million	Lithuania
10-Feb	Cobalt	Cobalt successfully represented the interests of Vintage Holdings Limited in proceedings against the Isle of Man-based company initiated by BAB Ukio Bankas and BUAB Ukio Bankas Investicine Grupe.	EUR 51 million	Lithuania
18-Jan	BCGL	BCGL advised mBank S.A. on the transfer of a real estate credit portfolio from mBank Hipoteczny S.A. to mBank S.A.	N/A	Poland
18-Jan	Clifford Chance; Greenberg Traurig	Greenberg Traurig advised Partners Group on the acquisition of selected real estate assets of Krakow's Buma Group. Clifford Chance advised Buma on the deal.	N/A	Poland
19-Jan	Greenberg Traurig; Rymarz Zdort	Greenberg Traurig advised sole global coordinator Wood & Co. on the sale, made through an accelerated book-building process, of Ten Square Games S.A. shares representing 9.78% of the share capital and total votes in the company, with a value of over PLN 355 million. Rymarz Zdort advised the sellers, Ten Square Games' shareholders Maciej Popowicz and Arkadiusz Pernal.	PLN 355 million	Poland

Date covered	Firms Involved	Deal/Litigation	Value	Country
19-Jan	Herbert Smith Freehills; PwC Legal; Squire Patton Boggs	Squire Patton Boggs, Campos Ferreira, Sa Carneiro CS Associados, and Herbert Smith Freehills advised a banking consortium led by Banco Comercial Portugues, S.A. and Novo Banco, S.A. on financing provided to Metalogalva-Irmaos Silvas S.A. for its acquisition of certain of Europoles Group's European divisions. PwC Legal and Telles Avogados advised the borrower on the deal.	N/A	Poland
19-Jan	B2RLaw	B2RLaw advised Next Road Ventures on its venture capital investment in Poland's TrustMate.	N/A	Poland
19-Jan	Gide Loyrette Nouel	Gide Loyrette Nouel advised the European Investment Bank on taking up PLN 500 million bonds issued by by the Polish Development Fund.	PLN 500 million	Poland
21-Jan	SSW Pragmatic Solutions	SSW Pragmatic Solutions advised Waimea Holding on its entrance into a development management agreement with Fortress Fund for the development of two warehouse parks in Poland.	N/A	Poland
21-Jan	Allen & Overy; Stachowicz Ptak; Traple Konarski Podrecki & Partners	Allen & Overy advised Grupa Zywiec on the sale of its brewery in Braniewo, Poland, and its Kuflowe, Braniewo, and Jasne ze Pelne beer brands to Van Pur. Stachowicz Ptak and Traple Konarski Podrecki & Partners advised the buyer on the deal.	N/A	Poland
21-Jan	Cooley; White & Case	White & Case advised Texan construction technology startup AI Clearing Inc on a new round of seed funding led by Tera Ventures, joined by Inovo Venture Parners and Innovation Nest. Cooley advised the investors.	N/A	Poland
22-Jan	SSW Pragmatic Solutions	SSW Pragmatic Solutions advised the unidentified owners of PePe on the sale of the company to Brammer.	N/A	Poland
22-Jan	Gessel; Noerr	Noerr advised Germany's GBA Group on its acquisition of JARS S.A. Gessel advised the seller on the deal.	N/A	Poland
25-Jan	Kochanski & Partners	Kochanski & Partners successfully represented Polish journalist Renata Grochal in appellate proceedings before the Regional Court in Warsaw in a defamation case brought against her by Telewizhja Polska.	N/A	Poland
25-Jan	RS Legal	Radzikowski, Szubielska i Wspolnicy advised Baltic Power on its entrance into a grid connection agreement with Polskie Sieci Elektroenergetyczne for an offshore wind farm in the Baltic Sea.	N/A	Poland
25-Jan	B2RLaw; Cleaver Fulton Rankin	B2RLaw, working with Northern Ireland's Cleaver Fulton Rankin law firm, advised Vox Financial Partners on its acquisition of Delv Global.	N/A	Poland
25-Jan	B2RLaw	B2RLaw advised the PKO VC and RKK VC venture capital funds on an unspecified investment into Papukurier.	N/A	Poland
26-Jan	Clifford Chance	Clifford Chance advised Polish oil refiner and petrol retailer PKN Orlen on its PLN 1 billion issue of bonds under the company's existing domestic bonds program.	PLN 1 billion	Poland
27-Jan	Rymarz Zdort	Rymarz Zdort advised Polish logistics platform European Logistics Investment on its acquisition of land and the construction of the Krakow V logistics center in the Polish community of Skawina.	N/A	Poland
28-Jan	Allen & Overy; LegalKraft	LegalKraft advised Vastint Poland on the sale of the Brama Portowa office building complex in Szczecin, Poland to FLE SICAV FIS, managed by FLE GmbH from Vienna. Allen & Overy advised the buyers on the deal.	N/A	Poland
28-Jan	Clifford Chance; White & Case	Clifford Chance advised DNB Bank Polska S.A. and the EBRD on financing they granted to a joint-venture company controlled by Taaleri SolarWind II and Masdar, an Abu Dhabi-based Future Energy Company. White & Case advised Taaleri SolarWind II and Masdar on the deal.	N/A	Poland
28-Jan	White & Case	White & Case advised P4, the Polish operator of Play mobile network, on the issuance of PLN 500 million of seven-year unsecured B-series bonds.	PLN 500 million	Poland

Date covered	Firms Involved	Deal/Litigation	Value	Country
29-Jan	B2RLaw; Stan Komorowski	B2RLaw advised Ambulero, Inc., a biotechnology company developing cell and gene therapy treatments for patients suffering from vascular disease, on its receipt of up to USD 5.5 million in financing from Orphinic Scientific. Orphinic Scientific was advised by solo practitioner Stan Komorowski.	USD 5.5 million	Poland
29-Jan	CMS	CMS advised BaltCap Infrastructure Fund on a public-private partnership construction of lighting in the municipality of Miedzno, in the Slaskie Voivodship in Poland.	PLN 22.4 million	Poland
1-Feb	Bird & Bird; Clifford Chance; Domanski Zakrzewski Palinka; Kromann Reumert	Domanski Zakrzewski Palinka advised Hanwha Q Cells on the sale of 51 photovoltaic farms in Poland with a total capacity of 46 MW to Danish PV plant developer Obton. Clifford Chance advised KfW IPEX-Bank on financing for the deal and Danish law firm Kromann Reumert advised on Danish legal aspects of the transaction. Obton was advised by Bird & Bird.	N/A	Poland
1-Feb	CMS; Clifford Chance; Stibbe; Weil, Gotshal& Manges	CMS advised InPost and its majority shareholder Advent International on InPost's listing on the Euronext Amsterdam Stock Exchange. Weil, Gotshal & Manges and Stibbe advised InPost and Clifford Chance advised a syndicate of Citigroup, Goldman Sachs, J.P. Morgan, ABN Amro, Barclays, BNP Paribas, Jefferies, DMBH, ING, and Pekao on the deal.	EUR 8 billion	Poland
1-Feb	Kondracki Celej	Kondracki Celej advised Alior Bank on its exit from PayPo.	N/A	Poland
2-Feb	B2RLaw	B2RLaw advised Johnson Matthey on its agreement with Axpo Polska Sp. Z.o.o. to have renewable electricity provided to the company's new factory in Konin, Poland.	N/A	Poland
2-Feb	Dentons; Greenberg Traurig	Greenberg Traurig advised companies in the Marvipol group on the sale of residential and commercial units in three built-to-rent residential projects in Warsaw to Swedish company Heimstaden Bostad. Dentons advised Heimstaden Bostad on the deal.	N/A	Poland
5-Feb	Linklaters	Linklaters successfully defended Polish bank Interbrok Investment against claims worth PLN 270 million made against it by unidentified former clients.	PLN 270 million	Poland
5-Feb	Greenberg Traurig; Wardynski & Partners	Wardynski & Partners, working with lead counsel Plesner, advised Denmark-based Faerch on its acquisition of Inline Poland from the Sirap Group. Greenberg Traurig advised the seller on the deal.	N/A	Poland
5-Feb	Greenberg Traurig	Greenberg Traurig advised AEW on its acquisition of a logistics project near Warsaw.	N/A	Poland
5-Feb	Linklaters; Penteris	Penteris advised a joint venture formed by Rida Development Corp and Mack Real Estate Group on its acquisition of the Jerozolimskie Business Park in Warsaw from A&T Holdings. Linklaters advised the seller.	N/A	Poland
9-Feb	B2RLaw	B2RLaw advised Proteon Pharmaceuticals on a strategic partnership with Skretting aimed at tackling challenges in the aquaculture industry.	N/A	Poland
9-Feb	Kondracki Celej	Kondracki Celej helped Polish telehealth services platform Telemedico obtain USD 6.6 million in Series A financing from investors Flashpoint Venture Capital, UNIQA Ventures, PKO Bank Polski, Black Pearls VC, and Adamed Pharma.	USD 6.6 million	Poland
9-Feb	Balicki Czekanski Gryglewski Lewczuk; Gessel; Schoenherr	BCGL helped Warsaw-based private equity investment fund Omikron Capital obtain a loan from PKO Bank Polski and subsequently acquire 100% of the shares in Dagat-ECO. Schoenherr advised the seller and Gessel advised the bank on the deal.	N/A	Poland
9-Feb	Gide Loyrette Nouel	Gide Loyrette Nouel advised Volkswagen Financial Services Polska on the establishment of its PLN 3 billion bond issue program.	PLN 3 billion	Poland
11-Feb	Brzozowska & Barwinska	Brzozowska & Barwinska advised the Cogitare Group on its internal corporate restructuring.	N/A	Poland

Date covered	Firms Involved	Deal/Litigation	Value	Country
15-Feb	Bird & Bird	Bird & Bird advised DP Poland on its acquisition of the Polish pizza restaurant Dominium.	N/A	Poland
15-Feb	Greenberg Traurig	Greenberg Traurig helped Agora S.A. appeal against adecision of the President of the Polish Office of Competition and Consumer Protection prohibiting the company from taking control over Eurozet Sp. z o.o.	N/A	Poland
15-Feb	B2RLaw	B2RLaw advised the owners of digital product development studio Polidea on the sale of the studio to Snowflake, an American cloud-based data-warehousing company.	N/A	Poland
10-Feb	Norton Rose Fulbright	Lawyers from Norton Rose Fulbright's Moscow and Warsaw offices participated in the firm's multi-jurisdictional team advising Sandvik AB on its EUR 943 million acquisition of DSI Underground, a multinational underground mining solutions company, from Triton Partners.	N/A	Poland; Russia
18-Jan	Jinga & Associates; Tuca Zbarcea & Asociatii	Tuca Zbarcea & Asociatii advised Engie Romania on the acquisition of a 9.3 MW photovoltaic park from developer Alpin Solar and Ever Solar SA, a subsidiary of German photovoltaic park developer Soventixr. The sellers were advised by Jinga & Asociatii.	N/A	Romania
18-Jan	Radu si Asociatii	Radu si Asociatii advised the Electrica Group on a merger through which Societatea de Distributie a Energiei Electrice Transilvania Nord S.A. absorbed two other group distribution companies.	N/A	Romania
19-Jan	Bondoc si Asociatii	Bondoc si Asociatii advised independent electricity and gas supplier Restart Energy on its agreement with consulting and fund management company Interlink Capital Strategies to develop green energy projects in Romania and neighboring countries and to launch the blockchain-based RED platform in the USA.	N/A	Romania
21-Jan	Stratulat Albulescu	Stratulat Albulescu, working with lead counsel Nixon Peabody, advised US-based ThoughtWorks on the acquisition of Romanian software developer Gemini Solutions.	N/A	Romania
26-Jan	Musat & Asociatii	Musat & Asociatii advised tech giant Google LLC on Romanian aspects of its acquisition of Fitbit.	N/A	Romania
27-Jan	Popovici Nitu Stoica & Asociatii	Popovici Nitu Stoica & Asociatii advised Dr. Leahu Dental Clinics on its acquisition of the Corident Pro Clinic in Sibiu, Romania.	N/A	Romania
1-Feb	TPA Romania	TPA Romania successfully represented Austrotherm Romania before the High Court of Cassation and Justice in a dispute with Romania's fiscal authorities over excise taxes.	EUR 1 million	Romania
8-Feb	Buzescu Ca	Buzescu Ca advised Danfoss on the sale of a land plot containing a factory and office space in the Bucharest metropolitan area to Transparent Design. The buyer was advised by Notary Maria Terovan.	N/A	Romania
11-Feb	Schoenherr	Schoenherr advised Agricover on the issuance of EUR 40 million in corporate bonds and on their admission to trading on the regulated market of the Bucharest Stock Exchange.	EUR 40 million	Romania
19-Jan	DLA Piper; Linklaters	DLA Piper advised Raspadskaya on its USD 920 million acquisition of Russian coal producer Yuzhkuzbassugol from EVRAZ. Linklaters advised the seller on the deal.	USD 920 Million	Russia
21-Jan	Allen & Overy; Clifford Chance	Clifford Chance helped Sovcombank obtain a USD 350 million ESG loan – its first loan based on environmental, social and governance principles. Allen & Overy advised the mandated lead arrangers, book-runners, and ESG coordinator.	USD 350 million	Russia
29-Jan	Clifford Chance	Clifford Chance advised the EBRD on its provision of two loans to the city of Walbrzych, Poland.	PLN 134.7 million	Russia

Date covered	Firms Involved	Deal/Litigation	Value	Country
1-Feb	Dechert; White & Case	White & Case advised Russia-based petrochemicals company Sibur Holding on its sale of 40% of its stake in Amur Gas Chemical Complex to China's Sinopec. Dechert advised the buyer on the deal.	N/A	Russia
2-Feb	White & Case	White & Case advised Russian telecommunication services provider Rostelecom on the USD 464.3 million sale of a 44.8% stake in SafeData to Russia-based VTB Bank. Baker McKenzie advised the buyer on the deal.	USD 464.3 million	Russia
5-Feb	Morgan Lewis & Bockius	Morgan Lewis represented the Far East High Technology Fund on its RUB 200 million investment in Motorica, a Russian manufacturer of high-tech hand prostheses.	RUB 200 million	Russia
9-Feb	Bryan Cave Leighton Paisner; Morgan Lewis & Bockius	Morgan Lewis advised Russian online services provider Yandex and its subsidiary MLU on the acquisition of Vezet Group's call centers and cargo business. Bryan Cave Leighton Paisner advised the seller.	USD 178 million	Russia
10-Feb	Baker Mckenzie	Baker McKenzie advised the Goal Number Seven association on the launch of the international renewable energy certificates system in Russia. The firm provided its services on a pro bonobasis.	N/A	Russia
12-Feb	Kachkin & Partners	Kachkin & Partners successfully represented Anton Vladimirovich Novikov, a former top manager and a JSC Mostostroy No. 6 board of directors member, in a dispute.	RUB 7 billion	Russia
21-Jan	Stetom	Stetom advised Slovak private equity group Eastfield on the restructuring and subsequent sale of the Raevskoe winery, together with vineyards and agricultural land plots in Anapa, on the Black Sea coast, to the Krasnodarzernoprodukt Group.	N/A	Russia; Slovakia
19-Jan	Karanovic & Partners	Alibaba and Oath Inc., a subsidiary of Verizon operating under the Yahoo! brand, appointed Karanovic & Partners as their data protection representatives in Serbia.	N/A	Serbia
20-Jan	K&L Gates; Karanovic & Partners	Karanovic & Partners, working with global lead counsel K&L Gates, advised analytics company SAS Institute Inc on the acquisition of the Boemska technology company.	N/A	Serbia
26-Jan	Samardzic, Oreski & Grbovic	Samardzic, Oreski & Grbovic helped Delta Motors and Delta Automoto ensure full compliance with the Serbian Data Protection Act as well as the General Data Protection Regulation of the EU.	N/A	Serbia
27-Jan	Milosevic Law Firm	The Milosevic Law Firm advised Milos and Ruzica Krdzic on the sale of their shares in several radio stations in Serbia to Global Media Technology.	N/A	Serbia
4-Feb	Jankovic Popovic Mitic	JPM helped Xella implement GDPR best practices.	N/A	Serbia
8-Feb	Clifford Chance; CMS; Karanovic & Partners	Karanovic & Partners, working with lead counsel Clifford Chance, advised Deutsche Private Equity on the local aspects of its acquisition of a majority stake in M-Sicherheitsbeteiligungen from Armira. CMS advised the seller.	N/A	Serbia
21-Jan	Havel & Partners	Havel & Partners advised the Premium Design Group on its acquisition of manufacturing cooperative Javorina.	N/A	Slovakia
3-Feb	Dentons	On January 12, 2021, the Supreme Court of the Slovak Republic confirmed the verdict delivered by the Specialized Criminal Court in February 2020 on the forging of four promissory notes of private television broadcaster TV Markiza. Businessman Marian Kocner and former minister Pavol Rusko, a onetime owner of TV Markíza, were accused of forging the promissory notes and using them to demand EUR 69 million from the television station. Both Kocner and Rusko were convicted of forging the promissory notes and were each sentenced to 19 years' imprisonment. Dentons' Litigation team represented TV Markiza in the case.	N/A	Slovakia

Date covered	Firms Involved	Deal/Litigation	Value	Country
18-Jan	Guzel Law	Guzel Law advised OSEM A.S. and the Insurance Association of Turkey before the Competition Board of Turkey.	N/A	Turkey
19-Jan	Akol Law Firm; Clifford Chance	Akol Law advised Turkiye Sinai Kalkinma Bankasi A.S. on its 144A/Reg S placement of USD 350 million sustainable Eurobonds with 5-year maturity. Clifford Chance advised joint bookrunners Bank ABC, BNP Paribas, Citi, Commerzbank, ING, SMBC Nikko, and Standard Chartered Bank.	USD 350 million	Turkey
20-Jan	Akol Law Firm; Freshfields; Morgan Lewis; Paksoy	Paksoy, working with lead counsel Freshfields, advised Belgium's Solvay S.A. chemical company on the sale of its North American and European amphoteric surfactant manufacturing business, including the tolling business in Turkey, to OpenGate Capital. Morgan Lewis acted as global counsel to Open Gate, and Akol provided Turkish advice.	N/A	Turkey
22-Jan	Clifford Chance; Sullivan & Cromwell	Lawyers from Clifford Chance's Istanbul office were on a multi-office team advising private equity group CVC Capital Partners on the acquisition by CVC Fund VII of the Turkish, Greek, Croatian, Montenegrin, and UAE businesses of D-Marin from Turkey's Dogus Group. Sullivan & Cromwell advised the sellers on the deal.	N/A	Turkey
26-Jan	BTS & Partners	BTS & Partners advised Two.Zero Ventures on its investment in BluTV, a Turkish TV digital entertainment platform operating in the Middle East, North Africa, Central Europe, and Asia.	N/A	Turkey
28-Jan	Akol Law Firm; Solo Practitioner Caglayan Kokkilinc	Akol advised Human Care HC AB, a portfolio company of Applied Value Group, on its acquisition of Kenmak Hastane Malzemeleri ve Elektrostatik Boya San Tic from its founder Kenan Kilic, who was advised by solo practitioner Caglayan Kokkilinc.	N/A	Turkey
29-Jan	Akol Law Firm; Kolcuoglu Demirkan Kocakli	Akol Law advised Global Ports Holding on the sale of 99.9% of its stake in Port Akdeniz to QTerminals. Kolcuoglu Demirkan Kocakli, working with Clyde & Co as the coordinator on the deal, advised QTerminals.	USD 115 million	Turkey
5-Feb	BASEAK; Caliskan Okkan Toker	The Balcioglu Selcuk Akman Keki Attorney Partnership advised Turkish cyber security company Cyberwise and Cyberwise shareholders Taxim Capital, Faruk Eczacibasi, and Aret Killioglu on their acquisition of Innovera Bilisim Teknolojileri. Caliskan Okkan Toker advised the seller.	N/A	Turkey
5-Feb	Akol Law Firm	Akol Law advised Turkish plastic injection and original equipment manufacturer production company Isik Plastik on its initial public offering with the Istanbul Stock Exchange.	N/A	Turkey
5-Feb	Cigdemtekin Cakirca Aranci; Paksoy	Paksoy advised Albioma and Cigdemtekin Cakirca Aranci advised Egesim on their acquisition of 75% and 25%, respectively, of Turkish geothermal power plant Gumuskoy, from BM Holding.	N/A	Turkey
9-Feb	Ciftci; Clifford Chance	Clifford Chance advised Tpay Mobile, a full-service digital payments platform for the Middle East, Africa, and Turkey, on its receipt of financing for its acquisition of Turkish payment service provider Payguru.	N/A	Turkey
10-Feb	KP Legal; YUU Legal	YUU Legal advised the shareholders of Birlesik Odeme Hizmetleri ve Elektronik Para A.S., including the founding shareholders and Finberg Arastirma Gelistirme Danismanlik Yatirim Hizmetleri Anonim Sirketi, a subsidiary of Fiba Holding, on the sale of a majority stake in Birlesik Odeme to Oyak Portfoy Yonetimi A.S. Ucuncu GiriSim Sermayesi Yatirim Fonu, which was advised by KP Legal.	N/A	Turkey
15-Feb	BTS & Partners; Kavlak	BTS & Partners advised Twozero Ventures on its USD 1 million investment in Pubinno. Kavlak advised Pubinno on the deal.	USD 1 million	Turkey
18-Jan	Ilyashev & Partners	Acting on behalf of PrJSC Dickergoff Cement Ukraine, PrJSC HeidelbergCement Ukraine, PJSC Podilskyi Cement, and PrJSC Ivano-Frankivsk Cement, Ilyashev & Partners persuaded Ukraine's District Administrative Court of Kyiv to dismiss the demand of the Belarusian Cement Company Holding and the Ukrainian importers of its products that the anti-dumping duties imposed on imports of cement to Ukraine be lifted.	N/A	Ukraine

Date covered	Firms Involved	Deal/Litigation	Value	Country
19-Jan	DLA Piper; Redcliffe Partners	Redcliffe Partners advised US investors Aspect Energy and SigmaBleyzer – acting jointly through a special-purpose vehicle, Ukrainian Energy, L.L.C. – on an oil & gas production sharing agreement with the Republic of Ukraine. DLA Piper advised the Republic of Ukraine on the transaction.	N/A	Ukraine
19-Jan	Aequo; Sayenko Kharenko	Aequo advised Dragon Capital New Ukraine Fund LP on its acquisition of a controlling stake in Treeum. Sayenko Kharenko advised the seller on the deal.	N/A	Ukraine
21-Jan	Vasil Kisil & Partners	Vasil Kisil & Partners advised Ukrainian pharmaceutical company Lekhim on the structuring of the distribution of the COVID-19 Sinovac vaccine in Ukraine.	N/A	Ukraine
22-Jan	Sayenko Kharenko	Sayenko Kharenko advised joint lead managers BNP Paribas and Goldman Sachs International on Ukraine's USD 600 million Eurobond tap issue.	EUR 600 million	Ukraine
25-Jan	LCF Law Group	LCF successfully persuaded Ukrainian courts to enforce an arbitration award obtained by Banke Electromotive.	N/A	Ukraine
27-Jan	Sayenko Kharenko	Sayenko Kharenko advised the Green for Growth Fund on its provision of a Ukrainian hryvnia loan worth EUR 5 million to Bank Lviv.	EUR 5 million	Ukraine
27-Jan	Arzinger	Arzinger successfully represented Nufarm Ukraine in pre-trial and judicial appeals against tax notification decisions.	USH 263 million	Ukraine
28-Jan	Antika	The Antika Law Firm successfully represented the interests of Cherkasyteplokommunenergo – the utility company for heating networks of the Cherkasy City Council – in a dispute before the Economic Court of the Cherkasy region in Ukraine.	N/A	Ukraine
28-Jan	Asters; Integrites	Asters advised the International Finance Corporation on its provision of a EUR 30 million loan to Ukrgasbank for financing of sustainable energy and energy-efficient projects, including those developed by small and medium enterprises. Integrites advised the bank on the deal.	EUR 30 million	Ukraine
2-Feb	Baker Mckenzie	Baker McKenzie helped IKEA launch its first brick-and-mortar store in Ukraine.	N/A	Ukraine
4-Feb	LCF Law Group	LCF Law Group advised Scatec Solar on the development of a 32 MW photovoltaic power plant in Ukraine.	N/A	Ukraine
5-Feb	Ilyashev & Partners	Ilyashev & Partners successfully represented Volodymyr Mykolaiovych Isaienko in a dispute with the Ministry of Education and Science of Ukraine over his dismissal from the position of Rector of the National Aviation University.	N/A	Ukraine
9-Feb	Asters	Asters successfully defended Anders Aslund, a Swedish-American economist, diplomat, and expert on the Ukrainian economy, in a defamation dispute with Igor Kolomoisky, former co-owner of PrivatBank, before the Kyiv Court of Appeal.	N/A	Ukraine
10-Feb	Vasil Kisil & Partners	Vasil Kisil & Partners advised the KDD Group and Kovalska on a project to build the NUVO Business Park.	N/A	Ukraine
10-Feb	Avellum	Avellum helped Samoran Investments Limited, a company affiliated with Yakov Gribov, a beneficiary of the Nemiroff Group, obtain approval from the Antimonopoly Committee of Ukraine for the acquisition of shares in Rostok Agroinvest Limited.	N/A	Ukraine
12-Feb	Sayenko Kharenko	Sayenko Kharenko successfully represented Zhejiang Baokang Wheel Manufacture Co., Ltd. in an anti-dumping investigation related to imports into Ukraine of aluminum wheel disks originating in China and Russia.	N/A	Ukraine

The Ticker:

- Full information available at: www.ceelegalmatters.com
- Period Covered: January 16, 2021 - February 15, 2021

Did We Miss Something?

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

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ON THE MOVE: NEW HOMES AND FRIENDS

Austria: KBK Hirsch Opens Doors in Salzburg

By Djordje Vesic

K-B-K Kleibel Kreibich Bukovc Hirsch and the law firm of Leopold Hirsch have merged to form KBK Hirsch in Salzburg.

The new firm will consist of five partners – Leopold Hirsch, Wolfgang Kleibel, Christoph Hirsch, Florian Kreibich, and Robert Bukocv – supported by four other lawyers and three associates. ■

Romania: Hnatec Attorneys at Law Opens for Business in Bucharest

By David Stuckey

Teodor Hnatec has left Mitel & Partners to co-found a new firm with Partner Ioana Hnatec: Hnatec Attorneys at Law.

Teodor Hnatec spent the past four and a half years at Mitel & Partner, making Partner in January 2020. Before that he spent two years at Vilau | Associates, four years at Vilau & Mitel, and one year as a Partner at Enescu, Ene & Associates.

Ioana Hnatec started her career in-house with Strabag in 2007. In December, 2011, she joined the Flavia Teodosiu Law Office, and in March 2012 she left to put out her shingle as a solo practitioner. In September of 2012 she started practicing with Baker Tilly Romania Legal Services, where she stayed for three years, making Partner in February 2014. In October of 2015 she joined Moore Stephens Tomosoiu, where she stayed until co-founding Hnatec Attorneys at Law this past November.

Teodor Hnatec notes that the current COVID-19 crisis provided a little extra incentive to launch his own firm, but says that ultimately his decision was "just the sheer feeling that it's time to move on and do something of my own, the way I want it, through the lens of ten years in a strong Romanian law firm." He says the firm expects to add a third partner soon. ■

Turkey: Basgul Attorneys at Law Opens Its Doors in Ankara and Istanbul

By Andrija Djonovic

On January 1, 2021, Basgul Attorneys at Law opened its doors for business in Ankara and Istanbul.

According to Founding Partner Erdem Basgul, who focuses his practice on energy and infrastructure, the firm is a consequence of "a growing appetite for quality corporate legal services in the Ankara legal market. This market is mainly composed of construction and energy sectors," he says, "and these are the sectors that I have been mostly concentrating on for the last six years." In addition, Basgul says, he hopes to focus on the start-up and football club markets, "and say that we are the agile, astute, and versatile lawyers that are craving to deliver the quality legal services that you need."

Co-Founding Partner Meric Bahcivanci heads the Litigation, Employment, and Insolvency practices of Basgul Attorneys at Law, with an additional focus on real estate and construction disputes as well as debt collection and insolvency proceedings.

Both Basgul and Bahcivanci obtained their law degrees from the Ankara University School of Law.

"I have known Erdem for more than a decade from the Ankara Law School where we studied together," commented Bahcivanci. "Since then, he has worked at firms like SNR Denton, White & Case, and Cakmak, and focused on the transactional front. And I have been a hardcore litigator dealing with complex disputes and debt enforcement proceedings. We get extremely excited when we contemplate the things we can achieve as we now finally combined these two different but intrinsic realms." ■

Turkey: Isik & Partners Opens Doors in Istanbul

By Djordje Vesic

Fatih Isik, former Senior Associate at Erdem & Erdem, has launched the Isik & Partners law firm in Istanbul.

According to Isik, his newly founded firm will focus on arbitration, litigation, and legal consultancy.

"I was convinced that I am mostly a disputes lawyer, I could be successful at arbitration and litigation, and I could launch my own firm," Isik commented. "This would not be possible without the Erdem & Erdem Law Firm, where I worked for many years. I am so grateful to all my colleagues and friends that I worked with." ■

Serbia: TCV Legal Opens Doors in Belgrade

By Radu Cotarcea

Former Karanovic & Partners lawyers Dusan Teodosijevic, Jovana Velickovic, and Vedran Ceric have launched a new dispute boutique in Serbia: TCV Legal.

Teodosijevic, who serves as Managing Partner of TCV Legal, had been with Karanovic & Partners since 2015. Velickovic started her career with JPM Jankovic Popovic Mitic in 2012 and moved to Karanovic & Partners in 2016. Ceric worked as a solo practitioner in 2010, and in 2012 he joined Raiffeisen Leasing as a Late Workout Officer. A year later he moved to Banca Intesa Beograd as a Senior Advisor in the Debt Collection Department. Just like Teodosijevic, he joined Karanovic & Partners in 2015.

"We joined Karanovic & Partners in 2015 and 2016 where we created our friendship and gained the core of our professional experience," Teodosijevic commented. "Mutual support and trust proven over the years and countless working hours have brought us together and encouraged us to make this groundbreaking move in our careers. Our goal, as a dispute resolution boutique, is to demonstrate personal commitment, hard work, expertise, and efficiency to earn and keep [the] trust of our clients. These are the core principles we observe in this sensitive and challenging practice area." ■

Greece: Alexiou-Kosmopoulos Becomes AKL

By Andrija Djonovic

The Alexiou-Kosmopoulos Law Firm has changed its name to AKL and changed its leadership, with Alexandros Kosmopoulos and Helen Alexiou becoming joint Managing Partners.

According to AKL, "this change [of] name represents an evolution of our identity to take us into the 21st Century and beyond." According to the firm, "in 2020 we all experienced difficulties, personally and professionally, due to the COVID-19 global pandemic. Our colleagues, our clients, our country, and indeed the whole world have been affected and it has been necessary to adapt to new and often unforeseen challenges, challenges that will continue in 2021 and beyond. Introducing our new brand at this time represents our belief and optimism in the future and recognizes that as a business we must continue to adapt and move forward with our clients." ■

Russia: Timur Aitkulov Leads Dispute Resolution Team Splitting Off from Clifford Chance Moscow

By Djordje Vesic

Clifford Chance Moscow has spun off its entire Dispute Resolution team into a new and independent boutique on the Russian market: Aitkulov & Partners.

Aitkulov & Partners is led by Partner Timur Aitkulov, who joined Clifford Chance back in 2004 and became Partner in 2007, and it includes Partners Olga Semushina, Dmitry Malukevich, and Victor Parkhomenko (the latter two of which were Senior Associates at Clifford Chance), as well as Senior Associate Galina Valentirova, Associate Alexey Vyalkov, and Junior Associates Bogdan Lavrichenko and Evgeny Solomatin."

According to Timur Aitkulov, "the team will concentrate on its core specialization – complex international and Russian arbitrations, cross-border and domestic litigation, white collar and internal investigations." According to him, "the team has considerable experience in construction, M&A, corporate, antitrust, bankruptcy and IP disputes, disputes in oil and gas, mining, energy, pharma, transportation and financial sectors."

According to Aitkulov, his new firm "will continue to provide dispute resolution services to Clifford Chance and its clients from various jurisdictions under a global cooperation agreement between Aitkulov & Partners and Clifford Chance, but it will be much more flexible as compared to a branch of a big international law firm with respect to, among other things, conflicts, selection of co-counsel and pricing."

The split had been under discussion for several months. A representative of Clifford Chance Moscow asserted that "we wish Timur and the team the best of luck in their new venture and look forward to collaborating with them on future client mandates." In the meantime, that representative said, "the firm will continue to provide advice on risk management and dispute resolution support to clients, including issues with a Russian law dimension. We will be investing in these areas, and our wider Moscow practice, in line with our overarching strategy, focusing on being the firm best placed to meet the evolving needs of our clients in a dynamic market." ■

PARTNER MOVES

Date	Name	Practice(s)	Moving From	Moving To	Country
18-Jan	Leopold Hirsch	Litigation/Disputes	Law firm of Leopold Hirsch	KBK Hirsch	Austria
18-Jan	Wolfgang Kleibel	Insolvency/Restructuring; Labor	K-B-K Kleibel Kreibich Bukovc Hirsch	KBK Hirsch	Austria
18-Jan	Christoph Hirsch	Insolvency/Restructuring	K-B-K Kleibel Kreibich Bukovc Hirsch	KBK Hirsch	Austria
18-Jan	Florian Kreibich	Litigation/Disputes	K-B-K Kleibel Kreibich Bukovc Hirsch	KBK Hirsch	Austria
18-Jan	Robert Bukocv	Tax	K-B-K Kleibel Kreibich Bukovc Hirsch	KBK Hirsch	Austria
22-Jan	Dimitris Assimakis	Energy/Natural Resources	Norton Rose Fulbright	Reed Smith	Greece
19-Jan	Viktoria Szilagyi	Corporate/M&A	Nagy & Trocsanyi	Lakatos Koves & Partners	Hungary
21-Jan	Krzysztof Marzynski	Real Estate	Crido	B2RLaw	Poland
3-Feb	Grzegorz Pizon	Energy/Natural Resources	SSW Pragmatic Solutions	Bird & Bird	Poland
5-Feb	Wojciech Koczara	Real Estate	CMS	Domanski Zakrzewski Palinka	Poland
18-Jan	Teodor Hnatec	Litigation/Disputes	Mitel & Partner	Hnatec Attorneys at Law	Romania
18-Jan	Ioana Hnatec	Litigation/Disputes; Insolvency/Restructuring	Moore Stephens Tomosoiu	Hnatec Attorneys at Law	Romania
15-Feb	Cristian Popescu	Corporate/M&A	Popovici Nitu Stoica & Associatii	Dentons	Romania
19-Jan	Oxana Balayan	N/A	Hogan Lovells	Balayan I Group	Russia
1-Feb	Timur Aitkulov	Litigation/Disputes	Clifford Chance	Aitkulov & Partners	Russia
1-Feb	Olga Semushina	Litigation/Disputes	Clifford Chance	Aitkulov & Partners	Russia
1-Feb	Dmitry Malukevich	Litigation/Disputes	Clifford Chance	Aitkulov & Partners	Russia
1-Feb	Victor Parkhomenko	Litigation/Disputes	Clifford Chance	Aitkulov & Partners	Russia
28-Jan	Dusan Teodosijevic	Litigation/Disputes	Karanovic & Partners	TCV Legal	Serbia
28-Jan	Jovana Velickovic	Litigation/Disputes	Karanovic & Partners	TCV Legal	Serbia
28-Jan	Vedran Ceric	Litigation/Disputes	Karanovic & Partners	TCV Legal	Serbia
15-Feb	Rasko Radovanovic	Competition	CMS	Radovanovic Stojanovic & Partners	Serbia
15-Feb	Sasa Stojanovic	Corporate/M&A	BDK Advokati	Radovanovic Stojanovic & Partners	Serbia
15-Feb	Anja Tasic	Corporate/M&A	CMS	Radovanovic Stojanovic & Partners	Serbia
15-Feb	Nikola Cincovic	Labor	BDK Advokati	Radovanovic Stojanovic & Partners	Serbia
26-Jan	Erdem Basgul	Energy/Natural Resources	Cakmak	Basgul Attorneys at Law	Turkey
26-Jan	Meric Bahcivanci	Litigation/Disputes	N/A	Basgul Attorneys at Law	Turkey
28-Jan	Fatih Isik	Litigation/Disputes	Erdem & Erdem	Isik & Partners	Turkey
21-Jan	Kostiantyn Likarchuk	Litigation/Disputes	Kinstellar	Avellum	Ukraine

PARTNER APPOINTMENTS

Date	Name	Practice(s)	Firm	Country
26-Jan	Arnold Autengruber	Corporate/M&A	CHG Czernich	Austria
26-Jan	Clemens Handl	Corporate/M&A	CHG Czernich	Austria
26-Jan	Daniel Tamerl	Corporate/M&A; Real Estate	CHG Czernich	Austria
26-Jan	Clemens Willvonseder	Tax	Binder Groesswang	Austria
22-Jan	Chirag Mody	Litigation/Disputes	TGS Baltic	Estonia
22-Jan	Martti Peetsalu	Litigation/Disputes	TGS Baltic	Estonia
21-Jan	Grace Katsoulis	Labor; Corporate/M&A	Ballas, Pelecanos & Associates	Greece
18-Jan	Gergely Szabo	Energy/Natural Resources; Corporate/M&A	Ban, S. Szabo, Rausch & Partners Law Office	Hungary
29-Jan	Gyorgy Wellmann	Infrastructure/PPP/Public Procurement	Szecskay Attorneys at Law	Hungary
29-Jan	Bence Molnar	Corporate/M&A	Szecskay Attorneys at Law	Hungary
2-Feb	Anna Buzas	Corporate/M&A; Real Estate	BPV Jadi Nemeth	Hungary
2-Feb	Gabor Marky	Corporate/M&A	BPV Jadi Nemeth	Hungary
2-Feb	Balazs Kovacs	Real Estate; Competition	BPV Jadi Nemeth	Hungary
5-Feb	Katarzyna Baranska	Energy/Natural Resources	Kochanski & Partners	Poland
1-Feb	Anca Iulia Zegrean	Labor	Biris Goran	Romania
19-Jan	Yury Babichev	Litigation/Disputes	Bryan Cave Leighton Paisner	Russia
19-Jan	Maria Kobanenko	Competition	EPAM	Russia
5-Feb	Melis Oget Koc	Corporate/M&A	Kolcuoglu Demirkan Kocakli	Turkey
21-Jan	Maksym Maksymenko	Real Estate	Avellum	Ukraine
4-Feb	Volodymyr Yenich	Corporate/M&A; Litigation/Disputes	Aver Lex	Ukraine

OTHER APPOINTMENTS

Date	Name	Company/Firm	Appointed To	Country
22-Jan	Natasa Krejic	Sajic	Senior Partner	Bosnia and Herzegovina
22-Jan	Sanja Djukic	Sajic	Senior Partner	Bosnia and Herzegovina
10-Feb	Petr Kasik	Kocian Solc Balastik	Managing Partner	Czech Republic
19-Jan	Cosmin Libotean	Musat & Asociatii	Equity Partner	Romania
19-Jan	Andra Mihalache	Musat & Asociatii	Equity Partner	Romania
19-Jan	Cristi Tudor	Musat & Asociatii	Equity Partner	Romania
15-Feb	Konstantin Kroll	Dentons	Head of Russian Corporate/M&A	Russia
8-Feb	Dragoljub Sretenovic	BDK Advokati	Co-Head of Banking & Finance	Serbia
8-Feb	Bisera Andrijasevic	BDK Advokati	Head of Life Sciences & Healthcare; Co-Head of Competition	Serbia
8-Feb	Tomislav Popovic	BDK Advokati	Head of Corporate & Commercial; Co-Head of Distressed Situations/Insolvency & Restructuring	Serbia
5-Feb	Aleksandra Jemc Merc	Jadek & Pensa	Managing Partner	Slovenia
9-Feb	Oleksandr Pashynin	Everlegal	Head of Banking & Finance	Ukraine
14-Jan	Ece Ozelgin	BTS & Partners	Head of Public Policy	Turkey
15-Jan	Erdem Aslan	BTS & Partners	Head of Innovation	Turkey

IN-HOUSE MOVES AND APPOINTMENTS

Date	Name	Moving From	Company/Firm	Country
2-Jan	Maria Lepuschitz	Vaillant Group Austria	INNIO Group	Austria
4-Feb	Johannes Trenkwalder	CMS	Green Source	Austria
8-Feb	Michael Lind	Raiffeisen-Holding Niederoesterreich-Wien	PwC Legal	Austria
15-Feb	Geza Nagy	VEON	LyondellBasell	Hungary
8-Feb	Radoslaw Matusiak	Gide Loyrette Nouel	Orpea Polska	Poland
25-Jan	Mihaela Racles	Nobel	Profi Rom Food	Romania
21-Jan	Gunel Rzayeva	Big Chefs	VavaCars	Turkey
15-Feb	Bengi Su Karakoylu	PepsiCo	Temsa	Turkey

On The Move:

- Full information available at:
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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

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.

Moldova:

Interview with Roger Gladei of Gladei & Partners

By Andrija Djonovic (February 2, 2021)

"Finally, there has been some positive movement on the political scene," says Gladei & Partners Managing Partner Roger Gladei, referring to Moldova's Presidential elections last November. "President Maia Sandu's win marked the beginning of a new political era for Moldova. At least that's the sentiment in the streets." As the presidency is expected to make a dramatic 180 degree turn towards the West, President Sandu presents a strong contrast to the previous, more Russia-friendly administration.

"The President's first serious move has been to appoint a new Prime Minister candidate," Gladei says. In addition, President Sandu's office has strongly advocated for the country to hold a general election, as the common perception, he says, "is that the current parliament is morally corrupt and has no legitimacy anymore." According to him, "the question is not whether or not early elections will happen; the sole question is when, either this spring or this autumn." In the meantime, the president has nominated Natalia Gavrilita – a graduate of Harvard Kennedy School and a short-term Minister of Finance back in 2019, when Sandu herself was Prime Minister – for Prime Minister.

> ***"Finally, there has been some positive movement on the political scene. President Maia Sandu's win marked the beginning of a new political era for Moldova. At least that's the sentiment in the streets.***

"The big question though," Gladei says, "is whether this nomination is for real or is a political trick, designed to trigger a general election." If Gavrilita is not confirmed twice by the Parliament, Gladei suggests, then-President Sandu could dismiss the Parliament and call for early elections. "Oil to the fire was poured by President Sandu's own Party of Action and Solidarity, which stated – quite clearly and publicly – that it does not intend to support Gavrilita for Prime Minister."

Regardless of the political stand-off with the Parliament, Gladei

says that Sandu has inspired a wave of optimism among the people of Moldova – especially with her turn to the West. "The first official trips she took after assuming office were to Brussels and Kiev – as opposed to former President Dodon, who went straight to Moscow," he says. Gladei hopes that Moldova will "do its homework" now and implement the agenda of its Association Agreements and DCFTA with the EU. "This would be a major thing and would indicate a strong incoming legislative agenda, which would, in turn, stimulate business," he says, noting that a significant number of legislative actions in recent years have been more aimed at settling political differences between prominent parties than facilitating economic growth.

"The business community of Moldova has, hitherto, gotten used to being left to its own devices," Gladei says. "Too many previous governments' promises that they would 'most certainly take care of problems,' ended up being dead letters on a piece of paper." By contrast, he says, President Sandu has, even while Prime Minister, shown a vivid interest in the business community's needs. "Business associations, including the AmCham, where I am a Board member, met with then-Prime Minister Sandu and business was positively surprised with the manner in which she had immediately taken note of complaints and instructed her counselors to take actions on the spot," he recalls. "Expectations are high that this will continue at a stronger pace now that she is President."

Businesses are also expecting more from the Government in terms of support in facing the challenges of the pandemic. The previous government's response was, Gladei says, perceived as "reactive and rather weak (including due to the failure to obtain the promised large-ticket Russian sovereign loan), while the new government may count on more robust budgetary support from IMF and other development partners."

Struggling businesses have, somehow, been staying afloat in Moldova, Gladei says. "The biggest deals of note in 2020 are, still, the sale of Glass Container Group to Vetropack and of Moldcell to CG Cell Technologies back in March 2020 – which we had to do while wearing masks, in completely new territory." He sighs. "There were no guidelines or frameworks that would accommodate doing business during the pandemic; we were left to our own devices."

Gladei feels optimistic about 2021 and believes that "foreign investments, particularly FDIs, will increase in numbers, incentivized by the promises for better investment protection and business climate, radiating from the new political elite." He says that infrastructure and project finance transactions are expected to gain momentum too and that the "announced EBRD investment in Vestmoldtransgaz, which is still making us burn the midnight oil, should allow Moldova to diversify its gas supply and strengthen its energy independence."

Gladei firmly believes that new investors will come to Moldova as well, but describes their destination as "the new Moldova." ■

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Latvia:

Interview with Janis Zelmenis of BDO

By Djordje Vesic (February 3, 2021)

"Currently, the main debate in Latvia is about when business will get back to normal and whether companies will be compensated for their lockdown-caused losses," says Janis Zelmenis, Managing Partner at BDO Latvia, sighing that he expects the burden to eventually fall on the taxpayers' shoulders.

Indeed, he reports, Latvia's economy has been hit hard by the recently-imposed strict curfew, which limits the working hours of many businesses in the country. As a result, Zelmenis reports, many hospitality businesses have closed.

Zelmenis disagrees with the assessments of some Latvian ministers who, he says, deemed certain industries, such as tourism, effectively dead and not worth stimulating. "Their argument is that, when the time is right, tourism will revive on its own," he explains. That might not be the most prudent approach, he suggests, noting that tourism is a big driver of Riga's economy.

> ***Latvia was recently awarded by an international organization as a start-up friendly country [..] If you qualify as a Latvian start-up, say, in the IT sector, you will have your salaries covered for about six months or even a year.***

Another big economic driver that Latvia is happy to take advantage of is the influx of Belarusian IT companies. "There was a beauty contest between Poland, Lithuania, and Latvia on who would offer better conditions to these companies," Zelmenis says. "Even though Vilnius is closer to Minsk than Riga, Latvia managed to tap into the Belarusian market."

Latvian IT companies have been busy as well lately, Zelmenis says. Still, he explains, even the more active sectors of the Latvian economy are finding it difficult to find qualified people. "Latvia has lost many people to migration," he says. "In a country of just under two million, it is challenging to find a proper team."

Latvia also hopes to attract foreign investment, and to that end Zelmenis notes that the Liepaja Special Economic Zone lately has proven to be very valuable. The zone, which was established in 1997 in the town of Liepaja, offers direct tax rebates and indirect tax reductions to businesses operating in it. In addition, Latvia is trying to stimulate investments via its Start-Up law. "Latvia was recently awarded by an international organization as a start-up friendly country," Zelmenis says, and he explains that recent amendments to the law should change the definition of a start-up and enable eligible companies to obtain between EUR 100,000 and EUR 200,000 salary compensation upon registering. "So, if you qualify as a Latvian start-up, say, in the IT sector," he notes, "you will have your salaries covered for about six months or even a year." ■

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Czech Republic:

Interview with Jaroslav Havel of Havel & Partners

By Djordje Vesic (February 5, 2021)

The most notable recent political event in the Czech Republic was the October 2020 regional election, says Jaroslav Havel, Managing Partner at Havel & Partners. However, he is quick to point out politicians have not had a major impact on business in the Czech Republic for the past decade. A more tangible effect of the election, he says, is that his former partner, Jan Holasek, who left the former Havel & Holasek law firm six years ago, has become a member of the Czech Senate.

Still, there's at least one important thing politicians can do - legislate. Havel explains that one of the most important policy changes in the country came in the form of the new Act on Bank Identity. According to him, Havel & Partners worked in cooperation with several other organizations and firms to draft the legislation amending the Czech Banking Act and introducing reform in the area of personal identification.

Havel reports that the concept of bank identity will allow Czech banks to offer identification services to their clients, who in turn can use this service to authenticate their identity and provide e-signatures when obtaining services from both governmental bodies and private companies. According to Havel, the system contemplated by the act, which entered into effect at the beginning of January 2021, should become more widely implemented in the first half of the year.

"Another significant change," Havel continues, "is the FDI Act." According to him, the act, which is to enter into force in April 2021, will bring more stringent rules on investments of companies from outside of the EU. In particular, he says, "foreign investments aimed at obtaining control over Czech companies operating in critical industries such as military materials and energy, among others, will be subject to prior approval by the Czech Ministry of Industry and Trade."

> ***Foreign investments aimed at obtaining control over Czech companies operating in critical industries such as military materials and energy, among others, will be subject to prior approval by the Czech Ministry of Industry and Trade.***

Moving on to the Czech economy, Havel says that "some industries, like tourism, retail, hotels, have been going through a depression since May or June." According to him, in the retail and fashion industry some large companies, such as Blazek, Pietro Filipi, and Kara, fell into insolvency. Not all is grim, however, and he points to some larger transactions in the country – among them the merger between the KKCG Group's IT companies and the Aricoma Group, and the sale of ARETE's industrial parks portfolio to Cromwell European REIT. In addition, he says, "venture capital funds and start-ups are also on the upward trajectory." ■

Austria:

Interview with Klaus Pfeiffer of Weber & Co.

By Andrija Djonovic (February 9, 2021)

"Austria has learned in the last year that every choice needs to be evaluated and reevaluated," says Klaus Pfeiffer, Partner at Weber & Co. in Vienna. "Especially when it comes to making decisions about the pandemic, facts on which assumptions are based can change rapidly." Having learned this lesson, he says, the Austrian government has "put itself in a good position to be flexible and able to constantly reassess its position – which will lead to better responses to the current crisis and future challenges."

This might yet yield benefits as the pandemic, which became particularly strong in Austria in the Fall of 2020 and resulted in a second and a third lockdown, is now being put under greater control following strong vaccination efforts. "Our third lockdown ended on February 7, and some businesses have opened up as a result," Pfeiffer says. "These are only certain sectors of the economy excluding mostly hospitality – a partial opening, if you will – with the state of affairs to be reevaluated in the following weeks."

In the meantime, Austrian businesses are still receiving state aid. "It is a really good system, based on the turnover of a company rather than its profits," Pfeiffer says, pointing out that this renders it easier to support companies quickly. "It is a pragmatic approach and I'm quite happy with how it turned out so far – Austria has been among the leaders in the EU in terms of the size of relief packages offered to businesses when adjusted for country size."

Relief afforded to businesses also came in the form of a legislative fix for insolvency. "The insolvency framework of Austria generally allows businesses to have a 60-day gap between discovering the need to file for bankruptcy and actually filing paperwork," Pfeiffer says. "This period was extended to 120 days for epidemics and pandemics last year, meaning that businesses that were lacking money or funds to operate last September might be filing for bankruptcy soon."

> ***Austria has been among the leaders in the EU in terms of the size of relief packages offered to businesses when adjusted for country size.***

However, he says, the system probably needs a more complete overhaul. He reports that "a new institute has been proposed – one that would be in line with the EU Directive on Restructuring and Insolvency." According to him, "this would enable distressed companies to file for preventive restructuring, instead of having to go for bankruptcy straight away." Preventive restructuring, which is known to some EU countries, would be a novel concept for Austria, which previously knew only formal bankruptcy. "I expect that a draft should be coming our way in March or April – we have to be compliant with the EU Directive by July 17, 2021, so it's definitely going to happen soon," Pfeiffer says.

Pfeiffer says that Real Estate-related M&A has experienced a major shift from expectations last year at this time. "If you had asked me before the pandemic, I'd have recommended investing in the real estate hospitality sector," he says. "Now this has shifted towards logistics and residential investments, with strong investments coming from Germany and with a focus on Vienna and its surrounding area, as well as Tyrol."

Finally, Pfeiffer touches upon the EU's changing relationship with the UK following Brexit. "The good thing is that there is an agreement in place, but there are still a lot of unknowns," he says. "A true challenge for Austria in 2021 will be finding out how to work with the UK, given that they are a huge export partner. More legal certainty and predictability will be sorely needed, and, hopefully, we'll get some this year." ■

Hungary:

Interview with Ildiko Komor Hennel of Komor Hennel Attorneys

By Andrija Djonovic (February 16, 2021)

"The hot topic in Hungary right now is the January 2021 amendments to the Code of Civil Procedure" says Komor Hennel Attorneys Managing Partner Ildiko Komor Hennel. "The act passed in the 1950s had one previous major overhaul back in 2017," she says, adding that the recent amendments were necessitated by "modern times, technological updates, procedural effectiveness and business reality – just imagine not being able to file documents electronically!"

The current amendments, although slight compared to the ones made four years ago, are still significant, though largely concerned with bringing greater sense and flexibility to court procedure. "These show that the lawmakers realized that there was still considerable room for improvement, particularly with respect to the harsh sanctions/penalties which the 2017 act imposed," Komor Hennel says. "The voices of the legal community, those of both lawyers and courts, were heard and these most recent changes finally allow for a less constricted environment."

The lawmakers have done a lot to improve the framework for civil litigation with these newest amendments, she says, making it more "user-friendly" while retaining its general effectiveness. "It is clear that the last (2017) act was fraught with meaningless formalities and ineffective rules and provisions, and it is clear that the lawmakers wanted to get rid of these," she says. "For instance, the court can no longer simply reject your letter of claim if you fail to include even some minor detail, but now has to set out all the errors you need to rectify, and gives each party one opportunity to put things right and to provide any missing information and statements."

> ***"The voices of the legal community, those of both lawyers and courts, were heard and these most recent changes finally allow for a less constricted environment.***

The amendments have also created a "happy medium" to the Civil Procedure framework, Komor Hennel says, by removing certain "harsh provisions." For example, she says, "the letter of claim that you have to submit to the court has been streamlined significantly by eliminating many of the meaningless formalities and redundancies." She also adds that the amendments now require the courts to let legal representatives know not just whether their letters of claim have been accepted, but also if they have been properly delivered to the opposing side. "Just imagine being forced to pester the court to get an answer as to whether your letter of claim is deemed valid, and whether the adverse party has seen it at all – most of the time, lawyers were operating blind."

Another important gesture is to allow a hearing to be postponed once, should the original date clash with another hearing for one of the legal representatives.

Still, even with all these improvements, Komor Hennel says that disputes in Hungary remain a challenging prospect, even for highly qualified legal representatives. "It would still be more advisable for businesses to settle their differences more amicably – the procedure could still take two to three years and be very costly, not to mention that getting the proper legal representation to navigate these murky waters can be very difficult." ■

Slovenia:

Ana Grabnar of Rojs, Peljhan, Prelesnik & Partners

By Andrija Djonovic (February 18, 2021)

"There is a lot going on at the moment, politics-wise," says Rojs, Peljhan, Prelesnik & Partners Partner Ana Grabnar. "One of the coalition parties left the coalition and joined opposition parties in filing for a no-confidence vote for the government – which took place this week." The opposition did not gather the necessary majority, she reports, noting that "surprisingly it gathered even fewer votes than predicted."

"The result is, rather confusing, as the current government is now formally a minority one, but *de facto* it seems it enjoys the support of the majority and will likely finish the term," Grabnar reports. The next elections take place in about a year.

Meanwhile, the focus is still on combating the coronavirus, which hit Slovenia quite hard in the second wave. Most legislative activity is related to anti-corona measures (including restrictions on foreign investors in order to protect public interest projects), but Grabnar says there is movement in a few other areas as well. "There have been some recent changes to the Companies Act, and the Competition Act is set to be updated soon as well," she says, noting that the activity is mainly related to the effort to harmonize Slovenia's legal framework with that of the EU. "Some country-specific additions to the Companies Act include new restrictions on establishing entities in Slovenia. The list of restrictions now includes some additional criminal acts or violations of tax and labor law." Grabnar reports that the additions seem reasonable but will create an "additional bureaucratic burden for foreign entities establishing companies in Slovenia due to the obligation of filing necessary proofs."

The result is, rather confusing, as the current government is now formally a minority one, but de facto it seems it enjoys the support of the majority and will likely finish the term.

In addition, she says, the "environmental law permitting procedures are up for streamlining as well," and that legislation designed to enable this is in the works.

Finally, Grabnar reports that infrastructure projects – some of which were commenced before the pandemic – are moving along "nice and strong." According to her, "construction, logistics development, heating plant refurbishing and the like – it's all going well and there is activity in the market." She concedes that Slovenia's unemployment rate was "a bit higher" this January than it was in December, or January of last year, but she says that "there are upticks expected." According to her, "the real question is what will happen after the adopted anti-corona measures run out." ■

Slovakia:

Interview with Martin Magal of Allen & Overy

By Djordje Vesic (February 19, 2021)

Slovakia's political life is currently marked by the government's internal struggles, says Martin Magal, Managing Partner at Allen & Overy Bratislava. "We have a fairly inept coalition government and our politicians are much more involved in fighting among each other than fighting against the COVID-19 pandemic."

Nonetheless, Magal says, the Slovak people and the country's economy are doing fairly well. "Even though we had a 6% negative GDP last year and we are currently under strict lockdown, I don't remember a busier period, transaction-wise," he says, pointing to Cisco's acquisition of Sli.do as among the more notable recent transactions.

In addition, legislative activity hasn't slowed down significantly, Magal says, and he reports that reforms of Slovakia's judicial system are underway as well. "The idea is to close down and merge a number of small district courts which only have several judges and thus cannot specialize," he says.

The number of appellate courts will be reduced from eight to three and the current five district courts of Bratislava will be unified into a single first instance court. "This reform faces some backlash under the pretext that it will make the courts less accessible to people," he says. "However, the small, local courts may have been susceptible to cronyism, so I applaud the change."

Magal reports that a new Public Procurement Law was drafted by the Slovak Deputy Prime Minister that, if passed, will speed up the public procurement process by dispensing with many of its previously-mandatory procedures. Magal, for one, is not enthusiastic about the change. "Apart from my role at Allen & Overy, I am also Vice President of the American Chamber of Commerce in Slovakia," Magal says. "We have taken a stance against this proposal because we believe in the principle that the public procurement procedures should be used as rule and not as an exception." ■

> ***We have a fairly inept coalition government and our politicians are much more involved in fighting among each other than fighting against the COVID-19 pandemic.***

Bulgaria:

Interview with Irena Georgieva of PPG Lawyers

By Andrija Djonovic (February 22, 2021)

"It's very complicated at this moment, with most people changing their mind very often," says Irena Georgieva, Managing Partner of PPG Lawyers in Sofia, about the situation in Bulgaria. "Everybody is focused on their personal COVID-19-related problems and it's hard to adequately measure what the community really thinks about the government, as somehow all political decisions are inextricably linked with pandemic issues."

"We have parliamentary elections scheduled for the start of April," Georgieva continues, "so, hopefully, there will be more clarity afterward." She reports that most legislative activity has ground to a halt and that the country's regulatory bodies are ineffective. "For example, the Commission for the Protection of Competition and the Commission for Personal Data Protection are almost offline," she says. "The mandate of the data protection regulator, for instance, expired some two years ago, and nothing was done to appoint anyone new." Georgieva hopes that this will change after the elections and that the refreshed regulatory bodies will have a more "hands-on approach – especially when it comes to data protection." According to her, "I hope that our regulators will take a page out of the book of those in the UK, Spain, or Germany – those are the kinds of effort levels we need here."

Georgieva says it's almost impossible to assess how exactly a new government will impact Bulgarian business, when predicting what that government itself will look like is, at this point, not easy. "There are a lot of new players out there," she says, referring to the potential candidates for office, "so it's difficult to predict who will form the government and, after that, what the ideas and vision for the country will be."

In the meantime, Georgieva explains, a gap is appearing in the business community between those comfortable with adopting new rules and regulations relating to tech and data innovations and the ones who are not. "There seem to be two kinds of businesses in Bulgaria," she says. "Those that understand the deep regulatory changes with respect to data protection, cybersecurity, AI, and rapid tech development and are willing to invest in avoiding any potential loss or reputational risk, and those that just see an administrative and a financial burden in them." The tech regulations are there to allow businesses to evolve, she says, and provide companies with the opportunity that many have overlooked - to "tidy up their houses," in Georgieva's words, to structure the individual business units, and to discipline the staff (or, she notes, "as we say in Bulgaria - for the right hand to know what the left hand is doing"). According to her, "here our firm's team is able to intervene successfully and very smoothly builds the bridge between legal and IT work and the understanding of management about the new necessities."

There seem to be two kinds of businesses in Bulgaria. Those that understand the deep regulatory changes with respect to data protection, cybersecurity, AI, and rapid tech development and are willing to invest in avoiding any potential loss or reputational risk, and those that just see an administrative and a financial burden in them.

Georgieva notes the giant risk this growing gap represents. "If not addressed in some way," she says, "it could lead to companies taking a deep hit down the road, which might seriously impact the business climate of the country." ■

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ONE YEAR IN: DANILESCU HULUB & PARTNERS' ROAD TO SUCCESS

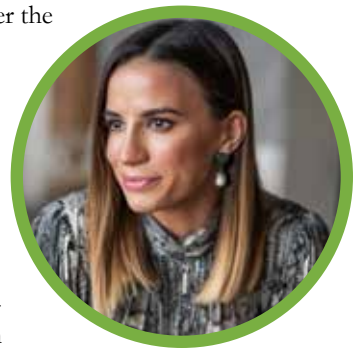
By Andrija Djonovic

Romania lies on the historically and geographically significant crossroads between the East and the West and both its roads and its waterways provide important routes for commerce between continents. It is no wonder, then, that the transportation, logistics, and infrastructures sectors in Romania offer high potential for growth and profit. The prospect of harnessing this potential has attracted investors from around the world – and law firms positioned to help them succeed. Danilescu Hulub & Partners, founded by Partners Lucian Danilescu and Andreea Hulub in April, 2020, is one such firm.

How it Came Together

"Andreea and I met ten years ago through our clients who, at the time, were doing business in the port of Constanta," recalls Danilescu Hulub & Partners' co-Founding Partner Lucian Danilescu. "We are both consultancy lawyers and were involved with two of the largest law firms in Bucharest." Indeed, Danilescu spent 14 years at what is now Zamfirescu Racoti Vasile & Partners before, in 2011, going on to co-found Mares/Danilescu/Mares. For her part, Andreea Hulub spent twelve years at Popovici Nitu Stoica and Partners, where she coordinated one of the M&A practice groups.

Although both worked on real estate matters, their primary areas of focus differed. Hulub was more involved with M&A transactions and industry, agricultural, and port/airport-related matters, working on deals such as the acquisition of Azomures by Switzerland's Ameropa Group, the acquisition of Macon Group companies by construction materials giant Xella, the acquisition of regional agricultural distributors Promat and Agroind by Ameropa, and the acquisition of a majority stake in turnout sleepers producer Travertec by Voestsalpine. Danilescu, meanwhile, was focusing on energy and privatizations, including those of RomTelekom, Distrigaz, Petromedia, and Banka Agricolo.



According to Danilescu, over the course of several years, he and Hulub began encountering each other often – frequently on the opposite sides of transactions. It soon became clear that their focuses overlapped, and a friendship formed. The two became increasingly close – their families even started going on family ski trips together –and over time, they became aware that their attitudes toward their profession, organizational strategies, and even politics were aligned.

In finally deciding to join forces and open a new firm, Hulub insists that the essential consideration was their common approach to clients. "We both felt there was a need for a change in the approach to client relations," she says. "We both envisioned a more approachable and less rigid client approach, more dynamic and integrated to client needs."

And Danilescu points to the value of a common goal. "You and your partner really need to be focused on the same thing," he says.

The Focus

According to Danilescu, he and Hulub chose to focus their practice on areas like infrastructure and transportation, where Romania was falling behind, despite the country's geographic importance. "Romania is very important in the transportation

sense," Danilescu says, "because of the Danube and the Black Sea. The Danube coastline is not utilized enough, as it is still mostly underdeveloped in our part of the river, unlike in Germany or Austria."

Developing the necessary infrastructure would facilitate the transportation of both Romanian and international goods. "Dacia, the automobile manufacturer, has a very big problem with transporting its products," Danilescu reports, noting that "the company is considering shipping them via the Danube and the Black Sea as a solution." According to him, waterways have clear advantages over roads, since one barge alone can carry 3000 tons, equal to about 150 trucks.

Thus, Hulub claims, the Danube provides Romania with a massive competitive advantage, and its connection to the Constanta Port via the Black Sea-Danube canal provides a fast and eco-friendly alternative to transporting goods overland from Constanta to the west of the country. The opportunity thus presents itself for a law firm genuinely skilled in infrastructure and transportation matters to carve out a profitable niche for itself. "Ultimately, it is an intricate and complex field, and results in it are hard to achieve," Danilescu says. "That is why becoming a master of it is very rewarding."

Still, bringing about change in the area is easier said than done, and Danilescu notes with some frustration that Romania's legal environment remains a significant impediment. "Even though we implemented all the regulations that the EU asked, there are some specifics that still need to be addressed," he says, noting that Romania was the first country in the EU to establish the Council for Surveillance in the Naval Domain. "The role of the Council is to regulate transportation tariffs, because several local authorities had been charging different prices. What is now required is an amendment to the existing legislative framework whereby this Council is given more extensive powers and attributions so as to be in position to effectively implement the regulations – EU Regulation 2017/352 and Romanian Law 235/2017."

In fact, Danilescu reports, his firm has been invited to participate in the working group established by Romania's Ministry of Transportation to amend Law 235/2017 (and Government Ordinance No. 22/1999) both concerning the exploitation and management of Romania's port infrastructure.

A Snowball Rolling Downhill

While Romania's legislation sometimes still frustrates, Danilescu Hulub & Partners has exceeded expectations since its establishment last spring. "We succeeded not only in keeping some of our old clients but also taking on a few new ones," Danilescu says, proudly, "including two big Dutch groups."

Unsurprisingly, much of the firm's work since its launch – which coincided, more or less, with the arrival in Romania of the COVID-19 virus – has involved the pandemic's effects on the country's business sector. "Our clients contact us about labor issues and financing issues," he says. "Everything is kept afloat by the government's assistance packages," he adds. It's not all Covid-related, though, and Hulub reports the firm has been "happy to assist clients in development projects and some acquisitions in the logistics sector as well."

Looking into the future, Hulub sees real potential: "It took us more than ten years each to build up a thorough specialization in – and a sound understanding of – the transportation field, and we are proud to be the only local law firm bringing added value for our customers in this field." Indeed, she says, "considering Romania's strategy with regard to the future development of its transportation network and the anticipated inflow of related EU funds – Romania is expected to receive some EUR 80 billion in funding from the EU over the next few years to improve its infrastructure – we expect that our business will ride this wave."

As a result of its initial success, the Danilescu Hulub & Partners team has already begun to grow. "We hired two new associates at the end of 2020, and we continue to be on the lookout for young talent," Danilescu says. Hulub nods in agreement, adding that "the firm will provide everyone with a fair professional growth environment and access to partnership will be open to those who will be ready to run the extra mile along our side."

Still, Danilescu says, the firm's path is unlikely to include massive expansion. "We see ourselves with a team of about 30 lawyers," he says. "Anything above that, you have to start building up a corporate environment. Then that becomes the main focus of the partners, instead of focusing on clients. We decided to provide full service to our clients on a daily basis. For this, you need to be involved in technical and practical work, and of course, leading a team; you don't want to be involved in petty work."

In addition, Danilescu notes, keeping the firm a manageable size allows them to maintain its culture. "We train our younger colleagues by ourselves and we want them to work in a friendly environment, not in an aggressively competitive one. We want them to feel like part of a family." ■

THE FUTURE OF FINANCE IN CEE: HOW 2020 CHANGED THE MARKET AND WHAT TO EXPECT IN 2021

By David Suckey

As last year's upheavals continue to influence finance markets in 2021, Erika Papp, CMS's Head of Finance CEE/CIS, and CMS's Regional Finance Partners Paul Stallebrass in Prague, Ana Radnev in Bucharest, and Elitsa Ivanova in Sofia offer their perspectives on what this year might hold for financing in CEE.

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CEELM: Last year was extraordinary in many ways. How has the pandemic shaped financial markets in Central and Eastern Europe so far – and what do you expect from 2021?

Erika: It's been a remarkable story. At the start we were concerned there would be no new transactions. But all CEE countries enacted moratoria on loans and pumped cash into banks. Thus, the anticipated wave of bankruptcies did not materialize. Today we are much better placed to see how the CEE economies are coping. Poland, for instance, has weathered the storm better than most, while Hungary, by contrast, didn't see as many new investments in 2020 as it had in previous years. Although much has depended on each country's specific response to the pandemic, the CEE region as a whole has coped much better than we might have expected last spring.

This year promises many new deals in real estate and project financing, and the trends remain strong. Markets are busy in non-performing loans and banking M&A.

Paul: The most obvious impact of the pandemic was on the keenness to do transactions, especially in private equity, which suffered from the uncertainty. Some sectors did show resilience – for example e-retailers, who benefitted from the lockdowns, as well as the tech sector and pharma.

By the second quarter of this year, I expect the situation will be clearer and markets will pick up as a result of valuations stabilizing. It's important to realize that right now people may be less inclined to sell due to poor numbers following a tough year.

CEELM: How are the current transactional trends in the region affecting acquisition finance and corporate lending in CEE?

Paul: There is plenty of liquidity in the market and substantial funds are available. On local markets, I expect a change in underwriting, with a shift away from syndication and more deals being done on a club basis, as they were after 2008. There is also potential for growth in IPOs instead of sales to PE or private buyers, and we have seen some successful examples of IPOs already over the last six

months."

CEELM: Has Brexit had any substantial impact on CEE finance transactions?

Paul: Brexit has not caused any significant problems among banks providing finance and has only had a minimal impact on the general financing market. The one consistent issue we're seeing in CEE is questions regarding whether documentation should still be governed by English law. However, it's misleading to think that Brexit is of any relevance here. English laws are arguably the best because of their flexibility and lack of statutory interference in commercial transactions – although that does not necessarily mean English courts are also best – and English remains the *lingua franca* of business in CEE. English law was used before CEE countries joined the EU and English laws govern contracts involving entities in jurisdictions outside the EU, like Singapore. In addition, English and EU courts will continue to recognize English law as the governing law of contracts, exactly as they did before Brexit.

Erika: As Paul notes, we're getting a lot of inquiries about English law governing contracts in CEE. We still strongly recommend the use of English law. In addition, Brexit may cause a need for minor redrafting of specific clauses in certain deals, and of course there are alternative solutions if clients feel strongly about the governing-law issue. For example, parties completing a deal who are exclusively from one CEE country could agree to have that country's laws govern. I do, however, always recommend that our clients keep using English law. For CEE, Brexit is no drama and actually offers new opportunities.

CEELM: Given the current climate, how do you think restructurings and NPLs will evolve in CEE this year?

Ana: Last year, governments helped businesses a great deal. Although each country took a different view, to a certain extent companies were able to postpone and defer payments. But that could not go on indefinitely, and today the plans that businesses have made are becoming more important. I expect we'll see fewer restructurings this year. Things will be clearer by the second or third quarter of the year, after which I anticipate more disposals. However, I think these will be more medium-to-large, single-asset disposals.

> ***It's been a remarkable story. At the start we were concerned there would be no new transactions. But all CEE countries enacted moratoria on loans and pumped cash into banks. Thus, the anticipated wave of bankruptcies did not materialize.***

Erika: One exciting development is the new EU Preventative Restructuring Directive, which is an entirely new way for struggling enterprises to stave off bankruptcy. This framework directive gives member states a great deal of latitude in implementing it and determining for themselves how their internal bodies will oversee restructurings. In addition, the framework offers vast flexibility, including allowing for the sale of the enterprise, and the swiftness it offers should really help troubled businesses.

CEELM: In your view, is CEE still an attractive destination for structured commodity and trade finance deals?

Elitsa: Yes certainly, and this will continue to be the case in 2021 as structured trade and commodity finance offers increasing opportunities. Ukraine is probably the most active market in CEE regarding structured commodity finance, especially for "soft" commodities: food and agriculture. There, we see investor confidence restored over recent years with tenors no longer restricted to one year or shorter, and some DCM activity particularly for large, vertically integrated argi-businesses. As Ukraine remains the grain house of Europe, the country offers a range of excellent opportunities. In the rest of CEE, companies are becoming more sophisticated, and while most of their financing is still based on straightforward bilateral revolving credit lines, we are starting to see larger and more complex structures as well, such as the occasional prepayment or borrowing base facility, as well as club and syndicated deals. The reason I do not mention Russia and CIS here is simply because I consider them in a category of their own, and not part of CEE; otherwise, there are also many opportunities there in terms of commodity finance work.

Risks in these types of investment do exist, of course. The pandemic caused a period of uncertainty and lessened demand from China for a period in 2020, especially in the metals and mining sectors. However, commodities resisted the pressure well, and the outlook for 2021 is positive.

CEELM: Are foreign banks particularly active in finance transactions in CEE?

Erika: Yes, foreign banks – especially Austrian and German banks – have traditionally been active in financing projects and transactions in our markets. Interestingly, we're seeing more Asian banks arriving. To a degree this is a natural coda to the volume of investments coming from that part of the world. Chinese companies that enter CEE markets want to benefit from having their banks here to offer financing.

More importantly, we're seeing new PE sponsors in the region. China's GDP has enjoyed strong growth and PE investors are coming to this region to identify and partner with dynamic businesses.

CEELM: And what role do development banks in particular play in finance transactions in these markets?

Elitsa: International development banks have played an important role in providing resilience-based financing to businesses in CEE, supporting them through the pandemic. We saw a lot of that happening across a big part of our region and it was certainly encouraging to witness such a level of support across sectors.

Ana: Interestingly, the current situation itself is not stopping transactions from taking place – quite the opposite. Multi-lateral financing institutions such as EBRD are very active in the region. EBRD has already rolled out investments and disbursements to its clients and countries in CEE. It also acts as an anchor by encouraging others to get involved. Most importantly, the post-coronavirus recovery will be a sustainable recovery.

CEELM: Which areas or sectors do you see being on the rise with increasing opportunities, despite the pandemic?

Elitsa: Renewables are certainly on the rise across the region, including in terms of M&A activity and refinancing for existing projects. Regulation in that area is more stable as well, and as technology is much cheaper, projects can be financed from the market without the need for feed-in tariffs. Greenfield developments will almost certainly keep increasing because

new capacities are required for governments to meet their green energy targets.

CEELM: On the subject of sustainable recovery and green energy targets, to what extent do sustainable investments resonate in CEE today?

Ana: It's growing in importance all the time. We can see how investors insist on sustainability in investments. Typically, investors will include reporting obligations proving that green or other sustainability objectives are met by certain points in the lifetime of the investment. Large investors have their own in-house, specialized teams to ensure investments meet their sustainability targets. These targets can specify items in a broad range of issues, from environmental, social, governance responsibilities, to diversity in the workplace (such as promoting women).

Indeed, ESG issues have come under a new EU regulation called the Sustainable Finance Disclosure Regulation, which introduces several new concepts that businesses will need to understand when disclosing their ESG approach. At a high level, these include financial market participants, financial advisers, and financial products.

Each relevant entity needs to ask how it integrates sustainability risks into the investment decision-making process, how it takes into account the principal adverse impact of investment decisions on sustainability factors (on a comply or explain basis), and how its remuneration policies are consistent with the integration of sustainability risks.

It's also important to remember that all products are captured – not only those related to ESG. All products will need to disclose the likely impact of sustainability risks on the returns of the product (or explain why such risks are not considered relevant). Product-level obligations for all financial products include the integration of sustainability risks, any principal adverse impacts, and marketing communications.

Finally, ESG-focused products that promote environmental or social factors, or which have a sustainability objective, are required to make additional disclosures, following the detailed frameworks set out in the Sustainable Finance Disclosure Regulation.

CEELM: Banks have been at the forefront of digitalization. What key developments and topics are keeping the financial markets busy in this space?

Erika: The digital transformation of the global economy is well underway, and the pandemic has only accelerated these changes. In a recent survey CMS conducted, 58% of businesses with CEE operations were already using AI solutions, while a significant majority – 83% – were planning AI-related investments. The banking sector is at the forefront of these developments, both globally and across CEE.

Digitalization is no longer the future but already the present, and several banks based in or present in CEE have been investing heavily in their digitalization projects for several years now. Digitalization brings a new way for banks established in CEE to regain market share and customers from fintech companies, which are now operating in more challenging market conditions. There are more than 600 fintech companies in the region, which presents an opportunity for banks to regain customers that had moved towards more digital-friendly alternatives.

A few examples include OTP Bank and its fintech company OTP Mobile; UniCredit, which recently completed significant digital projects; and Erste with its new digital platform. The future is promising for the banking sector in CEE.

CEELM: And finally, how much consolidation are you seeing on the banking market today?

> ***Multi-lateral financing institutions such as EBRD are very active in the region. EBRD has already rolled out investments and disbursements to its clients and countries in CEE. It also acts as an anchor by encouraging others to get involved. Most importantly, the post-coronavirus recovery will be a sustainable recovery.***

Paul: Banking M&A is still moving forward despite the pandemic. For example, last year we saw some transactions in the Balkans. We are also likely to see an increase in transactions in the fintech sector and less-traditional banks, where CEE countries have tended to be quite successful. Of course, the coronavirus has caused some disruption, but the banking sector in CEE had enjoyed a fairly long period of stability before 2020. If the pandemic causes issues in their home countries for some of the international banks that are present to a limited extent in the region, they may seek to divest themselves of parts of their business that they view as non-core, which would in turn lead to an increase in banking M&A. ■

MARKET SPOTLIGHT HUNGARY

GUEST EDITORIAL: CHANGE IS ALSO CHANGING

By Agnes Szent-Ivany, Managing Partner, Eversheds Sutherland

A look back at more than 30 years in the legal profession, through changing political and economic systems, legal environments, and expectations towards lawyers, and changing ways and platforms of communication.

How Did It Start?

In the last few years before Hungary's transformation from socialism to a democratic system it became possible for legal counsels to establish legal counsels' firms. Such firms were different from the law firms of that time, as they were not allowed to advise private persons on personal matters. However, they could provide legal services for private entrepreneurs, state enterprises, and small private businesses relating to their business activities. After finishing my studies at the Legal Faculty ELTE I worked for a couple of years at a foreign trading company, and in 1987, several partners and I established our legal counsels' firm and started advising private businesses and enterprises relating to their export-import matters. I was at the right place at the right time, as the first Companies Act and the Foreign Investment Act were enacted in 1988, and we immediately started working for the first foreign investors. We successfully built up one of the first Hungarian law firms, serving mostly international clients.In 1991, following the political transformation, such legal counsels became member of the Bar.

The Good Old Days

This was an exciting time. In the nineties, we worked intensively, day and night, almost continuously. We were very busy, primarily with privatization tasks.

A memorable moment was when we worked on the side of British investors on the acquisition of a major factory. I remember, one night well after midnight, sitting in a meeting room of the State Property Agency. We were all exhausted, but as the purchaser was scheduled to fly home the next day we had to finish the process. The negotiation involved very intense arguing about the purchase price. At around 3 a.m. I could not resist the urge to close my eyes for a few moments. (I assumed that nobody had noticed, but a couple of years later, when speaking with the attorney who had sat opposite me at the table, he said that he had been envious that I was able to sleep, so it clearly had not gone unnoticed). When we finished that meeting, I went to my car and I could not start it; I had left the light on. I called a taxi for assistance, and the taxi driver tried to plug in my battery, but his battery was also exhausted. He called another taxi, and that driver was able to charge *his* battery, allowing him finally to charge mine, and I finally got home around five o'clock in the morning.

In those times we learned many new legal concepts, terminology, and instruments, that had never existed previously in Hungary – or if they had, only in theory in our university textbooks.

Then and Now

My favorite examples of the new terminology we learned are the abbreviations so often used without their meaning being explained. A couple of years ago, I participated in an international meeting in London. The presentation was full of abbreviations – several of which I was unfamiliar with and unable to figure out what they meant. I turned to the person sitting next to me – a native English-speaking lawyer – to ask what the last abbreviation meant. She said she had no idea. Then I calmed down, reassured that I was not the odd one out.

In the early years, things like videoconferencing, mobile phones, the Internet, and e-mail did not exist. When I became a lawyer even the telefax and computer were novelties. In our days, junior lawyers probably did not even know what telexes were.

Now the legal industry focuses heavily on digitalization, we communicate with courts and other authorities electronically, we have electric signatures, data rooms are available electronically, and we use AI in our due diligence exercises.

And, thanks to digital devices and tools, the available communication tools (such as Teams, Zoom, and WebEx) allowed us to continue our work successfully during this COVID-19 crisis, though we miss the personal meetings and travelling very much.

Who knows what tools we will use for communication in five- or ten-years' time? Maybe Elon Musk or Jack Dorsey. ■

PREPARING FOR CHANGE: OLIVER KOPPANY AND CSABA RUSZNAK STEP IN AT KNP LAW

By Radu Cotarcea

On February 8, 2021, CEE Legal Matters reported that Oliver Koppany and Csaba Rusznak had joined KNP Law Nagy-Koppany Lencs & Partners in Budapest. Rusznak will lead the firm's Dispute Resolution Practice Group, while Koppany, who joined as Foreign Legal Counsel, is preparing to take over the management of the firm from his mother, KNP Law Founder and Managing Partner Kornelia Nagy-Koppany. We spoke with Koppany and Rusznak to learn more about their background and plans for the future.

CEELM: Tell us a bit about KNP.

Oliver: KNP started 15 years ago and is an independent international law firm in Hungary, with a team of about 20 people. It was started by the same three Partners we have today: Kornelia Nagy-Koppany, Laszlo Lencs, and Timea Fuzessy Maglics. As a child, I would go down to the firm's offices after school, and I noticed that what started as one small office on a floor with four other offices kept spreading. Eventually, office by office, KNP had taken over the entire floor.

We have had a long, stable, and successful history so far and the goal from here on is to focus on expansion and growth.

CEELM: What would you identify as the highlights of your careers, leading up to today?

Oliver: When I was in high school and told my mother that I wanted to become a lawyer she insisted I get a US education. I went to Suffolk University in Boston and then the American University Washington College of Law in DC.

During my studies, I spent a bit over a year with Willkie Farr & Gallagher, with the tremendous David Mortlock as my mentor. He taught me how to work with people – I owe a lot to him. He really breaks the mold of the old way of thinking that associates must suffer on their way to the top. His approach was always respectful, caring, and that of being a guiding hand – something that I really wish to emulate at KNP.

During my undergraduate studies in Boston, I also worked at Foley & Lardner, where I worked for Chris McKenna. He was fantastic in helping me understand how to develop new business opportunities and think outside the box. I know it is a tall order to ask for everyone that walks through our doors to be happy and excited for the unique challenges each day presents, but that would be my goal.

Csaba: I was born in Hungary in the mid-1980s, and in the early 1990s my parents went to London for what they thought was going to be six months, to "experience life in the West." That became eight years, and then eventually, in 1999, we moved to the United States. I studied foreign relations at Georgetown University and went to Vanderbilt University Law School after that. In 2012, I joined the international law firm of Arnold & Porter, where I spent most of my time doing international arbitration work – both in the firm's Washington D.C. and London offices.

In 2018, I started my own independent practice – Sovereign Arbitration Advisors. It was a bit of a new model, with me being essentially an independent practitioner. I typically work either with other practitioners or law firms, putting together the most appropriate team for each engagement. I think that the collaboration and partnership with KNP is a fantastic example of the type of additive value that someone with my flexible platform can bring. My D.C. platform will continue its existence, but I will be spending a lot more time in Hungary.

Oliver Koppany, Foreign Legal Counsel, KNP Law Nagy-Koppany Lencs & Partners

Csaba Rusznak, Head of Dispute Resolution Practice Group, KNP Law Nagy-Koppany Lencs & Partners

I have some big shoes to fill, but I have been preparing for this since middle school when I decided I wanted to follow in my mother's footsteps.

CEELM: What drew you to KNP in particular?

Csaba: There was real professional chemistry, ever since my first meeting with Oliver. We are both Hungarian, but we have also had significant experience in the U.S., which means that we understand each other on many levels. We place the same value on excellence and on building solid, long-term relationships. We understand each other instinctively. As for our collaboration, we started to understand that if we could bring our assets and experience together, there would be a real opportunity for all of us to grow, both in terms of business opportunities and as professionals.

CEELM: What is on the agenda for the first couple of years for you both?

Csaba: The first thing is to make sure that the integration goes well. Our primary focus is making sure that the firm's existing clients are able to tap into the new capability that I bring. International arbitration, ADR, transnational litigation, but more than that – my network around the world and my relationships. Although my primary area is dispute resolution, I will be helping the firm whenever I can in any and all matters as the relationship evolves.

Oliver: The firm is well known for our Pharmaceutical and Life Sciences practice. The pandemic has been challenging – and we have had to deal with this head-on. Part of that was addressing the new client concerns presented by the unprecedented situation that most of us have not seen in our lifetimes.

We are also heavily focused on labor and employment matters, in addition to real estate concerns, which again, due to the pandemic, involved some unique legal obstacles, which were challenging, but also extremely rewarding to work hand-in-hand with our clients on. Our team has done a phenomenal job navigating these unique and challenging times. Moving forward, our objective is to continue to focus on our clients and provide them with the quality of service they know and expect from us.

We are also expanding, not only in size, but in practice areas, where we are launching some which our firm has previously not had – such as Arbitration and White Collar Criminal Defense. Considering a large portion of our firm, including the founding partners, is the same since as it was at our inception 15 years ago, we are focused on organic and strategic growth in the long-term.

CEELM: Since you mentioned the pandemic, how do you feel things have changed since early 2020?

Oliver: Just like everyone else, we had to adapt quickly. Over the years, we have built extremely strong relationships with our clients, and we had to make sure we could continue to build and strengthen these relationships in alternative ways, including much more video conferencing! We have always made sure that everyone on our team is equipped with the best technology, so in that sense the transition from the office to the work-from-home setting was smooth and seamless.

Mother and son: Kornelia Nagy-Koppany and Oliver Koppany

Csaba: I should add that, as much as it has taken from us, the pandemic has given back, in a way. The world has flattened significantly, and people are much more willing to embrace electronic communications, whereas in the past they may have insisted on meeting in conference rooms, or over a formal meal. We have been invited into each other's homes, met their children, and shared stories of frustration and challenges. It has had the cumulative effect of increasing intimacy, and in a way, it has brought forth an increase in human trust.

The pandemic has also compressed the time necessary for productive conversations with clients, allowing us – and them – to come to faster decisions. Now, you can have a meeting over Zoom almost immediately, instead of needing to wait six months until the next time you are all together in a particular region.

CEELM: Oliver, the long-term plan is for you to take over the reins of the firm. How are you planning to carry out that transition?

Oliver: I have thought about this question quite a lot. Succession is an important topic for us in 2021. Right now, I am at the early stages of this process, which involves learning and absorbing everything I possibly can, not just as it relates to my job as an attorney, but as it relates to the daily, monthly, and yearly tasks of managing a law firm. I have some big shoes to fill, but I have been preparing for this since middle school when I decided I wanted to follow in my mother's footsteps. I wish I could tell you that we have a concrete five-year plan, but the truth is we don't. A transition like this must be organic, and we have to make sure our team and our clients have the proper time to become familiar with the change, and that the partners of the firm are comfortable with it. Once everyone is aware of it and is comfortable with

it, and when I am ready – the change can be made.

With that said, there is no one else who is emotionally more invested with purer intentions than I am, given that KNP was started by my mother, and I need to make sure that the future of the firm is built on the values she instilled in me and that she has built KNP on. I have a lot to learn, but I am delighted about all the great possibilities, the incredible client base, and the amazing team we have at KNP.

CEELM: What are the firm's main strengths at the moment that you are looking to build upon?

Oliver: We currently have some 15 practice areas. We have already widened our focus to include data protection and privacy, white collar crime and cyber law, and now, thanks to Csaba, dispute resolution as well, in addition to our already strong Pharmaceutical and Life Sciences practice. We also regularly advise our clients on real estate, tax, labor and employment, public procurement, and competition law matters, among others.

CEELM: What are you looking to grow further?

Oliver: Strategically, green energy. We see a lot of potential there and we have interesting and exciting clients in that area, especially with Hungary perhaps being less open to green energy than some of the neighboring countries to this point. There is nothing more exciting than helping a client navigate a field of law which is truly just developing.

CEELM: How will the firm be different once that transition is complete? And what will you keep the same?

Oliver: Truthfully, I do not expect the firm to be different. For 15 years, we have successfully grown and expanded based on the ideals of the current leaders of the firm. I hope that I can build on what we have and emulate their decision making.

I would say that, while not different, I hope that I can add to the firm by bringing a new and perhaps more youthful perspective to the table. My mother says that Managing Partners are not like wine – meaning they do not necessarily get better with age. I am focused on growth, but I want to make sure that we grow by adding practice areas and practice groups that we do not already have, and that we find the most talented individuals in those fields to support and build upon. Csaba brings experience, education, and a skillset that no one else in Hungary has. Our White-Collar Criminal practice is headed by an attorney who was a police officer prior to making the transition. I personally cannot think of a better person to lead this practice than someone who has seen the system from the inside out.

As to why I hope to keep much the same, much of what I have learned about this industry came as lessons from my mother. Her business development skills are second to none, so I am hoping to learn and grow on that front from her still. She also has a phenomenal way of being a leader and a mentor, but also a friend to everyone. It is hard to explain and mimic, but I have to learn and execute it the same way she does! And of course, I have to incorporate the lessons I learned from mentors like Chris McKenna and David Mortlock along the way. Our focus on the human element is the most important thing – to have the team happy and content coming into work and appreciating both the place they work in and the teammates that they can learn from and work with.

CEELM: Csaba, what is your role in all of this? How will you be supporting this changing of the guard?

Csaba: I think my precise role and contributions will become clearer over time as we grow and things develop. This is not something that can be precisely foreseen as we sit here today, but focusing on the big picture goals, the first is of course making sure that we continue to deliver excellent value for the firm's existing clients.

The professional development of the firm's attorneys will be key as well. I was very lucky to have been able to spend time with Arnold & Porter where collegiality and supporting each other was so important – and I see a lot of that at KNP. I wish to share my knowledge and experience with folks at the firm.

CEELM: Looking at the legal services market in Hungary, what are the things you will make sure to keep an eye on?

Oliver: I would call it the innovation gap that needs to be filled in the profession, especially in Hungary. Our job as lawyers is to advise and communicate clearly and effectively, but also to stay on top of new developments.

Csaba: The Hungarian market today is doing extremely well, since it is plugged into the international trade and business environment. Here I am talking not just about the EU but also North America, and increasingly Asia and Africa. We want to be at the cutting edge of these developments, helping clients navigate challenges and giving the lawyers of the firm as much opportunity to engage with that as possible. ■

MARKET SNAPSHOT: HUNGARY

THE IMPLICATIONS OF THE COVID-19 CRISIS FOR LITIGATION IN HUNGARY

By Orsolya Kovacs, Partner, Nagy & Trocsanyi

As the world continues to fight the challenges presented by COVID-19, some guidance on the effects on litigation of the COVID-19 crisis can be discerned from the past year. We know that some sectors have suffered more than others, and participants in industries most affected by COVID-19, like airlines, HORECA, tourism, entertainment, and the commercial real estate sector have already become involved in related legal disputes, such as contractual disputes concerning supply chain disruptions. The big question is whether the pandemic qualifies as a *force majeure* or a material adverse change that could allow the contracting parties to walk away.

In addition to the newly appeared derivative claims, the management of new COVID-19 related claims in addition to already pending cases was a big challenge for the Hungarian court system last year. However, it appears that the law has developed and adapted, as it always does. After the very first day of the state of emergency – which was declared on March 11, 2020 – it took only two and a half weeks (March 31, 2020) for courts to restart their work (although of course with limited capacity, postponements of deadlines for hearings and filings, and restrictions on entering court buildings and file review (subject to previous registration, *etc.*). In the meantime, courts have been equipped with virtual facilities (like the distance-hearing system which was installed independently of COVID-19 and which now provides more than 70 conference rooms in court buildings suitable for sessions across the country, mainly used for taking evidence by videoconference) and have offered e-hearings on online platforms (such as Skype for Business).

Actually, last year distance-hearings were widely used, especially in criminal cases, unlike e-hearings, which remained uncommon. There could be several reasons for this reluctance among legal practitioners, one of which could be the lack of infrastructure. However, there might be further considerations in the background as well, like the importance of physical presence in the court room, which facilitates free-flowing discussions and allows the court the opportunity to read body language, and which also avoids the formality of e-hearings, connected to the ability to make full-time recordings.

Of course, the courts were eager to recover quickly after the 2.5-week closure to avoid any sizeable backlog. Court statistics show that for the first two quarters of 2020, the number of new claims dropped by only 2.3% – impressive, compared to the 11% decrease in new claims in 2018 (due primarily to the then-newly-introduced Civil Procedural Code). Of course, the effects of the pandemic are easy to identify in the statistics for the first half of 2020: the number of closed cases dropped by 6.8%, the number of pending cases increased by 1.7%, and the ratio of filing and closing of 2020 is by far the lowest in recent years. Unfortunately, the continuous decrease in delayed cases (*i.e.*, cases still pending after two years) stopped in 2020, which means that cases started and/or pending in COVID-19 times may take even longer to resolve. We anticipate that this backlog will start to decrease, however, as the courts adapt to the pandemic and respond to pressure to deliver justice where possible. Even now, hearings are scheduled and held more and more as they were in the pre-pandemic era, though there are notable differences: plastic shields installed on the desks, chairs placed according to rules of social distancing, mandatory mask wearing, and airing of the court rooms every 40 minutes.

While courts are now moving forward with pre-existing cases with greater ease, they still have to deal with the fallout of the COVID-19 pandemic, including an increasing number of consumer claims, contractual disputes, insolvencies, and employment claims, which are likely to stay with us in the post-COVID-19 era, too.

This might push courts to go ahead with the original (and stricter) deadlines; however, the courts, legal practitioners, and clients must be conscious that it is likely to take longer and require more work to achieve results by remote-working compared to more traditional methods – anticipating that society may keep the home workstyle even after COVID-19. ■

IN FOCUS: PANDEMIC-DRIVEN DIGITALIZATION, DATA BREACHES, AND INTERNATIONAL DATA TRANSFERS

By Adam Liber and Tamas Bereczki, Partners, Provaris

This past year brought significant privacy-related regulatory challenges to business operations. The pandemic situation and lockdown, the ever-rising number of data breaches, the invalidation of the EU-US Privacy Shield, and the challenges arising from the uncertainties of BREXIT have all tested compliance departments to the full.

The pandemic and the health emergency situation forced many companies to seek innovative solutions to maintain or to completely transform their business operations. Sending employees into home office and working remotely from home and keeping contact with customers and clients have changed the way businesses operate, significantly accelerated the expansion of e-commerce towards new business opportunities, customers, and product types. Indeed, the rapid move to a digital business and related digital transformation was a key driver or survival strategy for several companies, while disrupting the traditional legal and compliance work performed by multinational corporations. The shift away from physical to online operations has shown the importance of digital communication channels and platforms, online customer relationship management, and mobile applications, and this also brought challenges to those compliance departments inexperienced with digital transformation projects and accompanying regulatory challenges, and with complex privacy-by-design, privacy-by-default, e-privacy, information security, information technology, and intellectual property-related challenges.

The dark side of the lockdown also led to an ever-increasing number of cyberattacks and data breaches that caught many compliance departments off-guard. Phishing campaigns, ransomware attacks, and direct cyberattacks resulted in major data breaches throughout Europe – and in Hungary as well. Preparation for data breaches paid off where tested data breach playbooks were available, and many compliance heads encountered such data breaches and business email compromise frauds for the first time.

Hungarian regulatory authorities continued their growing focus on digital operations. The Hungarian Competition Authority is currently investigating the role of data and data-based business models in e-commerce and the resulting effects on competition, the Hungarian National Bank has issued several new recommendations and guidelines on remote working, bank physical and logical security, and compliance defense lines, and the National Authority for Data Protection and Freedom of Information has continued to enforce the General Data Protection Regulations provisions and imposed its largest-ever fine: approximately EUR 280,000 on a Hungarian telecommunication company for insufficient technical and organizational measures related to a data breach.

The second part of the year was influenced by EU-level developments involving international data transfers. The invalidation of the EU-US Privacy Shield and the limitations articulated by the Court of Justice of the European Union relating to the use of EU standard contractual clauses have forced companies to initiate the complex task of assessing third countries and identifying appropriate supplementary measures to secure international data transfer compliance. This required the mapping of international data transfers, replacement of the EU-US Privacy Shield where necessary, and conducting transfer impact assessments by sending out questionnaires to business partners and obtaining feedback from them to document and assess the need for specific supplementary tools required for the data transfer. In that regard, the simple paperwork of entering and signing EU standard contractual clauses have become more burdensome and difficult to manage considering the wide scope of transfers and outsourced business operations.

At the year's end, the exit of the United Kingdom from the European Union also became reality. Several business operators have already taken steps to address the fact that the UK will be a third country in the future; however, given that the European Commission has not released an adequacy decision concerning the status of the United Kingdom post-BREXIT, this situation also caused compliance challenges to companies considering the need to conduct transfer impact assessments regarding UK operations. Finally, during the Christmas period, representatives of the UK and the EU struck a deal and recognized the UK as a safe country in the EU-UK Trade and Cooperation Agreement until July 1, 2021, and it is anticipated that the EU Commission will adopt an adequacy decision soon.

We expect that challenges relating to the COVID situation, digitalization, and the growth of e-commerce and privacy enforcement will continue and that more focus will be given to the use of monitoring technologies and tools. ■

CONSUMER PROTECTION IN THE DIGITAL SPACE – RECENT DEVELOPMENTS AND FLAGSHIP CASES

By Peter Zalai, Partner, and Barbara David, Trainee, PwC Legal Hungary

Emerging new tendencies in economic activities have reached Hungary in the last few years. The most important driving force behind this change is the shifting of consumption into the online space, which inevitably entails a change in market structure. As a result, new products that are exclusively or partially available online have appeared, the geographical coverage of products has widened, and other services related to online consumption have become increasingly important. Social media, influencer marketing, and targeted advertisements all contribute to the popularity of the new market as well. Hungarian consumers are now able to fulfil a significant portion of their product and service needs through e-commerce channels. With the COVID-19 pandemic continuing to push economic activities online, the role of digital distribution channels has increased even more.

As a result of this economic evolution, the Hungarian Competition Authority is increasingly concerned about competition and consumer protection in the digital economy. In order to ensure more efficient actions, in 2018 the HCA published a mid-term strategy paper called "Digital Consumer Protection Strategy" presenting its views on consumer protection in the digital age.

Achieving the goal of effectively protecting the public interest by defending consumers' decision-making process in the digital era, the strategy paper sets a toolbox. Apart from competition supervision proceedings as primary tools, the HCA takes the view that preventing competition law infringements via guidelines, soft law notices, and competition advocacy can be effective instruments as well. And indeed, over the past two to three years, the HCA has published several notices in order to help undertakings offering online services comply with competition law. These include, for example, notices regarding influencer marketing, advertising to children, and the recently published "green marketing" notice that assists undertakings in developing appropriate advertising practices regarding the environmentally friendly and sustainable nature of their products and services. In 2020, the HCA also compiled a Digital Comparison Tools market report, based on thorough research on the subject.

Despite its competition advocacy, the HCA is reporting an increasing number of unfair trading practices against consumers on digital platforms, and has thus recently initiated a large number of competition supervision proceedings and imposed unprecedented fines against operators of online services.

Since more consumer protection cases have been falling into the focus of HCA's enforcement practice, a trend seems to be developing: HCA appears to be shifting its focus from launching complex and difficult-to-prove antitrust proceedings to consumer protection cases. This trend started at the end of 2019 with the HCA's decision in the Facebook case, in which it imposed a fine of EUR 3.6 million on the company for advertising its services as free of charge, but failing to clarify that the users indirectly paid for the services by providing their personal data.

Another flagship case of the HCA's recent enforcement practice is the Booking.com case, in which the HCA imposed a record fine of EUR 7 million on Booking.com for misleadingly advertising certain hotel rooms as available with "free cancellation" and for pressure-selling tactics such as adding statements such as "32 more people are also watching" or "one person is considering booking this accommodation right now." the HCA considered this an unfair commercial practice due to its effect on the decision-making process of consumers.

As the classic consumer protection regulations are effectively applicable in the digital environment and commercial practices are easier to monitor in the online space, the HCA's tendencies are expected to become even more prominent going forward. ■

HUNGARY – STILL AN ATTRACTIVE PLACE FOR INVESTORS AND STARTUP FOUNDERS

By Gabor Marky, Partner, bpv Jadi Nemeth

Public Markets – No Major Decline

In accordance with worldwide trends, Hungarian public markets are not showing the signs of exponential growth that private markets are. The legislative environment for public listings has not changed significantly in Hungary since 2019, when Act CXX of 2001 on the Capital Market was heavily amended in order to be fully harmonized with the European Union's Prospectus Regulation (2017/1129 EU). That modification made public issuances easier, as it dispensed with the requirement that prospectuses must be prepared for listings of securities with unit values of at least EUR 100,000.

Partly due to the stability and the predictable legal environment, Hungary remains a relatively attractive target for public issuances, demonstrated by the several new listings on Budapest Stock Exchange (BSE) last year, even in the middle of the economic slowdown of 2020.

Private Markets – Attractive Atmosphere

It is safe to say that the CEE region has been a popular target for venture capital and private equity investments for the past half-decade. Although opinions differ as to the catalysing factors of this trend, all can agree that the relatively stable and EU-harmonized legal and regulatory environment, investor-friendly tax rates, the high number of well-educated IT professionals, and the lower cost of human resources, together with both EU and state-founded incentives, are contributing factors. These conditions led to two significant opportunities in Hungary: to invest in the country or to found a start-up.

Investors and inventive minds have realized these competitive advantages, and billions of euros have been injected into the CEE region in recent years in the form of private equity and venture capital investments – a trend that continues to increase despite the COVID-19 crisis. It is a common understanding between market experts that the potential in the region is far from exhausted, and that there is more space for growth. This is absolutely supported by the fact that the start-up culture is constantly developing in Hungary, as, in addition to the presence of VC funds specialized in different areas of growth with private investors, the infrastructure exists for start-up founders to receive world-class mentoring.

Due to this open environment full of possibilities, the landscape is colorful in terms of domestic investors, but it is far from full, and there are plenty of opportunities for foreign investors as well. In the current situation, investors looking for potential targets are prioritizing start-ups providing some sort of remote solution in their particular field of operation and contributing to the remote service of consumer needs.

As far as the domestic situation is concerned, the focus of investors in Hungary is on companies at an early stage of development, with older companies typically forming a secondary point of interest. Investing in earlier-stage companies makes it possible for investors to limit their risks: at first, a smaller amount of money is typically transferred, with additional capital injections being disbursed following the achievement of certain development milestones. The incentive to growth obviously lies in the provided financial assets primarily, but managerial rights, veto rights, co-decision, removal rights, tag-along and drag-along rights, among others, are also crucial instruments to achieve the desired end result. A grounded investment decision requires detailed legal due diligence, and once the decision to enter into the transaction is finally made, the investor needs an effective shareholder agreement to secure a return with the possible highest probability and to provide security and easily enforceable preferential rights.

Needless to say, during the pandemic, the importance of being protected from unexpected changes has significantly increased, and unusual times require unusual measures: the scale of material adverse change clauses has widened and early-exit options are appreciated.

To this end, it is indispensable for investors to hire the highest-level quality legal counsel – one who has both an international perspective and a familiarity with local regulations, and who can guide them through the whole transaction process. ■

INTELLECTUAL PROPERTY NEWS FROM HUNGARY

By Michael Lantos, Patent Attorney, Danubia Patent & Law Office

This report has the purpose of shedding light on the most important developments in the field of obtaining and enforcing Intellectual Property rights in Hungary in 2020.

Concerning patents, an amendment to Hungary's Patent Law has brought about a change in filing applications in Hungary in foreign languages. Previously the Hungarian Intellectual Property Office (HIPO) started action only after a Hungarian translation of the specification was filed, which was required to occur within four months of the filing date. According to the amendment, the term for filing the Hungarian translation was changed from four months to a full year, and (for only USD 400) applicants can request a preliminary search and written opinion on patentability based on an English specification. The search and resulting opinion must be provided by HIPO, in English, in less than eight months.

This is a major step forward, as in Hungary there are numerous foreign companies that need to protect their inventions, and following this new amendment they can start their first filing in Hungary and receive an opinion of patentability well before the expiration of the priority year.

This has proven a good amendment, benefitting not only foreign-owned companies with local R&D activities, but also many foreign companies with no enterprise in Hungary, as this service is so cheap and reliable and efficient that it has attracted wide attention.

A further event worth mentioning is the effect of the pandemic on the country. The HIPO has authorized its staff to work partly from home, electronic filing has become more common, and certain services which were previously available only through personal consultation have now been made available online. The application of official terms has become less strict in certain periods of Hungary's State-of-Emergency. Regulations concerning compulsory licenses were slightly changed to eliminate any potential problems arising from a vaccine's enjoyment of patent protection that would block wide-range use. To my knowledge this part of the law has not been put into practice so far.

In the enforcement of IP-related court cases the basic amendment to the Law on Civil Procedures, introduced in 2019, has had a great impact. The amendment, which was designed to speed up prosecutions, has imposed a number of new obligations on parties, which means that preparation for a lawsuit has to be made in a very comprehensive and thorough way, and that parties have limited opportunities to submit arguments. This has brought about a decrease in the number of cases, but hopefully, as lawyers become more familiar with these new procedural rules, the initially-envisaged shortening of the length of the proceedings will finally prevail.

Enforcement of IP-related laws takes place at the Metropolitan Court of Budapest (a competent first instance IP court with two special IP chambers), and second instance proceedings are dealt with at a single appeal court – the Appeals Court (Table Court) of Budapest. All parties may turn to the Curia (the Supreme Court of Hungary) by means of a so-called "supervisory petition" to challenge a ruling of law made by the appeals court. In practice the Curia has accepted almost all such petitions, so instead of a two-instance proceeding, in fact there is a three-instance proceeding, which has drawn out the process significantly. Under the provisions of a new amendment, however, such "supervisory proceedings" will be possible only in cases where the value of the proceeding is beyond a high limit, which will eliminate this delay. Additional amendments in the IP field designed to further improve the enforcement of IP rights are under consideration by the legislators, and the main one involves a proposed amendment, potentially uniting the current system, in which status cases are considered under separate proceedings from infringement cases.

Other issues concern the further modernization of the utility model system. ■

PARALLEL FDI SCREENING REGIMES IN HUNGARY: MAKING M&A TRANSACTIONS COMPLEX

By Gergely Szabo, Partner, Ban, S. Szabo, Rausch & Partners

The original foreign direct investment screening regime was adopted in Hungary pursuant to Regulation (EU) 2019/452 of the European Parliament and of the Council and became effective on January 1, 2019. Instead of amending the original regime, a new parallel FDI screening regime was introduced in late May 2020 to protect Hungarian strategic sectors during the COVID-19 period. This second regime was fine-tuned in the middle of June, 2020 and then again at the end of October, 2020. The notification obligation under the second regime is applicable to relevant transactions made before June 30, 2021.

Due to the extraordinary regime declared in connection with the COVID-19 pandemic, the personal scope and affected industries set out in the original regime were also amended in late November 2020. Consequently, two overlapping and complex regimes apply to FDIs. In this article, we highlight their main characteristics and differences.

Personal Scope

The personal scope of what we'll call the "Original Regime" originally covered non-EU, non-EEC, and non-Swiss citizens and entities as investors. The personal scope of what we'll call the "Second Regime" is broader, extending it to cover legal entities and organizations having a seat outside Hungary but within the EU or the EEA or in Switzerland as well, provided that they acquire majority control of a strategic company. However, as mentioned before, the Original Regime was amended in late November 2020. It now also covers EU, EEA, and Swiss investors, though, in contrast to the Second Regime, no majority control is required. It is questionable whether the current scope – aimed at all foreigners – is in line with Regulation 2019/452 and general principles of EU Law.

Affected Industries

Both regimes cover strategic sectors, largely in line with Regulation 2019/452. The Second Regime does not cover the financial sector, but its scope is much broader than that of the Original Regime, since basically any activity can fall within its scope.

Considering the above, certain investments (*e.g.*, those in the energy and communication sectors) must be notified under both regimes. However, other investments must be notified under either the Original Regime (*e.g.*, in the financial sector) or under the Second Regime (*e.g.*, in transport). Consequently, the categorization of the underlying investment requires deep market knowledge and thorough understanding of both regimes.

Relevant Investments

Under the Original Regime, the notification obligation applies to acquisitions of ownership – including establishment of a company or branch office and share acquisition – exceeding 25% (10% for stock corporations) or of a controlling interest by a foreign investor in a direct or indirect manner in a company that is subject to the regime. The definition of investments which require notification is much broader under the Second Regime than in the Original Regime, since it also covers transfers of essential assets, capital increases, transformations, mergers and demergers, obtaining bonds, and establishments of usufruct rights on shares. Furthermore, acquisitions of 10% of shares by non-EU/EEC investors and reaching certain investment thresholds also requires notification. The Second Regime does not apply to certain intra-group transactions and between related undertakings.

Authorities

Under the Original Regime, the Minister of Interior is competent, whereas under the Second Regime competence belongs to the Minister of Innovation and Technology. If a particular FDI triggers both notification requirements, that notification must therefore be made to both Ministers. The two regimes seem to operate with roughly similar procedural rules. However, the details, including procedural deadlines, are different. Under the Original Regime, the Minister is required to examine whether there any elements of the transaction endanger Hungary's security interests. Under the broader Second Regime, the Minister focuses on public interest, public order, and public security issues. All these categories might lead to subjective interpretation. Failing acknowledgement by the Minister – which makes both procedures a licensing – a transaction cannot be closed. Furthermore, violation of the notification obligation may give rise to considerable fines.

Effects on M&A Transactions

This patchwork of rules make investment in Hungary complex, and the broad conditions that might lead to rejection of investment may cause an investor to think twice before acquiring a Hungarian company. Accordingly, the subject matter, structuring, timing, and closing conditions of most M&A transactions in Hungary need to be examined and planned carefully. ■

NEW CASE LAW SHEDS LIGHT ON REQUIREMENTS REGARDING PROMOTIONAL ACTIVITIES OF PHARMACEUTICAL COMPANIES IN HUNGARY

By Helga Biro, Co-Head of Pharmaceutical and Healthcare, Baker McKenzie Budapest

Recently published case law from Hungary's National Institute of Pharmacy and Nutrition – the Hungarian acronym is OGYEI – deals with various aspects of pharmaceutical promotional activities and interactions with health care providers. The OGYEI investigated the commercial practices of Aramis Pharma Kft., Lilly Hungaria Kft., and Sager Pharma Kft., and imposed fines following the discovery of infringements.

Several Types of Contracts Concluded with HCPs for Professional Services were Considered Unlawful Commercial Practices

Contracts involving holding professional trainings for medical sales representatives: The OGYEI objected to contracts which required HCPs to "host" medical sales representatives in a professional role-playing setting and to comment on the performance of the medical sales representatives. In the authority's view, a professional role-playing scenario is not directly related to the healthcare activities of the HCPs participating in the simulation, and it gave the HCPs' activity a promotional nature, involved in training sales representatives. Contracts concluded with an HCP to provide professional services may only be concluded for the provision of services closely related to the HCP's professional activity, and should not serve promotional purposes.

Contracts involving professional presentations with promotional content: The OGYEI objected to contracts involving presentations by an HCP at roundtable events organized by a pharmaceutical company, because the presentations had a promotional nature, as the company's medicinal products were easily identifiable. The OGYEI found that the aim of these contracts was to facilitate the pharmaceutical company's commercial practices and promotion of its medicinal products. The authority emphasized that while performing contracts concluded with HCPs for professional speaker services, the use of company-branded presentation materials and backgrounds should be avoided and the presentation should not contain the name of the company, its products, or the company logo or image.

Contracts involving drafting professional articles published in company-branded publications: The OGYEI objected to professional services agreements which required HCPs to prepare professional articles or case reviews to be published in the pharmaceutical company's own professional publication. The OGYEI found that the publications were of a promotional nature for the following reasons: (i) They were branded, *i.e.*, it was clear from the outset that it was a publication from the pharmaceutical company; (ii) the articles focused on a product of the company and on trials related to that product; and (iii) the company used its own promotional channels to distribute the publication, *i.e.*, medical sales representatives distributed the publications to HCPs and they were also available at company booths at professional events.

The OGYEI ruled that these contractual relationships went beyond the sharing of professional experience of the HCPs, as the performance of these contracts was meant to facilitate the company's promotional activities.

Speaker services to subordinates of the speaker and presentations overlapping with the professional work duties of HCPs: The OGYEI ruled that speakers' fees paid for presentations held by HCPs in front of audiences that predominantly consisted of their subordinates in the same department/institution were unlawful. This is because such fees could potentially motivate the speaking HCPs to discuss the sponsoring pharmaceutical company's products at forums where their subordinates are required to be present, inducing them to follow the recommendations of seniors by applying the presented products in their healthcare practice. In addition, the OGYEI objected to speaking agreements where an HCP had a duty, based on its job description with the hospital, to hold similar presentations at the hospital's internal meetings (so-called "referral meetings").

Sponsorship provided to attend conferences abroad: Pharma companies may only sponsor the participation of HCPs at conferences abroad if the participation at the conference is justifiable. The OGYEI argued that the sponsorship of an HCP to attend the Singapore conference of the European Society for Medical Oncology was unreasonable and unlawful, given that there was another ESMO conference in Europe, involving essentially the same topics at the same time.

Pharmaceutical companies are encouraged to take the OGYEI's case law into account during their daily operations to avoid potential investigations and sanctions, including fines, being imposed by the authority. ■

NEW ERA TO CONTROL DIGITAL PLATFORMS? REGULATION VS ENFORCING EXISTING LAWS

By Dora Petranyi, Partner, and Szabolcs Szendro, Senior Counsel, CMS Budapest

The current backbone of the EU's e-Commerce Directive was adopted 20 years ago. Since then, the landscape of the digital economy has changed significantly, as most online platforms in use today did not exist in 2000. As a result, many digital experts claim that competition enforcers have failed to tackle some of the specific challenges created by the new digital platforms.

Margrethe Vestager, Executive Vice President of the EU Commission responsible for Digital Age projects and Commissioner for Competition, said that, "we need to make rules that put order into chaos." The long list of Ms. Vestager's titles is not only a polite introduction but also reflects the 2019 merger by the EU Commission of two of its major powers: digital regulation and competition law. Several questions arise: *Was this combination intentional? Which power is more effective? Are these tools substitutes or can they supplement each other?* Let's go through the pros and cons that have revealed themselves after two years.

First, we can be fairly sure that centralizing these powers was not a simple coincidence. The Directorate General for Competition – the "DG Comp" – has always been referred to as one of the EU Commission's most effective enforcers. Although this privileged position is still valid, we can also see that the national competition authorities in various EU Member States are even more active regarding digital platforms (see our article on the subject in the September 2020 issue of the CEE Legal Matters magazine), while the DG Comp has taken a more accommodating stance, for example, by approving the Facebook/WhatsApp acquisition, which the US antitrust agencies are now challenging. Meanwhile, in December 2020, the EU Commission introduced an ambitious new set of proposals for regulating digital space.

Both the Digital Services Act (DSA) and the Digital Markets Act (DMA) proposals aim to modernize the current regulation of intermediaries and online platforms. For our current review, the latter is even more interesting, as the DMA aims to establish "a set of narrowly defined objective criteria for qualifying a large online platform as 'gatekeeper.'" This sounds like the definition of a dominant company, the behavior of which was originally regulated by the competition law principles in the Treaty on the Functioning of the European Union, which prohibit the abuse of dominance. If so, should we regard this as confirmation by the Commissioner of DG Comp that she suggests additional regulation to the traditional means of competition law?

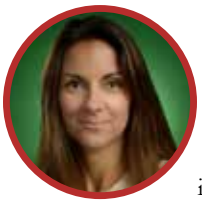
The Commission bypassed this issue in its Q&As by stating that the DMA "complements the enforcement of competition law," which is normal, as "regulation and competition enforcement already coexist in other sectors, such as energy, telecoms or financial services," so the DMA "will thus minimize the harmful structural effects of these unfair practices *ex-ante*, without limiting the EU's ability to intervene ex-post via the enforcement of existing EU competition rules." What does that mean in practice? In other regulated sectors – such as telecoms or energy – the "gatekeepers" are usually the network owners, and the idea of such infrastructure-based competition is under reconsideration in several ways. Although we have to admit that the DMA and DSA are only regulatory proposals for now, many interesting questions immediately present themselves.

It seems that the EU Commission is not alone in combining competition law with regulatory elements in the digital sector. As a recent example from CEE, the Hungarian Competition Authority launched a market analysis in December 2020 focusing on the large "data assets" created in the online retail sector to evaluate their potential restrictive effects on the market for further legislative proposals. This market analysis is also a sign that a competition authority prefers to support regulatory steps with its general findings instead of investigating potential individual infringements entitled under the TFEU.

The question remains: Should we expect a greater role for regulation and dedicated government agencies in our digital life, with competition law becoming secondary for these markets? Unfortunately, we will have to wait for the precise answers, but we can be sure that the outcome will affect not only the gatekeepers and their partners, but also our everyday life. It is worth following. ■

LIFE OF LOANS DURING AND AFTER COVID-19

By Melinda Pelikan, Head of Banking & Finance, Wolf Theiss Budapest



In response to the COVID-19 outbreak, the Hungarian government launched Government Decree 47/2020 (III. 18.), introducing a moratorium on the payment of principal, interest, and fees arising from facility, loan, and financial lease contracts until December 31, 2020. This moratorium, which we will call the "2020 Payment Moratorium," was automatically available to both natural person and business entity borrowers, although they could opt out of if they wished.

The 2020 Payment Moratorium has recently been prolonged until June 30, 2021 by Government Decree 637/2020 (XII. 22.).

2020 Payment Moratorium

While Hungarian banks and leasing companies could easily adapt the 2020 Payment Moratorium to their borrowers (either domestic or foreign), foreign lenders were uncertain if the 2020 Payment Moratorium was also applicable to their facility, loan, or financial leases, since applicable laws (and related guidelines, regulations, and commentaries) did not specify whether it applied to them or not.

The possibility that the 2020 Payment Moratorium applied only to Hungarian financial entities could be distilled from a publication of the National Bank of Hungary summarizing the benefits of a payment moratorium for debtors. This publication described, among other things, possible losses to banks due to the moratorium and the potential aid provided to them by the NBH, which implied that the 2020 Payment Moratorium only applied to Hungarian creditors. On the other hand, Article 9 of Rome I as well as similar provisions in Hungary's International Law Act suggested the opposite – that the laws introducing the 2020 Payment Moratorium were imperative regulations enacted to protect the Hungarian economy, therefore they would override any contractual provisions arising from agreements governed by any law, and hence were applicable to foreign lenders.

The market seemed to follow the latter interpretation and foreign lenders also provided their borrowers with a payment moratorium, partly because of EU regulations and partly because similar measures were introduced in most EU countries.

As a consequence of the 2020 Payment Moratorium, enforcement of security was not possible, since no payment of principal, interest, or fees could be demanded by lenders, and Hungarian-law-governed security may only be enforced if there are due and payable amounts outstanding under a facility/loan agreement and the borrower fails to pay such due and payable amounts within the set deadline.

2021 Payment Moratorium

While the moratorium granted under Government Decree 637/2020 (XII. 22.) (which we will call the "2021 Payment Moratorium") has very similar conditions to the 2020 Payment Moratorium, one prominent difference is that the 2021 Payment Moratorium defines the term *creditor* as applying only to those creditors which have a registered seat in Hungary or which have a Hungarian branch office.

Although remote, there is the possibility that this deviation may cause problems in the case of those facility agreements where there is a combination of domestic and foreign creditors, especially in the jurisdiction of foreign creditors no longer covered by the payment moratorium. This also could worsen the financial position of Hungarian borrowers when the foreign creditor demands payment of the actual debt service or starts to enforce security.

Conclusions

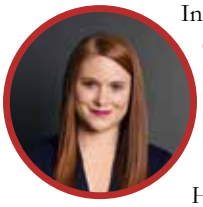
As the conditions of both the 2020 Payment Moratorium and the 2021 Moratorium are favorable to borrowers (*i.e.*, interest accrued during the term of the payment moratorium is not capitalized, the repayment instalment shall not increase after the payment moratorium, and the term of repayment is prolonged), it is not anticipated that they will have a negative effect on many borrowers in the near future.

This is also underpinned by the NBH's recent guidelines to financial institutions in relation to the assessment of non-payment over nine months as a result of the 2020 Payment Moratorium and the 2021 Moratorium. According to the NBH, no facility will be automatically qualified as "restructured" if the borrower does not have and most probably will not have financial difficulties. This can be verified by a financial institution if a retail client's salary has not decreased drastically or he/she has adequate savings – or, in the case of business entities, from regularly provided financial statements. ■

SNAPSHOT OF THE HUNGARIAN RENEWABLE ENERGY SECTOR

By Daniel Aranyi, Head of Energy, and Eszter Gal, Associate, Bird & Bird Budapest

Facilitated by strong government support, a consolidated tendering practice, and the growing interest of both domestic and international investors, solar power is driving Hungary's renewables market to new heights.



In January 2020, the Innovation and Technology Ministry published the reworked version of Hungary's National Energy Strategy 2030, confirming Hungary's commitments to ambitious renewables targets, including a 20% share of total electricity generation in Hungary by 2030 and around 30% by 2040. According to the Strategy, expanding solar capacities are expected to take the lion's share in meeting renewable targets. The Hungarian Government's declared aim is to have 3,000 MW of installed solar capacity in Hungary by 2022 and 6,000 MW by 2030. This should provide the Hungarian renewables sector with plenty of room to grow and will most likely attract significant investments into solar development.

As a result, it is safe to say that Hungary is on track to becoming one of the most promising Solar Energy markets in Europe. After a record-setting year in 2018, the country more than doubled its solar energy capacity by adding 410MW of new licensed photovoltaic (PV) installations and over 90MW of residential PV systems, increasing the cumulative PV power to over 1GW. The first premium-based renewable energy support scheme (METAR) tender successfully closed in March 2020, with winning bids comprising around 132MW of nominal capacity. The second METAR tender is going to be bigger, with a total subsidy cap of HUF 800 million for 390 GWh/year, and results are expected by the end of February 2021. By August 2022, five more METAR tenders are expected, one every six months and tendering subsidized amounts of 300 to 500 GWh/year each.

Because of the 2017 switch from the feed-in-tariff based mandatory off-take system (KAT) to the premium-based METAR, new renewable installations must sell their generation on the market and conclude PPAs with customers or traders. Also, the KAT eligibility of the first mover renewables generators will expire in coming years, requiring them to employ a new business model to stay profitable. These developments may give rise to innovative PPA structures in Hungary – such as Corporate PPAs – in the near future.

Unfortunately, the COVID-19 pandemic has not left the Hungarian renewables market unscathed. Protective measures employed by the government included the option of postponing commercial operation dates without losing state subsidies and the introduction of a temporary foreign direct investment screening mechanism under which potential foreign (and in certain cases EU) investors must apply for the approval of the competent ministry before investing in virtually any energy company.

Renewables generators did not escape 2020 without a new regulatory challenge either, as stricter scheduling and related balancing surcharge payment obligations were imposed on them. As of April 1, 2020, the acceptable limits applicable to the scheduling of renewables installations were revoked, exposing them – especially solar energy producers, which benefitted from the highest acceptability margin – to a risk previously not present on the Hungarian market. In order to mitigate that risk, a mechanism was enacted entitling renewables generators to decrease the amount of the eventual surcharge. However, the applicable amount of the decrease will conclude by 2026 in predefined annual steps.

Despite these difficulties, and as evidenced by closings of significant finance and M&A deals on the renewables market our firm assisted with in 2020, and the help we have provided investors seeking to secure future projects, the development of the Hungarian renewables market – especially the momentum of solar power – remains strong. ■

CHALLENGING OF JUDICIAL REVIEW IN TAX DISPUTES

By Daniel Kelemen, Partner, and Balazs Balog, Attorney at Law, PwC Legal Hungary

Procedural rules that have entered into force in recent years have fundamentally changed litigation in Hungary. This is especially true for tax litigation.

The new rules have forced companies, tax advisors, and legal representatives to reshape their strategies for tax disputes.

If a taxpayer does not agree with the resolution of the respective first instance tax authority and files an appeal, the second instance tax authority must review the entire previous procedure. If the taxpayer does not agree with the resulting second-instance decision, it has 30 days to file a judicial review claim against the tax authority.

Under new legislation and case law, the general approach – that a taxpayer and its tax advisor deal with the tax authority, and only then, the moment the second-instance resolution arrives, have a legal representative take over the handling of the case in front of the court – has become outdated.

In court, as a general rule, parties may no longer rely on the facts, circumstances, and evidence that were available at the time of the administrative proceedings. Moreover, in tax authority procedures, this restriction applies in appeals: the facts and evidence that were available to the involved taxpayer during the first instance procedure, as a main rule, may no longer be brought into the procedure.

The new procedural rules have also significantly restricted the strategy for shaping the legal arguments. As any legal arguments must be based on the facts and circumstances available, the essential aspects of the legal arguments must have already been mentioned in the administrative proceedings. The directions of judicial review are determined only by the arguments presented within the 30-day time limit for submitting a judicial review claim.

Contrary to the previous practice and case law, the introduction of new aspects into a legal dispute after the 30-day deadline now qualifies as a prohibited amendment of claim. Thus, for example, previously, if a tax resolution was passed on value added tax and corporate tax and the judicial review claim was filed only in respect of findings relating to the value added tax, it could no longer be extended to corporate tax, after the time limit for submitting a judicial review claim had passed – but it was at least possible to amend the legal arguments in the field of value added tax. According to recent case law, this is no longer possible either.

In other words, after the expiration of the time limit for submitting a judicial review claim but before the end of the first court hearing, it is only possible to clarify and expand on arguments that had already been presented during the time for submitting the judicial review claim.

One of the recent published decision of the Curia reinforces this rule, and it appears, based on the Court's ruling, that not only arguments concerning facts, circumstances, and evidence, but even subsequent submissions of legal arguments may be more restricted. Consequently, all aspects of subsequent legal arguments must have been included in the tax authority procedures.

In short, neither the elaboration of a legal argument nor the gathering and processing of evidence may be postponed to the time of a subsequent judicial review, and failure to observe these rules significantly reduces the chances of winning on judicial review.

In view of these new features, coordinated cooperation between taxpayers, tax advisors, and legal representatives is required from the very moment the tax authority initiates its procedure. ■

RESTRICTION OF PERSONAL RIGHTS IN EMPLOYMENT RELATIONS

By Adrienne Mates, Head of Labor, bpv Jadi Nemeth

Social media has become a phenomenon, representing our extroverted life, and thus a critical part of our work environment.

It has also become a powerful tool of communication, where information about events, news, and products can be found and made available. These tools are essential for companies that wish to open a direct channel of communication with their consumers/clients. However, it is obvious that, for people working in a particularly delicate sector – one in which communications are strictly regulated – social media offers a frontier to be explored, but which at the same time has to be approached with utmost caution. Its use is easily abused.

So, Whose Social Media Is It, Anyway?

Under the Hungarian Labor Code, employees wishing to participate in social media outside their paid working hours must do so in a way that does no harm to the employer's reputation or legitimate economic interests. The employer may discover the need to restrict the personal rights of the employees for using their social media, on conditions that such restrictions be proportionate and well-documented.

Where does the control of the employer stop and the employee's freedom of personal social media use start?

Regulations applicable to specific sectors are usually quite strict and misdirected comments by employees on social media, in addition to potentially causing damage to the reputation of the company, could potentially result in heavy monetary fines. For example, an innocent personal comment by the employee in a social media group can trigger compulsory control by an authority for the employer, if they can be associated with it. Hence, utmost attention should be paid to the independent activities of company employees on social networks to monitor content (such as videos, images, and texts) published on their own pages or accounts, and comments posted on other people's pages.

Indeed, this is a thin line, and, aside from two short general clauses in Hungary's Labor Code, we are left to our best judgement. Employers tend to forget about a powerful tool they might have to set ethical rules of conduct. This tool – the creation of a so-called "Employers' Handbook" – can be a flexible but statutory solution, as, once it is implemented, it can be modified unilaterally by the Employer, unlike an employment contract, which needs mutual agreement to be modified.

How Can the Employer Advise its Employees?

To help employees use social networks properly and in an informed manner, employers are strongly encouraged to establish several simple rules and require that they be followed carefully by any employees wishing to publish content related to their employer, its brands, or its products on social media channels. Employers should also remind the employees that these rules exist to protect them as well. Should disputes arise, the existence of such rules can serve as a basis for compensation for damages.

Here are some useful tips to include in an Employer's Handbook regarding social media:

The instruction that employees should never publish content concerning confidential, sensitive, and private products or information on social network channels. For example: video of an internal company event, or information regarding sensitive company data, the launch of new products, projects in progress, sales or financial data, sector data, details of company revenues, strategies, *etc.*

The instruction that only information that has already been published or authorized by the employer's official communications department should be published.

A *reminder* that even if employees clearly state that they are speaking from a personal point of view, in *the mind of their readers their posts will be easily associated with the company they work for.*

A *reminder* that the employer can hold employees *legally responsible for content* of a defamatory and pornographic nature, and content that is copyright-protected, offensive, slanderous, or that may create a hostile working environment.

A *reminder* that *respecting the privacy of others means* that employees shall not mention or share photographs, names, or other personal materials of colleagues.

A *reminder* that publishing comments or content under anonymous or fake names should be avoided.

The list could go on, as per specific requirements. Ultimately, it is the employer's responsibility to exploit all lawful tools to protect its interests. ■

2021 TO FURTHER DIGITALIZE TAX AUTHORITY INTERACTIONS WITH HUNGARIAN VAT TAXPAYERS

By Gergely Riszter, Head of Tax, Baker McKenzie Budapest

Reflecting the Hungarian tax administration's nature as a pioneer in innovative tax administration measures, 2021 brings significant eVAT developments in Hungary.

As of January 2021, to better track business transactions and enhance VAT collection, Hungary introduced a widespread real-time invoice reporting obligation for Hungarian taxpayers. The new rules are controversial because they put an administrative burden on non-Hungarian web-shops performing B2C sales to Hungary by threatening them with a penalty starting from April 1, 2021. As another unique development in the region, the Hungarian tax administration will prepare draft VAT returns for Hungarian taxpayers starting from July 1, 2021.

On January 4, 2021, Hungary introduced a real-time invoice reporting obligation applicable to taxpayers holding a Hungarian VAT registration number and performing sales subject to Hungarian VAT. This obligation applies to both B2B and B2C sales.

Due to the COVID-19 situation, Hungary provided a grace period for businesses to comply with the real-time invoice reporting obligation, and sanctions for non-compliance will first be enforced as of April 1, 2021.

The law provides an important exemption to this rule. No real-time invoice reporting obligation is applicable for businesses that declare and pay VAT through the EU's OSS system. This rule is relevant because on July 1, 2021, the EU Mini One-Stop-Shop regime will be extended to all types of B2C services as well as to intra-EU distance sales of goods and certain domestic supplies facilitated by electronic interfaces. As such, the Hungarian OSS exemption was designed to grant an exemption to non-Hungarian businesses – mostly web-shops – performing B2C sales to Hungary.

The only problem with this exemption is the timing. The Hungarian regime becomes applicable on January 1, 2021, but the OSS goes live only on July 1, 2021. As a result, non-Hungarian businesses that will apply the OSS as of July 1, 2021 may nevertheless fall under the Hungarian real-time invoice reporting obligations before this date.

Non-compliance with the real-time invoice reporting obligation may trigger a penalty of up to EUR 1,400 per unreported invoice. How and in what amount the tax authority will assess and enforce the penalties in practice is yet to be seen.

Based on the new rules, non-Hungarian web-shops may have to find a way to comply with the Hungarian real-time invoice reporting obligations until July 1, 2021, when they can enjoy the OSS exemption. A potential solution may be engaging a Hungarian service provider to comply with real-time invoice reporting obligations on the web-shops' behalf in the interim (or even beyond the July 1, 2021 date, if the OSS is not applied).

As another important development is that, starting in the second half of 2021, the Hungarian tax administration will prepare businesses' draft Hungarian VAT return and make this draft available to businesses on a designated online platform. The first VAT return to be drafted by the tax authority will be for the reporting period that begins on July 1, 2021.

Businesses will of course be free to amend the draft or to opt to not use it all. For many businesses, this development will represent a significant easing of their administrative obligations, and it is a true sign that the Hungarian tax administration is offering a more efficient service to Hungarian taxpayers. ■

RESHAPING OF THE MOBILE TELEPHONY LANDSCAPE IN HUNGARY (LOOKING BACK AT 2020)

By Janos Rausch, Senior Partner, Ban, S. Szabo, Rausch & Partners

Almost a year ago, in March 2020, the Hungarian regulator – the NMHH – announced that 5G frequency licenses had been auctioned for a term of 15 years with a 5-year extension option to Magyar Telekom, Vodafone, and Telenor (a fourth operator, Digi, did not acquire a 5G license). These three operators spent a total of HUF 125.8 billion on these 5G licenses, enabling them to provide next generation mobile broadband services. Vodafone started 5G services in downtown Budapest in 2019 on previously-acquired frequencies, using the newly acquired frequencies to improve coverage in other cities and certain rural areas. The 5G services – as well as related applications and technology products – are expected to fundamentally change the industry, as demand for broadband services has increased exponentially due the widespread introduction of home office due to the COVID-19 pandemic.

That same month, a new milestone in market consolidation was reached when, on March 31, 2020, UPC Hungary merged into Vodafone, introducing a new integrated mobile and fixed line operator into the Hungarian telecommunications market.

5G auctions were launched across Europe when the global commoditization of mobile services became more and more apparent and competition among mobile service providers started to shift from infrastructure-based to service-oriented competition. As 5G networks need significantly more masts and towers to cover the same area as former generations of mobile technology, access to pre-existing passive infrastructure has an increasing value when rolling out 5G networks.

In anticipation of the 5G auctions and the related increase in demand for passive infrastructure, two of the major mobile network operators – Vodafone and Telenor – decided to de-merge certain infrastructure assets (ground based towers and roof-top sites) and to establish their own tower companies (Vantage Towers Zrt for Vodafone and CETIN Hungary Zrt for Telenor). These tower companies provide their services to mobile network operators, other telecom operators like Antenna Hungaria (the Hungarian broadcasting company), and any other entities using mobile technologies for their operations. (Our firm provided legal advice to Vodafone in its de-merger, which, like Telenor's, involved complex legal challenges involving regulatory, competition, and corporate law issues).

The demerger process in both cases involved the de-merger of towers and other sites containing not only affiliated service provider equipment but also the equipment of third-party operators, requiring the renegotiation of almost all co-location agreements across all network operators. An even more complex issue was the transfer of roof-top leases, as the right to occupy space by the predecessor operator post de-merger had to be maintained.

The main difference between the two de-merger processes was that Telenor transferred not only passive infrastructure assets but also active telecommunications equipment. As a result, CETIN became an electronic service provider. This was not as straight-forward in case of Vantage Towers, which only owns passive infrastructure. As reflected in the NMHH register, both tower companies are identified as electronic service providers, as towers and masts are considered "associated facilities" for the purposes Hungary's Act C of 2003 on Electronic Communications, so Vantage Towers is also an electronic communications service provider. This means that both tower companies are obliged to provide co-location services on a non-discriminatory basis.

As network assets were transferred to the tower companies it had to be decided whether they were automatically considered successors to their related mobile network operators with respect to the access remedy imposed on them under the mobile termination market SMP resolution. The answer to this seems to be that only the mobile network operators remain subject to the access remedy. Whether these tower companies enjoy significant market power on other markets will be decided in potential future market definition proceedings. Currently it is too early to speculate.

It remains to be seen how the tower companies will perform and how the mobile telephony market will change as a result of their entry into the market. Nevertheless, it is almost certain that consumers will benefit from the cost savings that mobile network operators will realize by sharing passive infrastructure in the roll-out of their 5G networks. ■

INSIDE INSIGHT:
INTERVIEW WITH IRISZ SZEL, LEGAL DIRECTOR OF CEU

By Andrija Djonovic

CEELM: Can you walk us through your career?

Irisz: From the very start I was eager to learn about all the different aspects of legal work. As a university student I was a trainee in the Ministry for Foreign Affairs and in the Ministry of Justice of Hungary. In the first years of my career I worked as a tax advisor at PricewaterhouseCoopers, which provided me with insight into the world of multinational companies. Later, I joined the Tax team at CMS Cameron McKenna and continued my career specializing in tax, banking & finance, and corporate law. After some years I was offered a position as Head of Legal at EDF DEMASZ Zrt. (now: MVM Next Energiakereskedelmi Zrt.), a company operating in the energy sector. Becoming an in-house lawyer was a turning point in my career. Today I work as the Legal Director of Central European University.

CEELM: Why did you decide to join CEU?

Irisz: CEU found me when I was not actually considering a move. I was a freshly-hired in-house lawyer in a multinational company when their call came. I kept politely refusing an interview until I heard the name of my alma mater. A few days later, when I entered the building of CEU after so many years, all the memories came back. CEU was not a question for me anymore.

CEELM: Tell us about CEU, and about its legal department. How big is your team, and how is it structured?

Irisz: CEU as an institution has many faces: it is a university, a research center, a place-to-meet, a place that is simply good to be at. We have been through a lot, which made this institution an even more unique place. As one of our professors once said: "This place has a soul."

Under the current setup, the legal department has four lawyers in Budapest and two in Vienna, and we have legal counsels in the US, too.

CEELM: Was it always your plan to go in-house?

Irisz: Not at all. I have seen both sides of the coin: as an attorney and a tax consultant I have been an external advisor, and as an in-house counsel, I have worked with external advisors. It was when I experienced the real role of an in-house lawyer in the life of a company that I felt I had arrived where I wanted to be.

CEELM: What was your biggest single success or greatest achievement with CEU in terms of particular projects or challenges? What one thing are you proudest of?

Irisz: After Lex CEU, the management decided to move the university to Vienna. This meant reorganizing our current operation and building up a new corporate and institutional structure while moving hundreds of employees abroad. In the midst of executing complex tasks under enormous time pressure, the biggest challenge was to familiarize ourselves with a new legal system and harmonize our operations under all three – Hungarian, Austrian, and US – jurisdictions, in a way that the concept of "One CEU" remained intact.

CEELM: How would you describe your management style? Can you give a practical example of how that manifested itself in the legal department or helped you succeed in your position?

Irisz: I believe in teamwork. To us, lawyers, discussing different ideas and confronting views is of utmost importance. I like to be challenged by my colleagues, and sometimes our office is like a loud courtroom (laughs). On the other hand, I believe respect and trust do not come automatically from one's position; they are earned.

CEELM: Do you have any personal habits or strategies you employ that may not be common but that really help you succeed in your role? Things you've developed yourself over the years that might not be obvious?

Irisz: When I don't have a solution to a problem, I go for a run. It is amazing how each mile can bring a new perspective.

CEELM: What one person would you identify as being most important in mentoring you in your career – and what in particular did you learn from that person?

Irisz: My brother, Ervin Szel. He is a diplomat and has a very good sense of human nature. His words of wisdom and encouragement are deeply engraved in my heart and have helped me through the most important crossroads of my life.

CEELM: On the lighter side, what is your favorite book or movie about lawyers or lawyering – and why?

Irisz: High Performance with High Integrity from Ben W. Heineman, which can also serve as a personal motto for my working style. ■

> ***When I don't have a solution to a problem, I go for a run. It is amazing how each mile can bring a new perspective.***

EXPAT ON THE MARKET: INTERVIEW WITH TED BOONE OF DENTONS

By David Stuckey

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

Ted: This is my second time living and working in Budapest. I am thrilled to be back living in Hungary and to have recently joined Dentons. I grew up in a university town in central Illinois called Urbana. It has been called the "cultural capital of the cornfields" because it is where the University of Illinois, a major American public research university, is located.

After receiving my college degree from the University of Illinois, I studied at Ludwig Maximilian University in Munich for a year as a Fulbright Scholar and Bavarian State Grantee. While living in Munich I took my first trip to Budapest. I'll never forget the first time I saw Budapest's Chain Bridge, spanning the Danube. I was hooked on this enchanting city.

So after receiving my law degree from Columbia Law School, where I focused on international commercial law (and began my study of Hungarian), I returned to Budapest on an IREX grant to conduct research on international commercial transactions at Hungary's Eotvos Lorand University's School of Law under the guidance of Professor Ferenc Madl, who later served as the President of Hungary. After that, I joined the Budapest office of Baker & McKenzie and worked on many of the very first privatizations and foreign investments during Central Europe's transformation to a market economy. I'll never forget the optimism and excitement in Hungary when the Iron Curtain fell. It was an amazing and historical time to be living in Central Europe. These were all great adventures for a kid from central Illinois.

Following this first stint in Hungary I moved to Washington, DC. I worked in the DC area for many years, focusing on complex domestic and international transactions. I worked first for Arnold & Porter and then in-house as an Assistant General Counsel at EY. In recent years I also started teaching a course as an Adjunct Professor at Georgetown University's law school on structuring, negotiating, and drafting contracts for complex commercial transactions.

But the magnetism of Central Europe, and particularly of Budapest, was never far from my mind, or indeed my heart. Not long ago I had the opportunity to join the Budapest office of Dentons and also to join the faculty of the Department of Business Law at Hungary's Corvinus University School of Business. I jumped at the chance to do both.

CEELM: Was it always your goal to work outside of the United States?

Ted: My father was on the Mathematics faculty at the University of Illinois and we often went to Europe in the summers and for sabbaticals. As a child, I lived and went to school in Oxford, England and Bonn, Germany. One year when I was little we even did a transatlantic crossing from New York to Germany on the Bremen ocean liner. It was these experiences as a kid that planted the seeds of my long-standing affinity for Europe. I feel totally at home in Europe – particularly Hungary. To experience the pleasures of living in Budapest again, now, is superb. Among other things I get to walk to Dentons' office on Andrassy Street, the stunning Champs-Elysees of Budapest. Sometimes I wonder if I am dreaming…

CEELM: Tell us briefly about your practice, and how you built it up over the years.

Ted: My practice is grounded in my extensive commercial and legal experience arising from previous leadership positions in the United States and Europe at premier international law firms and one of the Big Four. My practice is focused on, among other areas, information technology, financial institutions, manufacturing, energy, entertainment, transport, consumer goods, telecom, media, real estate, biotechnology and services. My strong mix of law firm and in-house experience

is something I believe clients appreciate. My ability to speak German and Hungarian in addition to English is important. As I am a former President and Chair of the Board of Governors of the American Chamber of Commerce in Hungary I am also heavily involved in the activities of that organization.

It is truly an honor to be associated with Dentons' Budapest office. I am well aware of the highly-respected position of Dentons here in Budapest and greatly admire its dynamic leadership. I have also been a fan of Dentons forward-looking global strategy for many years. Unlike our competitors, many of whom stood still, contracted, or withdrew from key markets in 2020, Dentons strode boldly forward in implementing its strategy to scale the firm in priority markets. In the midst of a global pandemic and economic crisis, Dentons announced 33 new locations around the world last year. Impressive.

CEELM: How would clients describe your style?

Ted: Practical and solution-driven. Able to analyze, explain, and balance risk. Focused, careful, and clear. Willing to go the extra mile. I'd like to think I'm also someone clients enjoy working with. You can add charming and good looking as well if you like but that's not for me to judge.

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

Ted: Hungary is a civil code based system and the US is a common law based system. During my first stint in Hungary I earned a post-graduate law degree in international commercial law from Hungary's Eotvos Lorand University's School of Law to go with my Columbia Law School JD and so am familiar with both legal systems. One encounters and must often address the ramifications of the distinction between civil code and common law systems. On a day-to-day level one of the aspects of practicing in Hungary that I very much enjoy is that the culture of conducting meetings in person remains strong. Of course, Covid has changed this for the time being, but hopefully not forever.

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

Ted: The food during business meetings is often better in Hungary than in the US. Which would you prefer – a ham sandwich and potato chips or a luscious cream of mushroom soup, followed by an aptly spiced chicken paprika and perhaps topped off with a walnut sponge cake drizzled in warm chocolate?

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

Ted: Dentons is an international firm. It is the largest law firm in the world. Our strategy of integrated global growth while maintaining the highest standards of quality is creating a transcendent global firm. In this environment and with these goals an office such as ours needs to have both superb indigenous lawyers and highly qualified expatriate lawyers. The symbiosis created by this mix is both potent and effective.

CEELM: Do you have any plans to move back to the US?

Ted: No, although the US is a special place which remains a part of me. You can take the boy out of Illinois but you can't take Illinois out of the boy.

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

Ted: The entire Central European region has its great charms and magnetism. Strolling the medieval core of Poland's Krakow, skiing the Tatra mountains of Slovakia, relishing the magical villages of Romania, relaxing in the spas of the Czech Republic's Karlovy Vary, absorbing the fairytale atmosphere of Slovenia's Lake Bled and wandering the old quarter of Sarajevo all come to mind. Lately I have enjoyed exploring Croatia. In particular, I love the Austro-Hungarian vibe of Opatija on the Adriatic.

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

Ted: A classic five stars not-to-be-missed spot is the top of the Gellert Hill, with the stunning panorama of Buda, Pest, and the Danube stretched out below. There are other places that hold a personal resonance for me. The magnificent Eastern Train Station because it is the place where I often first arrived in Budapest. The 1906 statue of George Washington in the City Park because it symbolizes the longstanding ties between Hungary and the US. I also enjoy taking guests on a walking tour of the architecture of Budapest. I focus on the Hungarian State Opera and other compelling structures designed in the mid and late 19th century by Hungary's renowned architect Miklos Ybl as well as on the masterpiece that is the Hungarian Parliament, designed during that same era by Imre Steindl. It is when walking in this great city that one can perhaps become most captivated by its beauty and its elegance. ■

MARKET SPOTLIGHT SLOVAKIA

GUEST EDITORIAL: GOOD TIMES AHEAD IN THE SHADOW OF SOCIAL CHANGES AND THE CORONA CRISIS

By Stepan Starha, Partner, Havel & Partners Bratislava

Is it possible to perceive some elements of the corona crisis positively? And is it possible that changes could take place that would have a positive effect on the Slovak legal market? I may be too optimistic, but I am convinced that the answer to both questions is "yes."

Although lawyers have been talking for many years about how they have been innovating their provision of legal services, the reality is, to be honest, much more plain. This stands out the most when looking at last year. In a single year, many law firms made larger leaps in innovation than they had in the previous ten years. During my practice, at the end of the day, we always provided legal services classically, as we had learned and read in wise books. But the corona crisis gave us the opportunity – or even forced us – to get off the beaten track and try something new.

Last March, literally overnight, we had to move from our offices to our homes. Instead of a period of careful trial and error, overnight we learned how to communicate only remotely, and digitally. We traded coffees and lunches for online seminars and podcasts and learned much more about how to provide clients with the real value and content that catches their attention and helps them. As in every crisis, clients were impatient and needed quick, practical advice. And all this against the background of the fact that we were at home with the rest of our families, learning how to work and function together.

Last year I learned more than in the previous five years put together - better time management, how to work remotely, how to use electronic tools, and much more. And we still have a lot to learn; for example, how to keep team spirits high when we cannot meet in person for several months at a time. Every cloud has a silver lining, and the horrific events of last year gave everyone the opportunity to learn many new things. So yes, at least in terms of personal development and innovation in the legal business, the corona crisis has had some positive effects.

And what about the Slovak legal services market as a whole? Have there been positive changes against the background of the corona crisis?

With a good dose of self-reflection, I must say that in Slovakia, lawyers and the entire judicial system do not have a good reputation. The reasons for this stem from a number of corruption cases that were talked about in whispers for many years and which have surfaced over the past year, resulting in prosecutions of the former attorney general, two previous police presidents, and heads of anti-corruption units, and a number of judges in handcuffs. And, of course, a number of lawyers were involved as well.

While human lives are threatened and our economy is suffocating, a fundamental purge of the Slovak legal system is happening. As a matter of fact, these events should make the Slovak business environment more attractive. It should also have a positive effect on the Slovak legal market. Unfortunately, in Slovakia, lawyers were often perceived as so-called "arrangers" – a sad generalization, damaging the reputation of all decent lawyers. I will never forget the first (and unfortunately not the only) client who told me "*Mr. Starha, you are excellent attorneys, and though you will do a perfect job, you can't help me here.*" No need to think too much about what he meant. I believe that thanks to the purge of the Slovak legal environment, such remarks will become a faint memory.

So yes, I am convinced that in the shadow of the corona crisis very positive changes in the Slovak legal environment are happening. Of course, it's not all coming up roses, and many things, such as some not-so-well-prepared legislative proposals, deserve criticism. Overall, however, I see a positive shift, and I believe that this is a good opportunity for all good and decent attorneys. And to be ready for it, I am going to keep looking for the answer to the question of how to keep our team spirit high, when we cannot see each other in person. ■

INSIDE INSIGHT: INTERVIEW WITH JAROSLAV KRUPEC, COUNTRY LEGAL DIRECTOR AT VEOLIA SLOVAKIA

By Djordje Vesic

CEELM: Can you walk us through your career leading you up to your current role?

Jaroslav: The path to my current position was relatively straightforward, with only two employers. During my penultimate year at the University in Bratislava I found a position as a paralegal at Peterka & Partners. After finishing my studies I continued working for the law firm. This firm provided general legal services and developed young associates by having them work under the supervision of more experienced colleagues. This enabled me in a relatively short period to work on a diverse range of legal matters and gain experience in and good habits for providing legal services. Two or three years after passing the bar exam I started to feel the need for a change. It was not a crisis or anything serious – I was very happy working as an attorney for this firm. So they agreed to let me work fewer hours and during this new free time I tried to pursue side activities and projects.

During this period, I came across an advertisement for a position at Veolia. It was for a lawyer with less experience than I had – but I applied nevertheless. The energy sector – as a heavily regulated field – was very intriguing to me. I also wanted to try an interview, as the only job interview I had experienced was the one for the paralegal position at the law firm. The interview was very pleasant and I had a good feeling about the people conducting it, but as the position was for a more junior lawyer I did not pursue it further. After a couple months the interviewer, who at the time headed the legal department of the Veolia Slovakia Energy business line, contacted me and asked whether I was interested in replacing her, as she was planning to retire. After a couple of meetings, I agreed, and in January 2019 I started working for Veolia.

CEELM: What does Veolia do, and how large is the company, both in Slovakia and around the world?

Jaroslav: Veolia is a global leader in optimized resource management, and it designs and provides water, waste, and energy management solutions. In 2019 the Veolia group had 178,000 employees, supplied 98 million people with drinking water and 67 million people with wastewater service, produced 45 million megawatt hours of energy, and converted 50 million metric tons of waste into new materials and energy. The consolidated revenue in 2019 was over EUR 27 billion.

Veolia in Slovakia is a leading provider of water management and energy services. Our Water business line provides drinking water, sewer service, and water infrastructure management to 162,000 customers and to nearly a million residents of Slovakia's cities and towns. The Energy business line is among the largest generators and suppliers of heat in Slovakia. For more than 25 years, the Energy business line has provided household heat to more than 89,000 households in 25 cities. Since 2018, it has also been a major generator of electricity. It also provides services for industrial clients and offers solutions for energy efficiency for buildings and their complete management. Veolia Slovakia in 2019 employed 2,445 people and its consolidated revenue was over EUR 276 million.

CEELM: Why did you decide to join Veolia?

Jaroslav: As I mentioned earlier, the decision to go to a job interview in Veolia was largely by chance. However, as Veolia is active in a highly-regulated field of business, I was eager to work as a lawyer here and gain experience in a specific heavily regulated domain. In addition, I presumed that working as an

in-house lawyer would enable me to see the commercial and technical aspects of the field. Fortunately, I was right. I have met very skilled and experienced people in Veolia and the best part is that they are never tired from answering my never-ending questions.

CEELM: Tell us about Veolia's legal department. How big is your team, and how is it structured?

Jaroslav: The provision of legal services within the Veolia Slovakia group is divided between the Energy and Water business lines. I work closely with the Energy business line legal department, which is seated in Bratislava. This department consists of six lawyers and one paralegal. The Water business line legal department consists of ten lawyers and is dispersed in more than one location in Slovakia.

During my first year at the company, a reorganization of Veolia Slovakia started. The reorganization was aimed at both the Energy and Water business lines and all respective support functions for each business line (including the legal departments). The process slowed down because of the COVID-19 pandemic, so it was not completed last year and still continues.

CEELM: Was it always your plan to go in-house? If so, why? If not, how did it happen?

Jaroslav: No, for the first couple of years after university I thought that I would work for a law firm for the rest of my career. A couple of years after the bar exam, when I started considering a change, I was thinking about the advantages of being an in- house lawyer. How you can prevent the legal problems and also see the long-term outcomes of your legal advice, unlike in a law firm, where lawyers deal with already-created problems and don't usually have information about how the legal advice and proposed solutions they provided influenced the further activities of the client. I also liked the idea of seeing the bigger picture of the company's business and being in better contact with the "customers" of your legal services.

CEELM: What was your biggest single success or greatest achievement with Veolia in terms of particular projects or challenges? What one thing are you proudest of?

Jaroslav: The first thing that comes to my mind is the relationship that I manged to build with my colleagues in a relatively short period. My first day in Veolia was 15 days after they had signed an SPA and only two months before closing an acquisition of five new companies, including a large CCGT Power plant. This environment helped me to get

to know a lot of colleagues in a really short time. But I think that you want to hear a different answer – not such a clichéd answer.

During my relatively brief work for Veolia I have seen many major and minor achievements and victories. Sometimes the finalization of small projects brought greater satisfaction than the successful closing of a bigger project. I think it depends on the level of despair and struggle that one experiences during the project. With this in mind, I was really proud of a divestment of a small agricultural company that had been for sale by Veolia for several years. The Veolia team consisted only of myself and our Commercial Director, and we also did all the legwork (as usually during an M&A project there are several people working on it). This fact also helped raise my level of satisfaction.

CEELM: How would you describe your management style?

Jaroslav: I don't know if a have a specific management style. I try to be consistent and clearly readable in my actions and take into account the specifics of each colleague. As my colleagues in the legal department are very skilled and experienced, I give them freedom to act and provide legal services independently. I intervene only when necessary – for example when setting a goal or task or when things go awry, when I sense an interdepartmental conflict, or when I work directly with them on a project, and so on. I believe that a freedom system will always outcompete an authoritarian system across time.

There are some disadvantages or drawbacks to this, though. When your team works independently, you often lack information about the day-to-day operations of your department, and they lack information from you. There are, of course, ways how to overcome this. I always try to be honest to myself and my colleagues and maintain a balanced ratio between managerial and legal work so that I don't lose touch with the operations of the legal department.

CEELM: Do you have any personal habits or strategies you employ that may not be common but that really help you succeed in your role?

Jaroslav: I don't think that I can give your readers any ground-breaking or revelatory guidance. I try to do things the simple way and not to overthink problems or tasks. Nevertheless, the general rules and practices that help me are: (i) know your colleagues, (ii) be transparent and clearly communicate information, (iii) always remember that in-house lawyers are a support function (*i.e.*, we are here for others and not the other way around); (iv) organize your team so that it is focused on the same path as the company (of course, I don't mean that this should be done by eliminating diversity of opinion or anything like that); and (v) don't lie.

The last may seem old-fashioned, but it helps stabilize everything. A false statement or intentional innuendo can start a fire that gets out of control and causes unforeseen damages to relationships and the smooth operation of any department.

CEELM: What one person would you identify as being most important in mentoring you in your career – and what in particular did you learn from that person?

Jaroslav: I have to mention two of my bosses from each phases of my career. Each one of them showed me things from a different perspectives specific for their business position.

At the law firm it was my boss at the time, Jan Makara, the director of the local office, who found time to patiently show me how a lawyer provides legal services in an international law firm, organizes his work, and communicates the results to clients.

The second one is my current boss, Peter Dobry, the CEO of the Energy business line, who, with clearly defined vision, has made an impact in my everyday activities. His confidence in me, as well as the fact that he showed it and communicated it to me, helped me to acclimate to the new managerial position of an in-house lawyer heading an in-house legal department, which was very new to me when I started working for Veolia.

CEELM: On the lighter side, what is your favorite book or movie about lawyers or lawyering?

Jaroslav: I have never specifically sought after the lawyering thematic in books or movies. I have always found corny the usual dramatization of the legal environment with "zealous" objections during the hearings and "eureka" moments when the protagonist solves the case at the very last moment. But maybe I have just never seen a good movie or read a good book from the legal world. I have never read anything from John Grisham, for example. However, several good movies come to mind that were related to the legal profession. They are the usual suspects – no pun intended –and I am sure that everybody knows them – *Michael Clayton, The Devil's Advocate, 12 Angry Men, Presumed Innocent*, and …*And Justice for All*, to name a few. ■

INSIDE OUT: E.ON ACQUISITION OF STAKE IN VSE HOLDING

By David Stuckey

On September 22, 2020, CEE Legal Matters reported that Kinstellar's Bratislava office had advised E.ON on its acquisition of a 49% stake in electric utility Vychodoslovenska Energetika Holding from the German electric utilities provider RWE. We reached out to Kinstellar Partner Viliam Mysicka for more information about the deal.

CEELM: Viliam, how did you and Kinstellar become involved in this matter? Why and when (and by whom) were you selected by E.On as external counsel initially?

Viliam: Kinstellar was retained by E.ON based on its work in a long-term cooperation project. We were mandated by Mr Sebastian Heidtkamp, Head of Legal M&A at E.ON, and were appointed alongside Linklaters, who advised on the German and international aspects of the deal (as the deal was part of a larger asset swap between E.ON and RWE).

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

Viliam: The initial steps included deal structuring questions and analysis of applicable agreements (such as the shareholder agreement with the Slovak state).

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

Viliam: I and Adam Hodon, my Bratislava-based Partner, were the main contacts. We led all communication, as the transaction was complex and important for client. The team was further supported, on a case-by-case basis, by several specialists.

CEELM: Please describe the deal in as much detail as possible, including your (and Kinstellar's) role in helping make it happen.

Viliam: The deal consisted of the purchase by E.ON of 49 percent of shares with managerial control in VSEH from RWE. Our role was complex, as we supported the client during the negotiation of terms with the seller – RWE – as well as the second shareholder, the Slovak State.

CEELM: What's is the current status of the deal?

Viliam: It closed in summer 2020.

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

Viliam: The whole context of the deal was challenging, as it took place during the pandemic, which limited opportunities for people to meet for negotiations, *etc.* Also, a new government was introduced in Slovakia in March 2020, and their priority was to fight Covid rather than to deal with the economic situation, which resulted in a long period of deal-related discussions.

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

Viliam: No, there was no substantial change.

CEELM: What specific individuals at E.On instructed you, and how did you interact with them?

Viliam: In addition to Mr Heidtkamp, also Mr Torsten Decker.

CEELM: How would you describe the working relationship with Freshfields on the deal?

Viliam: We believe that the discussions with Freshfields were constructive. Given the Covid element, all discussions and negotiations took place over the phone. Negotiations were often challenging given the complexity of the deal and very sophisticated parties on both sides of the table.

CEELM: How would you describe the significance of the deal?

Viliam: Apart from this deal being perhaps the largest on the Slovak market in 2020 by size and value, it is no less important from other angles as well. It re-confirmed confidence in deal making in these challenging Covid times. It also confirmed that Slovakia remains on the radar screen of major west European investors. Finally, it is a great value for the Slovak state to have a new partner in a strategic energy company in Slovakia. ■

MARKET SNAPSHOT: SLOVAKIA

COVID-19 IN SLOVAKIA: NEW MORATORIUM FRAMEWORK FOR BORROWERS

By Robert David, Partner, and Bruno Stefanik, Counsel, Wolf Theiss Slovakia

On January 1, 2021, Act No. 421/2020 Coll. – the "2021 Moratorium Act" – took effect in Slovakia, introducing a protective framework for businesses affected by the ongoing COVID-19 pandemic and temporarily shielding them from a run on assets by creditors. The 2021 Moratorium Act replaced the temporary moratorium scheme introduced in May 2020, which had been in effect until that point.

The 2020 Moratorium

Arguably, the most remarkable feature of what we will call the "2020 Moratorium" was the combination of its availability and effects, which protected the debtor from, among other things, creditor- and debtor-initiated insolvency, enforcement of adjudicated claims, and all enforcement of security such as pledges and mortgages. While the process to obtain a moratorium under the 2020 scheme was managed by courts, and, in theory, was subject to judicial review, in reality, the process was primarily administrative in nature and, as a general rule, applications meeting the formal requirements were granted. For that reason, the 2020 Moratorium framework became the subject of debate and some criticism among lenders and the legal community because of the borrower-friendly broad-brush approach the legislator took in response to the then-emerging pandemic.

Lenders adapted to the 2020 Moratorium largely through the use of negative covenants and the definition of event of default. However, given the emergency and mandatory nature of the framework, the primary answer was that the emergency framework would expire in time. In some cases, though, lenders' concerns that the 2020 Moratorium would create an avenue for some borrowers to delay the inevitable insolvency and facilitate asset-siphoning proved legitimate. Also, the 2020 Moratorium generated interesting practical questions such as its cross-border effect on insolvency and security enforcement.

Some courts in other Member States have hinted that a COVID-19 moratorium issued by a Slovak court might have cross-border effects, including, potentially, granting a debtor with a center of main interest in another Member State protection from insolvency initiated by a creditor in that Member State, meaning that the assets provided as security by that debtor could not be liquidated in that Member State. However, no authoritative conclusion has been reached in this respect.

The 2021 Moratorium Act

The legitimate expectation was that the 2020 Moratorium framework would come to a natural end. However, because of the ongoing nature of the COVID-19 pandemic, the new 2021 Moratorium Act was adopted, allowing some of the concerns related to the 2020 Moratorium to remain. The key difference of the new 2021 Moratorium Act is that debtors' applications for moratoria must be backed by the consent of a majority of their creditors, and an extension of a moratorium must be backed by a two-third majority of creditors. The 2021 Moratorium Act even includes provisions preventing debtors from using non-transparent intra-group debt to outvote third party creditors, which is certainly a commendable feature. While the legal effects of a moratorium under the 2021 Moratorium Act are largely the same as under the 2020 Moratorium framework, the key difference is that the 2021 moratorium framework is significantly less available.

The primary concern is that while the 2020 Moratorium framework was confined to the period between May 2020 and January 2021, the 2021 Moratorium Act allows debtors to apply for a moratorium of up to six months until December 31, 2022. In addition, some of the questions which were unanswered with respect to the 2020 Moratorium framework remain unanswered under the 2021 Moratorium framework, which extends some of the uncertainty among lenders during a time when the market is arguably more likely to see borrowers default. On the other hand, while we have already seen some moratoria granted under the 2021 Moratorium Act in the first weeks of 2021, because an application for the moratorium must be now backed by creditors, it is, in our view, likely that the 2021 Moratorium Act will not result in widespread applications for temporary protection. In turn, the market will likely see more cases of restructuring or insolvency than in 2020, and creditors will have more transparency in the process. ■

THE NEW COMPETITION ACT IN SLOVAKIA AND ITS IMPACT ON BUSINESS

By Tomas Maretta, Partner, and Marek Holka, Senior Associate, Cechova & Partners

Only a handful of recent legislative initiatives have sparked as much interest in Slovakia's business community as the draft of the country's new Competition Act. What at first seemed to be a routine implementation of the EU ECN+ Directive resulted in a flood of comments and proposals. More than 350 suggestions from the public and various authorities were submitted after the original draft of the new Competition Act was published. Now the bill, having been approved by the cabinet, is entering deliberations in Parliament. The act, which will regulate the daily course of business of every entrepreneur under threat of exorbitant sanctions, certainly deserves a brief summary.

Competition law in Slovakia – an EU Member State – has already been largely harmonized with Union law. The rare exception was the definition of "undertaking," which is central to competition law. Until now, the definition of the subject of competition rules was linked to legal personality. The new Competition Act will harmonize the definition of "undertaking" with the EU law concept of "an entity engaged in economic activity," regardless of its specific legal form or the existence of legal personality. The repercussions of this change are far from academic. First and foremost, fines for competition law infringements will no longer be calculated as a percentage of the turnover of the legal entity acting as a party to the proceedings, but from the turnover of all entities found liable for the infringement. Instead of imposing separate sanctions on various entities from the same economic group engaged in anti-competitive conduct, the competition authority will be able to make multiple entities forming the undertaking jointly and severally liable for the fine. Last but not least, the redefinition of an undertaking will open the door to embracing the principle of economic continuity, whereby liability for breaches of the Competition Act passes to the economic successor continuing the commercial activity of its predecessor.

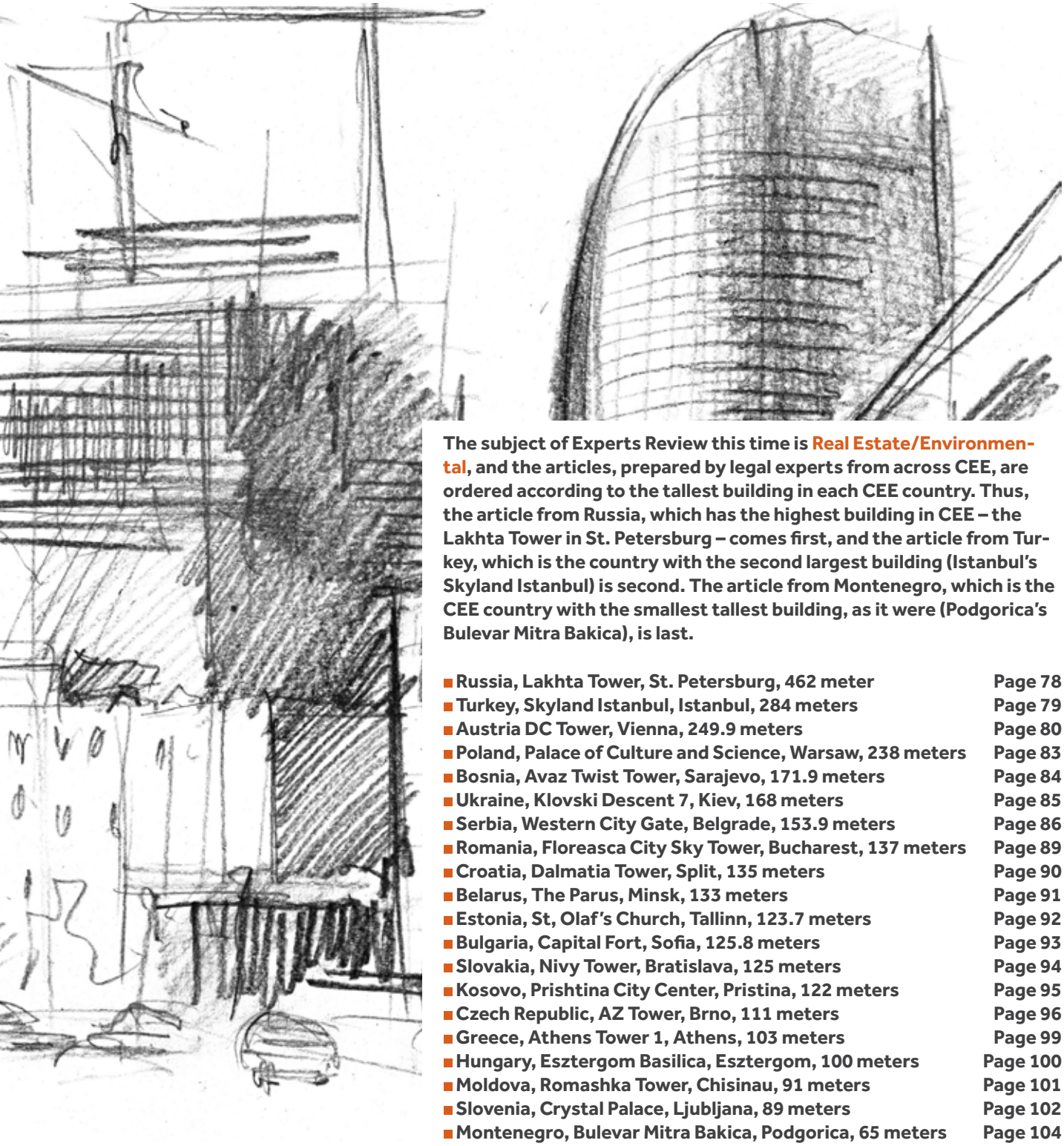
The imposition of fines on anti-competitive decisions of associations of undertakings will be reformed. The competition authority will be able to impose fines up to 10% of the turnover not of the association itself, but of its member companies active on the market concerned by the infringement. Should the trade association prove unable to pay the fine, it will be obliged to require contributions from its members. If they fail to comply, the competition authority will be able to claim the fine from any member company with employees who served on decision-making bodies of the association, or any member company active on the concerned market. Enforcement of decisions of the competition authority will be secured by imposition of periodic penalties.

The new Competition Act is introducing several new procedural instruments, such as interim measures in cases of *prima facie* infringements of the prohibition of anti-competitive agreements and abuse of dominant position, and a similar possibility in merger control, designed to preserve effective competition in cases of premature implementation of concentrations. Decisions in the antitrust area may now be accompanied by temporary structural or behavioral measures, imposing additional obligations on the undertakings on top of fines.

Merger control regulation should become more efficient with the abolishment of the notification threshold for creating full functioning joint ventures, which has in the past caught numerous foreign-to-foreign transactions due to the joint venture founders having sufficient turnover in Slovakia. The competition authority has previously expressed concern about some concentrations escaping notification due to temporary decreases of turnovers as a result of the COVID-19 pandemic, which does not impact the relative market power of the undertakings. As a result, the merging parties will be obliged to assess both the latest and the pre-pandemic turnovers to establish whether the transaction meets the notification thresholds.

The new Competition Act is expected to enter into force on May 1, 2021. What the May Day will bring to business is yet to be seen. A strict, yet more efficient and targeted enforcement of competition law, is in sight. ■

EXPERTS REVIEW: REAL ESTATE/ ENVIRONMENTAL



The subject of Experts Review this time is Real Estate/Environmental, and the articles, prepared by legal experts from across CEE, are ordered according to the tallest building in each CEE country. Thus, the article from Russia, which has the highest building in CEE – the Lakhta Tower in St. Petersburg – comes first, and the article from Turkey, which is the country with the second largest building (Istanbul's Skyland Istanbul) is second. The article from Montenegro, which is the CEE country with the smallest tallest building, as it were (Podgorica's Bulevar Mitra Bakica), is last.

RUSSIA: KEY DEVELOPMENTS IN RUSSIAN REAL ESTATE LEGISLATION IN 2020

By Sergey Trakhtenberg, Partner, and Olga Elliott, Senior Associate, Dentons

Most changes in Russian commercial real estate law in 2020 were associated with the COVID-19 pandemic and the governmental bans and restrictions introduced in connection with it.

Law 98-FZ

Among key legislative changes in the past year, one can single out the Federal Law of April 1, 2020, No. 98-FZ "On Amendments to Certain Legislative Acts of the Russian Federation on the Prevention of and Response to Emergencies," which, among other things, introduced certain measures to support tenants of non-residential properties.

Law 98-FZ contained a general framework granting tenants the right to demand a reduction in rent for 2020 due to the impossibility of using the property as a result of the state of emergency or a "high alert regime" in relation to COVID-19 (a special statutory regime introduced by each Russian region imposing restrictions on mass gatherings, and ordering the closure of certain municipal or private facilities, *etc.*)

In addition, until October 1, 2020, the law granted certain categories of tenants operating in the most affected sectors of the economy the right to a deferral in the payment of rent. For small and medium-sized businesses, it also granted the right unilaterally to terminate the lease if the lessor refused to reduce the rent.

A distinctive feature of these support measures was to transfer some of the financial risk caused by the pandemic to landlords without providing them with any substantive support measures at the federal level. On the regional level, only some of Russia's constituent entities introduced legislation aimed at supporting real estate owners in the form of waivers of part of their local real estate taxes or access to certain state grants, but in practice few owners were able to benefit from such measures due to the extensive bureaucratic requirements.

Recent practice has shown that for tenants, the proposed support measures were equally insufficient. In particular, instead of rent deferrals the majority of tenants needed rent discounts – but clear legislation on the subject was never adopted. It was expected that the general framework on rent discounts envisaged in Law 98-FZ would be supported by further specific legislation, but this was never passed. This led to countless conflicts between landlords and tenants in which the latter demanded rent discounts by reference to Law 98-FZ, but no one knew how such rent reductions should be applied in the absence of any concrete legislative base. As a result, the owners and tenants agreed on compromise solutions virtually without regard to the adopted legislation.

Integrated Development of Territory

Another important legislative change in 2020 related to the integrated development of territory. The new law superseded various norms governing the integrated and sustainable development of territory. Among other changes, the amendments established procedures for the seizure of real estate for the purposes of integrating the development of territory and for compensating the owners of the real estate.

These amendments were met with a positive response from the construction industry as they should simplify the redevelopment of residential areas currently occupied by houses in poor condition. Having said that, there is a general concern that this new legislation may potentially be abused by developers due to the ambiguous requirements for choosing sites for the integrated development of territory as it may apply to any real estate located on land of high interest to developers and not just rundown buildings.

Mortgage of Residential Properties

Another legislative change last year that proved to be an effective support measure for the construction industry was the governmental program for the mortgage of residential properties with government-subsidized interest. This program largely contributed to an increase in demand for new properties over the past year, which in turn stimulated the development of the construction industry and provided significant support to developers during the COVID-19 crisis.

Although the program has recently been extended until July 1, 2021, its further application is being debated among state authorities as there is a general concern that despite its positive effect on the construction industry it may also contribute to an increase in the average residential property price. ■

TURKEY: REAL ESTATE GOES GREEN IN TURKEY

By Done Yalcin, Managing Partner, and Arcan Kemahli, Senior Associate, CMS Turkey

Turkey continues to prioritize the adoption and consistent implementation of sustainability principles throughout its economy. Indeed, the Turkish Capital Markets Board recently set a voluntary threshold for companies subject to its supervision, and many are finding the use of green buildings valuable in reaching them. In addition to their economic benefits, green buildings – which are socially and environmentally compatible with their environment – are gaining importance in determining a company's level of sustainability credibility and sustainable investment commitment.

Turkey's Sustainability Progress

Turkey's efforts to maintain concrete corporate sustainability policies increased significantly in 2020. The Turkish Capital Markets Board amended the Corporate Governance Communiqué. Accordingly, companies included in the Communique's scope are now bound to the Framework for Compliance with Sustainability Principles, and, as of 2020, must report whether they have been operating in compliance with sustainability principles. If not, they must explain why, and list the social and environmental risks and impacts arising from the non-compliance.

The Framework sets out various sustainability principles under "General Principles," "Environmental Principles," "Social Principles," and "Corporate Governance." According to the Environmental Principles, companies must, among other things, comply with environmental legislation and international standards such as ISO 14001, identify the incentives for environmental management, disclose measures and strategies to address the climate crisis, provide data on renewable energy use. Unsurprisingly, then, green buildings show great potential for companies that must comply with the Framework.

Green Buildings and Green Certification in Turkey

Under the Regulation on Green Certificates for Buildings and Settlements, the "Green Certificate Commission," which was established within the Ministry of Environment and Urbanization, is responsible for the supervision of the green building and green settlement system and for specifying the procedures and principles of related matters. So-called "assessment foundations" are authorized by the Ministry to assess the environmental, social, and economic performance of buildings and settlements according to the assessment guides and can certify buildings and settlements in certain conditions.

As per the regulation's provisions, the owners of buildings and settlements must apply to the assessment foundations authorized by the Green Certificate Commission to obtain green certificates. Subsequently, the assessment foundation that receives the application will carry out an assessment based on the assessment guides and then register the related data in the National Green Building Information System. Since the software infrastructure of this system has not yet been completed, it is not currently functional or being enforced. However, the goal is to finish the infrastructure of the system this year. Currently, Turkey's assessment foundations provide consultancy services to building and settlement owners regarding local and foreign green building certificates.

Apart from the National Green Building Information System, the Turkish Green Building Council also provides a national green building certificate in line with applicable legislation, following an evaluation process to ascertain factors such as water and energy efficiency.

Additionally, Turkey currently has 495 certified green buildings – one of the highest numbers in the world. Indeed, on December 31, 2018, Turkey had the sixth most LEED-certified buildings per gross square meter in the world according to the U.S. Green Building Council.

Green Leases

Green leases – lease agreements that contain provisions requiring the parties to reinforce the environmental-friendly and sustainable nature of the leased estate, or special provisions that transform a regular lease agreement into a green lease agreement – are not regulated under Turkish Law and are not yet common in Turkey. The number of green leases is expected to rise after the established ambition to sustainability principles by Turkish entities. Additionally, as Turkey is eager to follow and adapt European Union directives, we expect the country to follow the European Union's path pertaining to green lease regulation.

Green Financing for Green Buildings

Since 2018, green financing has been on the agenda in Turkey, with financiers becoming more familiar with green financing options, especially regarding green buildings. Financing through green mortgages, green leasing, and green project finance are currently on offer. ■

AUSTRIA: COVID-19 AND RENT REDUCTION IN AUSTRIA

By Wilfried Seist, Head of Real Estate, and Theresia Grahammer, Attorney at Law, DSC Doralt Seist Csoklich Rechtsanwalte

A year has passed since the outbreak of COVID-19 in Austria and many legal problems remain unresolved. The problem seems new, but the legal provisions of the Austrian Civil Code em-ployed to deal with the consequences of the pandemic are more than 200 years old, and were drafted in order to deal with quite different pandemic effects. The law refers to "*extraordinary events*" such as "*fire, war or pandemic, major floods, weather events*." There is agreement that COVID-19 is a pandemic and therefore an extraordinary event in the meaning of the law.

The consequences for a lessee's obligation to pay rent depend on whether the lease agreement qualifies as "Miete" or "Pacht." The Austrian Civil Code distinguishes between simple lease agreements for a leased space (an apartment, business premises, plot of land, *etc.*) which are called "Miete," and lease agreements for a company or business opportunity, which are called "Pacht." In practice, it is often difficult to determine whether a lease agreement is "Miete" or "Pacht," especially for lease agreements in shopping centers.

According to Art. 1104 of the Austrian Civil Code, in the case of an extraordinary event, the rent is reduced for "Miete" if the leased space is unfit for use. If the leased space is still partially fit for use, the rent is reduced proportionately. The extent of the reduction is determined by the extent and duration of the un-usability, depending on the agreed-upon purpose of the use of the leased object. There are no clear guidelines as to how to calculate the rent reduction. The only decision from the Austrian Supreme Court dealing with a rent reduction based on an extraordinary event dates from 1915, when the lessee of an apartment fled from enemy troops during World War I and left his apartment and belongings behind. The Austrian Supreme Court stated that the leased apartment was still partially fit for use because the lessee could leave his furniture in the deserted apartment and did not need to rent an additional storage room.

In the case of a "Pacht," under Art. 1105 of the Austrian Civil Code, if the lease agreement was concluded for a longer term than six months, the rent is only reduced if the leased object is completely unfit for use. As long as the leased object remains slightly fit for use, the lessee has to pay the full rent. When Art. 1105 of the Austrian Civil Code was drafted in 1811, the members of the legislative committee were thinking of lease agreements for country estates and farms. When a case for rent reduction of a business lease was brought before the Austrian Supreme Court in 1965, the court did not see any problem in treating a business lease in the same way as an agricultural lease in 1811. However, the Austrian Constitutional Court might have a different view. It is currently being debated if, in cases where a lease agreement that is considered "Pacht" is close to "Miete," Art. 1105 of the Austrian Civil Code could be unconstitutional because it treats similar situations very differently. The Austrian Constitutional Court has not yet decided on such a case.

There is also an ongoing debate as to whether only direct effects of COVID-19 on a leased object, such as legal restrictions imposing a lockdown or opening restrictions, can lead to a rent reduction, or whether the *overall* impact of COVID-19, including a general economic decline, can be considered. Most likely it will take a year or two more before this question is brought before and decided by the Austrian Supreme Court. ■

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Keeping you ahead of the market

POLAND: BENEFITS AND DRAWBACKS OF BUILD-TO-RENT

By Przemyslaw Kastyak, Partner, and Sebastian Janicki, Senior Associate, Penteris

It is symptomatic of the importance of the real estate market that Generation Y – members of which are often referred to as "millennials" – is also, sometimes, described as "Generation Rent," because so many young adults have been priced out of the housing market.

This is a social consequence of at least three economic factors: (i) Sustained falls in interest rates (for example, the Euro area average was 14.6% in 1981, 10.2% in 1991, 5% in 2001, 4.3% in 2011, and 0% in 2021); (ii) Increases in the cost of housing (prices increased in the Czech Republic by 8.75% in 2019, in Bulgaria in the first quarter of 2020 year-on-year by 6.21%, and in Poland by 10.9% in 2020, the second highest in the EU); and (iii) A relative shortage of supply (as an illustration, Slovakia (378), Poland (386), and Hungary (455) are at the low end of the European scale of apartments per 1000 residents compared to countries like Portugal (582), Italy (581) or even Austria (541)).

The long-term impact of this will be an increase in the costs of renting, and of course a burgeoning Private Rented Sector (PRS). A relatively new PRS variant, Build-to-Rent (BTR), has developed as an answer to new needs. With relatively more money on the market, a rise in the minimum wage, and the increased willingness of investors to spend their savings on the residential market, CEE is seeing the fast growth of BTR as a viable and profitable real estate product. Necessity is the mother of invention.

Benefits

Not only is BTR relatively fresh and dynamic, but socio-economic trends point to a stability and profitability that will keep investors happy for the next few years, especially in CEE. In 2016 – the year in which the Urban Land Institute published the first institutionalized guide to BTR – an Ipsos poll found that in Poland, for example, the majority (64.5%) of residential tenants were between 20- and 29-years-old, signalling great growth potential for the BTR market.

What is more, there are other promising groups of potential tenants. The rising employment status of tenants bodes well for the future of BTR against the backdrop of an unemployment rate of 3.1% in Poland among young people, compared to an EU average of 7.5%. The same is true for the increasing number of foreigners as tenants, which has been on the rise since 2014. Currently, five percent of the population are foreigners – some two million people – and Poland has one of the highest levels of immigration in the EU.

The steady growth of prices on the Polish residential market (fuelled mostly by private investors) and high mortgage requirements from banks mean that the purchase of apartments continues to be increasingly less affordable for young people. "Generation Rent" is becoming more entrenched, institutional leases are becoming more common, and recent polls indicate that 41% of tenants are happy to rent because they are unable to purchase their own apartment. This percentage will no doubt rise, making this another box to tick for BTR investors.

Drawbacks

At the moment, BTRs are selling like hotcakes. The price of plots in Warsaw and the archetypal *Mitteleuropa* city of Wroclaw have shot up by around 20-30% in the last five years. To guarantee a tasty ROI, potential buyers need to start investing now.

A major point of complexity for lawyers working with BTRs in Poland, for example, is the wide gap between the needs of investors and current legislation in the area of master plans. There are no specific regulations for BTR buildings, which bear similarities not only to residential buildings, but also to service buildings, as the business activity of developers is to *provide services*, not to sell apartments to new owners.

Besides the main service of tenancy, BTRs also provide additional services for tenants, making them closer in character to hotels or hostels, which in Polish law are categorized as "collective residence" buildings. However, the difference between hotels, dormitories, BTRs, and ordinary residential buildings, in some legal aspects, is not always clear, which leads to confusion.

Challenge

When investors wish to obtain a BTR building permit, our goal is to help establish the legal status of the BTR in light of the local master plan. Polish law, for example, does not determine if a BTR can be built on areas described in the local master plan as areas permitted for *residential* or *services* use. The challenge begins today. ■

BOSNIA AND HERZEGOVINA: CONSTRUCTION RIGHTS

By Slaven Dizdar, Head of Real Estate, Maric & Co.

Up until the adoption of the Laws on Property Rights in Republika Srpska (in 2008) and in the Federation of Bosnia & Herzegovina (in 2013), the only legal basis to obtain a construction permit and erect a lawful building was to first acquire ownership over the land on which the building is to be constructed, usually through a purchase agreement, as, according to the provisions of the applicable Laws of Physical Planning, as well as the general legal framework of Bosnia and Herzegovina, an investor must obtain *construction rights* over real property to obtain a construction permit for that property.

However, a number of new legal solutions and institutions have been introduced by the two Laws on Property Rights, including the institution of construction rights. As a relatively new legal institution, it is rarely found in local practices. These new construction rights should not be confused with the construction rights formerly granted by public authorities under the socialist legal regime, which are currently being phased out.

According to the provisions of Article 286 of the Law on Property Rights of Republika Srpska and Article 298 of the Law on Property Rights of the Federation of Bosnia & Herzegovina, "construction rights are limited property rights on someone's land, granting its holder the right to own his own building on the surface of such land, or beneath it, which fact the land owner is obliged to tolerate," whereby "construction rights are legally equal to the building itself." From a legal standpoint, constructions rights on plots of land exist separately from the land itself, which results in separate registration of the two. This principle is further detailed by the provisions which proscribe a system of double registration, so that construction rights are simultaneously registered in the land registry sheet of the subject land, as a burden, and in a newly formed land registry sheet as a property right of its holder. Once a building is constructed, it shall be registered in the land registry sheet as separate real estate, legally independent from the land on which it has been constructed. This system allows for the construction rights, and buildings constructed based on such rights, to be sold, mortgaged, or otherwise disposed of, completely independently from the land beneath such buildings. This also allows for separate ownership over the land and the buildings constructed on that land, as an exception to the principle of real estate singularity between land and buildings.

The holder of construction rights is the owner of the building constructed on land burdened by the construction rights, but is also the beneficiary of a usufruct on the burdened land itself, and as such, according to the Law on Property Rights, "is obliged to pay to the land owner a monthly consideration for the land, in an amount equal to the average rent for such land, if not otherwise agreed." Construction rights may be acquired either by a court decision or by mutual agreement, executed in the form of a notarial deed, processed by a local Notary Public, in local language. Construction rights enjoy the same legal protection as predial servitudes, in relation to the burdened land, and as ownership, in relation to the construction rights themselves and buildings constructed in such a manner.

Construction rights may end through the perishing of the burdened land, or consensually, or by holder's waiver, or by the expiry of an agreed term of duration, or finally by the fulfilment of an agreed termination condition. Furthermore, if a building is not constructed based on construction rights within ten years of the establishment of those rights, the burdened land owner may request that they be terminated. Also, construction rights shall be terminated where a building constructed based on them is demolished such that its proper use is impossible and the building is not reconstructed within six years of its destruction.

Upon the end of construction rights, the constructed building is legally re-attached to the land beneath it, whereby the owner of formerly burdened land now becomes the owner of the building as well. The landowner is obliged to compensate the former holder of construction rights for an amount equal to the increase in market value of the land arising as a result of the building now existing on such land.

As a new legal institution, construction rights should allow for a new, innovative way of approaching building construction, in all cases where a simple land purchase is not an option. This is of particular importance in times that require innovation, such as the ones we are living through. ■

UKRAINE: SUCCESS OF DISAPPOINTMENT – WHAT WILL THE OPENING OF UKRAINE'S AGRICULTURAL LAND MARKET BRING

By Oleg Matiusha, Head of Real Estate & Infrastructure, Kinstellar Kyiv

For nearly 20 years, private land owners, agricultural producers, and investors have been waiting for Ukraine's government to cancel the moratorium on the sale of agricultural land in the country.

When it was introduced back in 2001, the government declared it to be a temporary measure to stimulate the establishment of fair, transparent, and non-discriminatory rules for the operation of the land market. However, as the saying goes, there is nothing more permanent than something temporary, and as a result of the moratorium, the alienation of agricultural production land or land of individual agricultural households allocated to the owners of the land shares (except for exchange or inheritance), contribution of the land into charter capital, or change of designated use has been blocked for decades, affecting 96% of Ukraine's agricultural land.

Finally, on March 31, 2020, after years of heated debate, Ukraine's parliament approved a law that removes the current ban on the sale of private farmland in Ukraine. Although the law does not take effect until July 21, 2021, it is already possible to analyze the effect the ban's lifting will likely have on the agricultural land market in Ukraine.

Positive Changes

Ukraine's agricultural land market will be liberalized in several stages. Ukrainian citizens will be the first to enjoy the benefits of the lifting of the moratorium. They will finally be able to dispose of, acquire, and rezone privately owned agricultural land. The contribution of such land into the charter capital of Ukrainian entities will also become possible. At the same time, beyond land that they already own, individuals will not be able to acquire more than 100 hectares of agricultural land.

Ukrainian banks, including banks with foreign capital, will also be allowed to acquire agricultural land by way of mortgage enforcement, subject to the mandatory sale of such land through auction within two subsequent years. Unlike other legal entities, banks may own an unlimited amount of agricultural land.

In order to maintain prices on the land market and to protect the interests of sellers, the sale price of agricultural land cannot be lower than its normative value until January 1, 2030. To protect the rights of agricultural producers, who often work on leased land, tenants are granted a priority right to buy-out leased land, which is then transferable.

At the same time, as of January 1, 2024, legal entities owned by Ukrainian citizens will be allowed to acquire privately owned agricultural land and to accumulate a land bank of up to 10,000 hectares.

What About Foreigners?

Despite the significant pressure on the Ukrainian government from the IMF and lobbying by the World Bank and the international business community, foreign nationals still appear to be locked out of Ukraine's land market, as the ban against foreign nationals directly acquiring and owning agricultural land in Ukraine remains in place. Under the new law, foreign nationals are only allowed to act on the land market in Ukraine indirectly, by purchasing shares in Ukrainian companies that own agricultural land. Such Ukrainian companies owned by foreign nationals will be allowed to acquire agricultural land starting on January 1, 2024, subject to the approval of a national referendum. When or even whether such a referendum will actually be held remains to be seen.

We Wanted the Best, You Know the Rest

Despite expectations that the new land market law will create new opportunities in Ukraine, it actually limits existing possibilities, such as the use of the two-tier corporate structure and the acquisition of shares in land-holding companies by foreign nationals and stateless persons.

What's Next?

Liberalization of the land market in Ukraine is an instrument rather than a goal. The government may place a premium on attracting large investments to the sector and the development of large agro holdings and producers, or it may develop the sector based on family farming and improving the quality of life in rural areas. As it stands now, the country has arrived at the cancellation of the moratorium without a clear strategy for developing the agricultural market future, and numerous unanswered questions remain. The market needs effective instruments to stimulate and finance small and mid-size agricultural producers, land ownership guarantees, clear and transparent environmental protection requirements that apply to agro producers, and a clear answer on the perspective of the access of foreign nationals to the land market. For this reason, we expect the government and parliament to continue changing the rules and reforming the agrarian land market in Ukraine. ■

SERBIA: NEW ENERGY EFFICIENCY REGULATIONS – TURNING THE TIDE IN FAVOR OF GREEN CONSTRUCTION?

By Ana Lukovic, Head of Real Estate, and Igor Golubovic, Junior Associate, Karanovic & Partners

Green and energy-efficient construction made its shy debut on the Serbian market almost a decade ago. Although various attempts were made to promote these green investments by creating a demand on the market, the results were moderate.

Nevertheless, this initial spark has finally been recognized by the Serbian Government, which recently published a draft Law on Renewable Energy Sources and a draft Law on Energy Efficiency and Rational Use of Energy. These laws, which relate to the construction sector – for many years the main pillar of Serbian economic growth – represent the Government's intentions to make this sector as green and efficient as possible.

Although it is known that greater initial investments in the construction of the energy-efficient buildings will be fruitful and economically viable for investors and property owners in the long run, constructing energy-efficient buildings has been implemented only by a few major and innovative players so far. The majority remain skeptical, and they continue to use decade-old materials and techniques, despite the financial downsides and negative environmental impacts.

The new draft Law on Energy Efficiency and Rational Use of Energy aims to turn the tide and push green and energy efficient construction forward in the Serbian market. The main goal of this law is to promote the construction of new energy-efficient buildings, and to make already-constructed as energy-efficient as possible. To do so, it seems that the lawmakers have predominantly opted for a carrot, rather than a stick.

In order to boost energy-efficiency transparency and the rational use of energy, the law requires the obtaining of a certificate of energy efficiency. This would come handy for future buyers and lessors who want to avoid "the cat in the sack" when calculating future operating expenses, and it should be of great importance in calculating potential effect-expenses caused by, for instance, changes in temperature levels and other climate alterations.

The law also defines products and materials that increase energy efficiency. Their use in construction and adaptation of buildings, especially those categorized in top energy classes, is promoted through various incentives. As there is no better way to implement and promote new trends than through incentives, the draft law states that tax and customs relief, among others, can be provided to investors who use technologies and products that contribute to more efficient use of energy, or who place such products on the market.

In order to prevent this of becoming just an empty bill, licensed energy managers and energy counsels are envisaged as experts authorized to monitor and improve the implementation of the rational and efficient use of energy.

Additionally, once the Law on Renewable Energy Sources enters into force, use of renewable energy sources will be declared of special importance and public interest for the Republic of Serbia. By doing so, there will be room for local municipalities to reduce land development and infrastructure fees, as well as to provide other incentives for the construction of new buildings and the reconstruction of old which will be powered and heated by renewable sources of energy.

This law also regulates the production of energy from renewable sources for producers' own consumption. This could be an efficient way of incentivizing industrial parks and production facilities to construct renewable energy systems next to their production facilities and use the resulting energy for their own needs, with surpluses available for sale to energy suppliers. This model, combined with the incentives for the use of green energy provided by local authorities, could be a turning point in the construction sector, as it will commercially motivate investors to opt for greener construction.

Although green construction has been present on the Serbian market for some time, it appears that it needed an additional push to be widely used and accepted by investors. These new laws may provide the breakthrough necessary to tip the scales in the promotion of energy-efficient construction, if applied correctly. ■

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ROMANIA: AGRICULTURAL LANDS TRANSACTIONS SIGNIFICANTLY IMPACTED BY NEW LEGISLATIVE CHANGES

By Dana Radulescu and Alexandra Rimbu, Partners, and Diana Borcean, Senior Associate, MPR Partners

Last summer, Romania's Parliament adopted the controversial Law 175/2020 for the amendment and completion of Law 17/2014 on certain measures to regulate the sale of agricultural lands located outside the built-up area and to amend Law 268/2001 on the commercial companies' privatization that hold in administration lands of public and private property of the State with agricultural destination and the establishment of the State Domains Agency.

On October 13, 2020, Law 175/2020 fully entered into force, changing the real estate market to its core with regard to agricultural lands by introducing a lengthier and more complex pre-emption procedure that must be followed prior to the sale of agricultural land.

The technical norms detailing the envisaged pre-emption procedure under Law 175/2020 should have been adopted within fifteen days of its entrance into force. Disappointingly, however, as we write this, the technical norms have not yet been approved, resulting in a legislative vacuum and consequently to a blockage of not only those real estate transactions concluded after the entry into force of Law 175/2020, but also of those transactions pending at the time, because the new pre-emption rules were intended to apply to ongoing procedures, even if they had commenced under very different legislation.

The absence of technical norms caused an interruption in the sale of agricultural lands, since public notaries refused to authenticate any deeds transferring the property rights over such lands.

In this context, the Romanian Government adopted Government Emergency Ordinance 203/2020 on some measures to regulate the sale of agricultural land located outside the built-up area that instituted rules for pre-emption procedures initiated before October 13, 2020 that were similar to the provisions applicable prior to the amendments introduced by Law 175/2020.

Notwithstanding, the provisions of GEO 203/2020 are transitory, applying only until January 31, 2021. Thus, the chaos created by the new legislation and the absence of the technical norms still dominates the fate of real estate transactions with agricultural lands.

Detrimental Consequences

One of the most severe issues stemming from the recent changes of legislation is the obligation of owners to use agricultural lands exclusively for the purpose of carrying out agricultural activities.

At this moment, the extent of this restriction is unclear, as is how it should be interpreted and correlated with the laws allowing the removal from the agricultural circuit of lands located outside the built-up area.

A restrictive interpretation would be that the removal of land located outside the built-up area from the agricultural circuit is no longer possible because its owner is now obliged to carry out agricultural activities.

On the other hand, neither Law 175/2020 nor GEO 203/2020 have amended the still-applicable legal provisions governing the removal of land from the agricultural circuit.

Practice in this regard is scarce (or non-existent) due to the absence of the technical norms for the implementation of the new law.

Among others things, the difficulties generated by these legislative changes had a negative impact on renewable energy investors, as wind/photovoltaic projects usually require large surfaces of land that is typically agricultural and located outside the built-up area.

Therefore, the current legislation is likely to s endanger the development of renewable energy projects, as: (i) the acquisition of agricultural land is impaired until the relevant technical norms are in place; or even longer, as it currently looks like the pre-emption procedure will be a long and challenging one due to the extended legal terms and numerous categories of pre-emptors entitled to acquire the land and which may ultimately block the transactions; and (ii) the investors will then face numerous challenges related to the removal of land located outside the built-up area from the agricultural circuit in order to be able to obtain the required permits and initiate construction.

To conclude, it remains to be seen what practice will develop in terms of agricultural land transactions and how these restrictions will affect potential investors' interests.

Unfortunately, in cases where the legislation is deficient, the practice may generate frequent inconsistencies and uncertainties that negatively impact the business environment. ■

CROATIA: DECADES OF OWNERSHIP LOOPHOLES CLOSED BY THE CROATIAN ACT ON UN-APPRAISED BUILDING LAND

By Emir Bahtijarevic, Managing Partner, and Sanja Novoselic, Associate, Divjak, Topic, Bahtijarevic & Krka

The Constitution of the Republic of Croatia abolished "social ownership" in 1990 and introduced a universal type of ownership – private ownership. Legislation that followed the introduction of the Croatian Constitution specified how social companies were to be transformed into private companies. To establish private ownership over companies undergoing this transformation, the companies had to appraise the property used in their share capital. However, land that was used by said companies that was located in the zones for tourism-related purposes near the Adriatic coast (which we will refer to as the "tourist land") was often not appraised in its entirety towards share capitals, as the intention was for it to become the property of the state for developing Croatian tourism strategies. Therefore, social companies performing tourism-related activities (*e.g.*, hotels and camps) often appraised only buildings, while the land on which the activities were also performed was left un-appraised, yet continued to be used without compensating the real owner – the state.

In 2010, the Croatian Parliament enacted the *Law on Tourist Land and Other Building Land Un-Appraised in the Procedure of Transformation and Privatization* (which we will refer to as the "2010 Act"). The 2010 Act was designed to clarify the ownership regime of tourist land in camps, tourist land with hotels and resorts, and other un-appraised building land. All the land falling under the definitions provided in the 2010 Act that was un-appraised in the transformation procedure is consequently owned by the state or municipality, merely on the ground of the act's entry into force (*i.e.*, acquisition of ownership based on law), regardless of any registrations to the contrary in the land registry. Nevertheless, even after ten years of practice, the 2010 Act proved to be vague and unsuccessful, and a much-needed legislative update was made in 2020.

In May 2020, the new *Act on Un-Appraised Building Land* (the "2020 Act") entered into force, introducing structure in the regulation of ownership and other relationship pertaining to tourism-dedicated land (for hotels, resorts, and camps) and other un-appraised building land. At the time of enactment, according to the Croatian Government, there were approximately 20 million square meters of un-appraised tourist and other land. The Government projected that, were titles finally resolved, it could generate millions of Croatian kunas in profit from future lease agreements or even sales of the land. The 2020 Act therefore aims to resolve any legal doubt and vagueness arising from the 2010 Act and provide clarity towards a final determination of the legal status of all tourist land.

The procedure for the resolution of the legal status of the land is specified in detail in the 2020 Act, which is designed to resolve all disputes within a few years. Companies are obliged to prepare all relevant geodetic surveys, obtain confirmations, and initiate and apply for administrative resolution of the property status.

The deadline for completing these surveys is 180 or 270 days, while the deadline for filing the applications is 12 or 24 months, depending on the land in question. If these timelines are not met, the state may initiate the resolution of the status by itself and impose the costs on the relevant companies. Even when the ownership status is resolved and registered in the land registry, the companies will not be precluded from using the land, but would be required to lease the land from the "new" owner, with back rent since 2011 being due and payable. If an agreement is not made, the companies run the risk of losing the property appraised in their share capital through the expropriation process. Therefore, companies failing to oblige with the obligations prescribed in the 2020 Act risk losing the land on which they are performing their long-term business activities.

Regardless of the short deadlines prescribed in the 2020 Act, the bylaw on rent calculation, which provides information about one of the most important questions for investors/owners of tourist land, has not yet been passed, even though its adoption was envisaged in July 2020.

The process of resolving ownership statuses of tourist land is slow but steady, and the loopholes existing ever since the enactment of the Croatian Constitution have yet to be fully addressed. ■

BELARUS: THE REAL ESTATE SECTOR IN BELARUS

By Alexander Liessem, Partner, bnt

Belarus has never been in the news as often as in 2020, which might serve as evidence that the country is currently facing challenging times. The COVID-19 pandemic has been a catalyst and revealed problems in the still widely unreformed Belarusian economy, while the political crisis hit the country hard. With the economy slowing down, demand for commercial real estate has dropped, and investors have put most of their plans on hold and have been monitoring the situation carefully, awaiting further developments.

This applies not only to foreign but also to local investors, so that the number of transactions involving real estate has been at a multi-year-low during recent months. Purchase prices and rental rates have declined for every type of real estate across the country, preserving the huge differences between the city of Minsk, some regions close to Minsk, and the rest of the country. However, the impact on prices has not been as significant as one would expect.

Looking at projected or ongoing construction, financing for construction projects – always a challenge, very often leading to different owners for each floor of a building – has become even more difficult, as banks have restricted their lending activities. Nevertheless, construction is continuing in those projects which have already started, for several reasons.

First of all, under Belarusian law, acquiring ownership of a land plot for construction is allowed only in certain cases. As a rule, land plots are allocated by the state on the basis of long-term rental agreements. These agreements are concluded after an auction at which the right to conclude an agreement and the right to use the land plot is awarded to the highest bidder. Since this process can involve multiple uncertainties, in practice most land plots for commercial real estate construction are granted on the basis of investment agreements. In an investment agreement the competent authority grants a land plot and the investor undertakes to invest and to build on that land plot.

Second, investment agreements contain very strict rules regarding the timeframe for completion of the construction project. In principle it is possible to extend the term of an investment agreement, but this is very burdensome, since the amendment requires that the entire procedure for conclusion of the agreement be repeated. In any event, there is no guarantee that the term will be prolonged, and investment agreements contain substantial penalties in the case of delays. In extreme cases the right to use the land plot can be withdrawn. Indeed, the authorities have made use of this option several times, leaving investors with huge losses.

With all this in mind, investors and developers try everything in order to comply with the terms for continuing construction, even in these uncertain times, using any funding available. Of course, this will simply shift problems to a later stage, and it leads to an increasing amount of unfinished construction in the future since available funding – while allowing developers to continue for several months now – might well be insufficient to finish the building and put it into operation.

Tenants are presented with ever-greater choices, since many projects have been finished recently and many commercial premises are currently empty. As a rule, however, there is little movement since relocation to new premises involves expenses, which must be calculated against possible savings.

For many tenants of state-owned properties, rental rates were lowered by decree, initially for several months, and now for a period of two years, as a reaction to the COVID-19 pandemic. Many private lessors achieved a similar result by way of negotiation, and there is also a tendency in the market to switch to private tenants since they are more flexible, it is easier to negotiate agreements with them, and the standard of facilities is usually higher. The impact of the possible relocation of IT companies is not clearly visible in the market. The retail sector – and in particular smaller retail spaces in shopping malls – and the catering sector have been hit harder than the office market.

In the near future no significant change is expected since the Belarusian market works only under limited "market conditions." The volume of transactions with or in connection with distressed assets is expected to increase and development of property in prime locations by upgrading them to a higher standard will be another challenge. ■

ESTONIA: ACTIVE REAL ESTATE MARKET GETS FURTHER SUPPORT FROM ONLINE TRANSACTIONS

By Piret Kergandberg, Managing Partner, Triin Ploomipuu, Senior Associate, and Siim Vahtrus, Associate, Walless Estonia

Estonia's real estate market is going strong despite the uncertainties and hardships caused by the COVID-19 pandemic. The number of real estate transactions was 20% higher and the total value of transactions 31% higher in the fourth quarter of 2020 than the same quarter the year before (and up 11% and 31% from the third quarter of 2020). As prices also continue to rise – the composite real estate index rose 10% year-on-year – Estonia remains an attractive place for real estate investments. Recent changes, further digitizing the transactions, are making it easier than ever for foreign investors.

Estonia relies on the principle of the binding effect of the land registry. Based on this principle, entries in the land registry can be relied on by anyone and have binding force. One of the main mechanisms to ensure that land registry entries are indeed correct is the requirement that notaries public be used to authenticate real estate transactions (including both transfers of ownership and the establishment of servitudes).

In addition to performing formal checks, such as confirming the identification of parties and ensuring AML-compliance, before certifying an agreement, the notary is obliged to make sure that the parties fully understand the content and consequences of the agreement.

For these reasons, certification of agreements has traditionally required an in-person meeting of the parties to the agreement and the notary public. As one might guess, conducting such in-person meetings has become more complicated, if not impossible, since last year. Fortunately, in what turned out to be extremely good timing, the Parliament of Estonia adopted amendments to the rules on certifying agreements by notaries public in 2019. One of these amendments, which took force at the beginning of February 2020, introduced the option of remote certification.

Remote certification essentially replaces the in-person meeting in which the notary public explains the content of the agreement to the parties and ensures that it reflects their true will. Now this all can be done online via a video meeting. After the notary has performed the necessary checks and explained the content of the agreement, it can be signed with an electronic signature – a tool which enables users to employ all of Estonia's e-governance tools and electronic signing of documents (and which is available to non-residents if they apply for Estonia's e-Residency and obtain the e-Residency kit for digital authentication and signing). In effect, with a bit of preparation, anyone can purchase real estate in Estonia, regardless of their location, without leaving the comfort of their home.

In practice, anyone wishing to use the option of remote certification by a notary public should: (1) contact a notary public office in Estonia to arrange for remote certification (the notary public will specify the requirements on self-identification and AML documentation necessary to carry out the transaction); (2) own an Estonian ID card, digital ID, mobile ID, or e-Resident's digital ID (SmartID or a European Union member state's eID card can also be used to log in to the portal, but they cannot be used for signing documents); and (3) have a computer or laptop with web-camera and microphone, log in to the www.notar.ee portal, and follow the instructions (the website is also available in English or Russian).

Many notaries in Estonia are also fluent in English, which means that process of certification can be done in English. Parties have a right to ask for a written translation of the contract but may also waive that right.

The COVID-19 pandemic has shown that, in many areas, digitalization of services is key for a service to survive and thrive. With real estate transactions gradually moving online, the ease of doing business in Estonia is again moving a step ahead. This pandemic-proof solution, which provides practical value in the form of both time- and traveling-cost-savings, has proved to be a success. ■

BULGARIA: TENDENCIES OBSERVED IN THE LAST 12 MONTHS AND EXPECTATIONS FOR 2021

By Elena Todorova, Partner, and Dimitar Vlaevsky, Attorney, Schoenherr

Unsurprisingly, 2020 saw a reduction in the A-listers on the Bulgarian real estate market, including investors in office, retail, and hospitality properties. The lockdown sent IT com-panies, which had been dictating the local office space market, into home office. The fu-ture of commercial and entertain-ment properties like shopping malls, cinemas, concert venues, and sports arenas remains uncertain – but tourism remains the hardest hit.

After a year of arrested development, a few trends have taken form in the Bulgarian re-al estate market that we believe will probably continue in 2021.

Second Homes to Replace City Residences and Offices

The imposition of restrictions on free movement and the "forced" home office increased the demand for suburban properties, while at the same time significantly decreasing the interest in new office build-ings. Most employees with families who had to spend a lot of time working from home had to adapt to the extraordinary circumstances. Thus, the most desirable combination is a detached house with two or three bedrooms and a yard within a radius of 30-60 kilometres of the big cities.

Many homeowners are also choosing to upgrade their second home to a permanent one, assessing as positive the tranquillity and closeness to nature that their holiday properties provide. The outflow from the central urban areas and areas with densely built residen-tial buildings led to an increase in the prices of so-called "weekend properties," and the relocation of some businesses to the suburbs (for example, there is an increased interest in warehouses for courier companies or e-commerce businesses).

So far there has been no increase in the availability of residential properties in the cen-tral urban areas or a decrease in their price, but if the trend continues, such consequenc-es are reasonable assump-tions.

The office market, however, took a big hit. The pandemic lead to a severe decrease in office rent as well as showing to investors that the trend of open space office areas probably is at an end.

Decreased Value of Retail Properties

Due to the anti-epidemic measures imposed by the Bulgarian govern-ment, indoor shop-ping centers were partially closed. Only a few of their tenants – primarily pharmacies, gro-cery stores, pet food stores, customer centers of mobile operators, and banks - were allowed to stay open. The owners of shopping centres are trying their best to keep ten-ants who are not allowed to operate.

Our expectation is that if there is no change in the measures imposed by the govern-ment, the price of retail space in shopping centers is likely to decrease, as shops there will be seen as less attractive than the "on street shops," which are not affected by the measures. Never-theless, at this stage it is difficult to predict how the market will react in this particular area since the government constantly tries to "sof-ten" the restrictive measures and allow the operation of the malls.

Hospitality Business Reformed

Restaurants remain closed, with most of their kitchens working by delivering food to cus-tomers. If the situation continues as it is, many restaurants with large seating areas will be forced to relocate.

As for the hotels, an interesting trend is that most of them are offering post-Covid re-treat programs, including special menus and consultations with nutritionists and physio-therapists, in addition to the usual spa and wellness procedures. Given the development of the pandemic and the vaccination process, our expectation is that many hotels located in spa resorts will add programs to their portfolios to deal with the effects of COVID-19 and will likely evolve in modern sanatoriums.

New Expectations

Location remains a major driving force in real estate demand, al-though which locations are preferable appears to be changing. Buyers are now demanding a stable Internet con-nection as a first priority, even in locations where the requirement was considered unu-sual 12 months ago, such as mountain huts and coastal villas. The other trend that is emerging is the requirement that the property/building share ecological value (such as small smart green buildings, con-structed with locally obtained or recycled materials, minimizing the environmental footprint). ■

SLOVAKIA: DEPOSIT SYSTEM FOR DISPOSABLE BEVERAGE PACKAGING IN SLOVAKIA

By Natalia Janoskova, Head of Waste Management Practice Group, CMS Slovakia

As of January 1, 2022, a deposit system for disposable beverage packaging will be introduced in Slovakia. Some disposable beverage packaging manufacturers and distributors will therefore have new obligations.

On December 1, 2019, Act No. 302/2019 Coll. on the deposit for non-refillable beverage containers (the "Deposit System Act") partially entered into force. So far, only the provisions on establishing the deposit system are effective. Provisions on materially introducing the deposit system come into force on January 1, 2022.

Which Disposable Beverage Containers are Subject to the Deposit?

The deposit system will apply to single-use beverage containers placed on the market in the Slovak Republic. The following single-use beverage containers will be subject to the new deposit system rules: plastic packaging (bottles) with a filling volume between 0.1 and 3 liters; and metal packaging (cans) with a filling volume of between 0.1 and 3 liters.

Administrator of the Deposit System

In December 2020, the Slovak Ministry of Environment appointed a deposit system administrator to coordinate the functioning and financing of the system. Prior to implementing the deposit system, the deposit system administrator will enter into a performance contract with single-use beverage packaging manufacturers and distributors. The Deposit System Act regulates which single-use beverage packaging distributors are required to enter into performance contracts with the deposit system administrator (*i.e.*, not every such distributor has to enter into a contract). Disposable beverage packaging distributors who do not have this obligation can voluntarily register with the deposit system (see below).

Obligations of Single-Use Beverage Packaging Manufacturers and Distributors

The deposit system entails new obligations for single-use beverage packaging producers and distributors. Each non-refillable beverage packaging manufacturer and distributor must, in principle, add the deposit to the beverage packaging and retain the deposit amount determined by the administrator. Further, they should keep separate accounting records of the price of the goods (the sales price) and the amount of the deposit, as well as of the beverage packaging. This recorded data must then be reported to the administrator. In addition, each single-use beverage packaging producer must register the beverage containers with the administrator and reimburse the administrator for the deposit and costs associated with participation in the deposit system.

Single-use beverage packaging distributors selling beverages subject to the deposit system on a sales area of at least 300 square meters have additional obligations. For example, they must register with the administrator as a packaging collection point, collect packaging waste at their premises or within 150 meters of their premises, and repay the deposit to end users when they return the pledged beverage packaging. However, distributors who sell beverages in addition to their main products (*e.g.*, drugstores) are not subject to these obligations. Such distributors and distributors with a smaller sales area can, however, voluntarily join the deposit system.

The obligations arising from the deposit system also apply to foreign companies that place beverages in non-refillable packaging on the Slovak market or transport them – or have them transported – across the state border of the Slovak Republic in order to place the beverages on the market or distribute them in the Slovak Republic. These foreign companies have the same obligations as Slovak companies if they place beverage products on the Slovak market.

Related Costs

Disposable beverage packaging manufacturers and distributors face new costs, including the following:

- *Labelling Beverage Packaging*: Since only properly labelled beverage packaging can be registered with the deposit system administrator and placed on the market, single-use beverage packaging manufacturers must adapt production to the new legal requirements.
- *Construction Changes*: Disposable beverage packaging distributors must provide a special place for beverage packaging to be collected in accordance with hygiene requirements as well as occupational health and safety requirements. Conversion work will be necessary in many business premises, which represents an additional financial burden.
- *Collecting Machines and Their Maintenance*: The obligations of single-use beverage packaging distributors do not end with securing a place for packaging collection. Another burden will be purchasing and maintaining collection machines.
- *Further Administrative Work*: In addition, single-use beverage packaging distributors will also face new administrative costs related to the new registration and record-keeping requirements.

As mentioned in the introduction, the new obligations will come into force on January 1, 2022. The Deposit System Act sets forth a range of fines for violations of individual obligations, with amounts depending on the specific violation. We therefore recommend preparing for these obligations in good time. ■

KOSOVO: LEGAL OVERVIEW OF CONSTRUCTION OF NEW BUILDINGS AND HOUSING IN KOSOVO

By Mentor Hajdaraj, Partner, and Blerina Ramaj, Senior Legal Associate, Ramaj, Palushi, Hajdaraj, Salihu Attorneys at Law

Acquisition of property ownership in Kosovo is regulated by the Law on Property and Other Real Rights. The Law on Property, along with the Law on Cadaster, sets out the process of acquisition and registration of property in Kosovo. The Law on Property regulates the creation, content, transfer, protection, and termination of real rights, while the Law on Cadaster regulates the basis for the registration and recognition of the real rights by creating cadastral units for parcels, buildings, part of buildings, and utilities.

Based on the Law on Property and Other Real Rights, there are two conditions that must be met to acquire ownership of immovable property in Kosovo: a) a legal basis (a sale-purchase contract, donation, *etc.*) and b) registration of the change of ownership in the immovable property rights register. Natural and legal persons who wish to buy property need to ensure first that the property is registered in the cadastral office with the details described in the property certificate in order to enable the transaction between the buyer and seller. If the property is not registered in the cadastral office, the buyer cannot transfer ownership via a contract signed in front of a Notary Public. The sale is not final and the transfer of the property rights from the seller to the buyer has not been completed until the property is registered by the buyer in the cadastral units.

In the last decade, the construction of buildings and housing in Kosovo has grown exponentially, contributing directly to the increase of economic activity in this sector. As the sector has become more competitive, many investors failed to register their constructed buildings and housing with public authorities and register their ownership in the cadaster offices. This failure was caused by two primary factors: the first and most common is the bureaucratic and time-consuming process required to have public authorities technically accept the structures and register them in the cadastral office, and the second is the failure of investors to comply with the terms of the construction plans permitted by the public authorities. These properties are treated by public authorities and applicable law as unauthorized until they receive technical acceptance and are registered in the cadastral office.

Given that, currently, investors cannot transfer ownership of the structures to the buyers, a mechanism for buyers to have the right to use and exploit the unauthorized structures has been adopted. This mechanism is implemented in two ways: a) by entering into legal obligations through internal contracts (*i.e.*, one not involving the presence of a notary public) between an investor and a buyer; and b) preliminary contracts between an investor and a buyer signed in front of a notary public. However, neither of them fulfills the condition of registering the property in cadaster register. These two forms both aim to regulate or enforce a future binding contract between a buyer and an investor. In addition, this mechanism seeks to assure the buyer that the investor will not enter into other contractual obligations with third parties. Lastly, it ensures that the transfer will take place at the moment when the investor receives the property certificate from the cadastral office.

Both of these mechanisms have, to some extent, regulated the transfer of ownership and the *de facto* recognition of the buyer's rights to the property. Courts and public authorities still do not always rely on the same doctrines in upholding these contracts, however, with some relying on the legal doctrine of substantial fulfillment and winning prescription to prove that the contract has been fulfilled.

In light of these crucial problems, Kosovo must undertake act quickly in order to regulate, ease, and quicken the process of registering these immovable properties in cadaster registers, since as the real estate sector is continuously growing, the number of unregistered buildings is growing as well.

All the above obstacles in transferring ownership for newly constructed buildings have a direct impact on access to financing, especially for buildings used for residential purposes, since buyers do not have legal title in their hands and are thus unable to use it as collateral for securing loans. ■

CZECH REPUBLIC: THE CZECH REAL ESTATE MARKET IN A TIME OF CRISIS

By Lukas Syrovy, Partner, Havel & Partners

Figures suggest that not even the current recession will cause the eagerly-awaited fall in housing prices. On the contrary, prices are still rising, and flats are still selling. Over the past decade, more and more people have been buying properties as an investment. This is because real estate investments are a good way to protect assets from inflation-caused depreciation in the long run. This is true even in times of crisis, as has become apparent in recent months.

The fact that the impact of the crisis is not significant in terms of the number of units sold is mainly due to two factors. The first is the cost of mortgages, with rates being around 2% per annum at the end of 2020. Thus, in December 2020, people borrowed around CZK 26 billion for housing, which is a record amount of money. Over all of last year, banks granted new loans worth CZK 217 billion – an increase by more than one third year-on-year. People can also be motivated to invest in housing by the Czech National Bank's relaxation of its lending rules and the abolishment of the real estate acquisition tax.

Another important factor in why apartments are still selling at ever-increasing prices is the persisting lack of new residential projects, especially in Prague. In the third quarter of last year, more than 1,400 new apartments were sold as part of housing projects in the capital city; the number of apartments sold has grown slightly each year. The average price for new apartments per square meter in Prague was around CZK 100,000, which is approximately CZK 12,000 more than it was in the same period in 2019.

The outlook for coming years is similar, as there is no indication yet from the market that mortgages will become significantly more expensive, nor that the coronavirus crisis will have a major impact on investment acquisitions of secondary residential properties.

Rental Housing in Investor Interest

Rental housing is now also popular among all major developers and investors. This may be due to the relatively stable yield on long-term residential leases and their constantly rising prices, which are not expected to change dramatically in the future.

Given that home ownership is out of reach for more and more people as a result of the crisis, we can expect increased interest in leases in the middle price level of around CZK 25,000 per month in the next few months. Indeed, some large developers that prepare residential projects specifically for long-term rental housing have already responded to this trend.

In view of the risks – the high number of leased units demanding administration, constantly-recurring termination of lease agreements, the condition of leased units at termination and related investments in repairs or recovery of payments from the original tenants to cover the costs – this type of investment was previously difficult to finance by banks. But now, given the demands and trends on the market, bank financing for the construction of rental housing has also become feasible.

Logistics and Industrial Sites

The logistics segment in the Czech Republic has been growing significantly over the last few years – including this past one. In the wake of the pandemic, many companies hastily closed their brick-and-mortar stores and moved to an online environment. We are therefore seeing a lot of demand among e-commerce operators in virtually all sectors and in respect of all kinds of products.

We have seen significant transactions in industrial real estate among food and beverage sellers who have experienced record increases in sales during the pandemic. Because of the shift to cross-segment online shopping, this trend can be expected to continue. However, this will be limited by the offer of land for industrial development, labor, and the length of the permit procedure.

New Reality on the Office Space Market

The office space market, however, has been quite considerably affected by the coronavirus crisis. In the context of the pandemic and the shift to the home-office trend that it caused, the required size of rented space is evidently being reassessed. Most firms have gone online, at least in part, and the home-office phenomenon is expected to continue after the coronavirus crises subsides and life returns to normal. Therefore, we see great potential for the future in coworking centers and shared offices, which have recently become an important trend. ■


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GREECE: THE REAL ESTATE MARKET DURING THE CRISIS AND ITS REVIVAL OVER THE PAST YEARS!

By Yanos Gramatidis, Partner, and Sonia Tzavella, Senior Associate, Bahas, Gramatidis & Partners

Greece's real estate sector has always contributed significantly to the development of the nation's economy. It has to be noted that Greece is a country where home ownership rates are among the highest in Europe. Also, real estate was traditionally considered by most Greeks as a rather safe investment. Thus, real estate is favorably affected by tourism, which is another huge sector of the Greek economy. All of these factors led to the sector's remarkable growth, which peaked in 2007.

However, during the subsequent decade-long crisis, the real estate market experienced an unprecedented decline, with prices for housing diving by almost 42% by 2018. Most Greeks turned their backs on real estate, as heavy taxes were attached to it. The most important of these is the annual Property Tax, which was introduced in 2011, among other austerity measures implemented in order for Greece to avoid bankruptcy and the withdrawal from the Eurozone. It is estimated that, during that decade, almost 280,000 Greeks rejected property inheritances, unable to pay the relevant taxes.

Fortunately, starting in 2018, the real estate market in Greece has begun to recover. More specifically, in 2019, in urban areas of Greece, house prices increased by almost 9.32%, which is substantially more than the 2.35% increase the previous year. The growth of real estate in 2019 was the highest since 2006, according to official data from the Bank of Greece. Quarter-on-quarter, house prices in urban areas were up 2.23% in the third quarter of 2019.

The revival of the real estate market was the result of many factors. Most important is the residency program introduced by the Greek State – the Greek Golden Visa Program – for non-EU citizens who acquire or rent real estate in Greece worth at least EUR 250,000. Both the investors and their family members are entitled to obtain residence permits in Greece and access free travel though the Schengen zone without physical presence in Greece being a prerequisite. The residence permits are valid for five years and can be renewed, providing that the investor retains the investment. The Greek Golden Visa program is similar to those of Spain and Portugal, but it is much more attractive due to the low minimum price of only EUR 250,000, whereas in those other countries the minimum price required is much higher.

It is noted that, according to the Bank of Greece, there was, in 2019, a net inflow of foreign capital from investors of approximately EUR 1.5 billion – an increase of 28.5% over the year before. Most of this inflow was invested in housing properties, either in the center of Athens and the southern suburbs, or at popular tourist destinations (such as Crete, the Ionian and Aegean islands, and the Peloponnese).

Another factor that has helped revive the real estate market in Greece is the three-year suspension of VAT payments on new building permits and unsold properties built after 2006. Moreover, the reduction of Property Tax – the so-called "ENFIA" – has also contributed to the growth of the real estate market. In 2019, the ENFIA for individuals was reduced 30% for properties valued up to EUR 60,000, 27% for properties valued up to EUR 70,000, 25% for properties valued up to EUR 80,000, 20% for properties valued up to EUR 1.0 million, and 10% for properties valued at more than EUR 1.0 million. Another reduction of approximately 10% that will apply to all property owners from the year 2021 has been announced, although it remains to be seen if it will finally be implemented due to the COVID-19 pandemic and current financial crisis.

At the moment, and despite the pandemic, housing prices in Greece – especially in Athens – remain stable, with most involved parties believing that when normality recovers, the real estate market will continue to drive growth.

It is estimated that large property investments which take place in Greece currently, like Hellinikon, Athens Riviera, Tatoi, *etc.*, will help not only to recover the losses sustained by the COVID-19 pandemic crisis, but also will boost the real estate market to levels even higher than in 2019. In addition, it has to be noted that Greece's exemplary handling of the COVID-19 crisis has created a positive image of the country in the international media and investors are expected to come in the post COVID-19 period.

Bahas, Gramatidis & Partners Law Frim is heavily experienced in both legal and tax elements of Real Estate matters. Feel free to contact us for more details. ■

HUNGARY: PAYMENT AGENTS IN CONSTRUCTION

By Peter Berethalmi, Partner, and Andras Juhasz, Associate, Nagy & Trocsanyi

The chain of general contractor and subcontractors behind large-scale construction and the occasional failure of certain subcontractors to obtain proper payment gave birth to the institution of construction payment agent, a form of collateral management. It was typical in the construction industry that subcontractors were exposed to circle debt. The construction payment agent is a unique statutory solution to eliminate such debts.

Introduction of Payment Agent

The concept of the construction payment agent was introduced in 2009 with the amendment of Act 1997: LXXVIII on the formation and protection of the built environment (the "BE Act"). Apart from the BE Act, the main rules pertaining to this agency – such as liabilities of the parties involved in the construction or the mandatory elements of the contract constituting the trusteeship – were detailed in Government Decree 191/2009 (IX.15.) on construction activities (or the "Construction Codex"). The aim of the payment agent is to ensure the purposeful use of the funds of construction projects and to ensure that the performance of the construction contract is concluded. The use of a payment agent is mandatory, and the strict consequences if one is not used may involve fines or the suspension of the construction project by the construction supervisory authority.

Payment via the Agent

The payment agent manages the amount held in an escrow account and informs the developer and the general contractor about changes in the amount of collateral placed at his disposal under the payment agent contract. However, the most important function of the agent is that he manages the payments made to the general contractor(s) and the registered subcontractor(s). Registering in the subcontractors' register, which is part of the main contractor's construction e-log, is done electronically. The agent, on the basis of the invoice issued with respect to the performance certificate, pays the agreed-upon consideration for the given work phase to the general contractor and the subcontractors. Payments made to the subcontractors are not direct. The agent withholds the amount due to the subcontractor from the amount the general contractor is entitled to and only transfers it if the subcontractor certifies that the payment has been made to him by the general contractor.

When Is It Obligatory? Still Somewhat Unclear

The payment agent is obligatory only if the overall value of the construction work reaches or exceeds the community threshold published by the European Committee. At the moment, that threshold is EUR 5.35 million.

Penalty Decree

The construction's overall value must be determined based on the rules of Hungary's Government Decree 245/2006 (XII.5.) on construction fines, if applicable. The first theoretical question, then, is when is the Penalty Decree applicable, especially when no fine will be imposed. Unfortunately, the Penalty Decree is somewhat unclear as to how exactly the value should be calculated. If the Penalty Decree applies, then usually low amounts are calculated (much lower than the contracted price).

Contracted Price

Given the uncertainty in the Penalty Decree, and fearing the consequences, developers tend to choose the net value of the contracted price when determining the need for a payment agent.

In this regard, developers should analyze the costs of technology because that should not be part of the contracted price for purposes of the payment agent requirement. It is not always easy.

Who Can Be a Payment Agent?

The selection should not cause any particular headaches for developers, as commercial banks usually provide this type of service, as does the Hungarian State Treasury, allowing them to choose the best offer.

In Summary

We think that the concept of the construction payment agent is a good answer to certain problems, but it would be useful to clarify the rules pertaining to the value of the construction work. We recommend that investors and developers thoroughly examine the requirements of the payment agent because, if mandatory, the absence of an agent could lead to the suspension of work and fines, potentially adding significant costs to a construction project. ■

MOLDOVA: REVIEW OF REAL ESTATE REGULATIONS

By Ivan Turcan, Partner, Brodsky Uskov Looper Reed & Partners

Recent reforms in Moldovan legislation will promote the real estate industry and simplify the country's tax regime. The strong commitment that Moldovan authorities have recently demonstrated to attracting foreign investment has led to significant reform. In addition, the country's geopolitical position and its attractive labor force make Moldova of new interest on the world's tax map.

Moldova has signed Double Taxation Conventions with 36 countries, as well as Free Trade Agreements with CIS countries, on the one side, and with the WTO, CEFTA (Central European Free Trade Agreement) and EU, on the other. In this respect, it is also worth noting the Association Agreement between Moldova and the European Union.

In reference to real estate it is important to mention that several modifications of the Moldovan Civil Code that are very important for the development of the agricultural sector entered into force on March 1, 2019.

Moldovan laws currently prohibit foreign investors (both individuals and legal entities) from buying agricultural and forest lands. As a result, foreign investors who wish to make use of such property generally do so via Moldovan companies that are under their control or enter into rent or servitude agreements for 99 years. There are no limitations on purchases of other kinds of real estate.

There is no VAT on purchases of land plots and residential properties.

The following tax rates on real estate apply at the beginning of 2021: a) for housing real estate (flats and individual houses, fields relating to the property), the maximum rate is 0.3% of the taxable base, and the minimum rate is 0.05% of the taxable base; b) for agriculture land with buildings located on it, the maximum rate is 0.3 % of the taxable base, and the minimum rate is 0.1 % of the taxable base; and c) real estate designated as other than housing or agricultural is taxed at 0.1% of the taxable base.

The tax reporting period is one year.

Current Moldovan legislation provides a good level of protection to real estate owners. Ownership of real estate, like other rights on immovable property such as mortgages, servitudes, leases, *etc.*, should be registered at the Public Services Agency. Information in the registry is public.

Purchasing or mortgage transactions of real estate should be concluded in written form and authenticated by a local Moldovan notary.

Leases may be concluded in simple written form as well. Contracts concluded for a term more than three years should be registered at the Registry.

These modifications to the Civil Code brought new options to mortgage and development market.

The average price of real estate in Chisinau – the Moldovan capital – is EUR 600-700 EUR per square meter. Many lots are available for sale at lower prices (between EUR 300- 500 EUR per square meter) but require capital reparation.

In summary, Moldovan legislation in general and in real estate in particular have evolved significantly during last 20 years. The implementation of the best European practices in the field has provided additional protection to the owners and investors and has created a significantly transparent real estate market.

The last five to seven years have seen increased interest from investors from neighboring Romania and Ukraine, often purchasing land in order to use it for growing crops, especially for biofuels or for various oils.

Regarding the construction of real estate, we note that this sector has significant reserves for development. ■

SLOVENIA: COMMERCIAL LEASES IN THE GRIP OF THE COVID-19 EPIDEMIC

By Dunja Jandl, Partner, and Vesna Tisler, Attorney-at-Law, CMS Reich-Rohrwig Hainz Slovenia

The COVID-19 epidemic and consequent restrictive measures strongly affected Slovenia's economy, including the country's rental market. The COVID-19 epidemic impacted all commercial leases, with tourism, hospitality, and to an extent retail among the sectors suffering most. Commercial properties with strong tenants such as IT & Life Science companies and public sector entities proved to be much more resilient than commercial properties dependent on tenants from distressed sectors.

But every crisis is an opportunity in disguise. This article provides a short overview of the (temporary) legislation adopted in response to COVID-19's impact on commercial leases.

State Intervention Measures Adopted to Mitigate the Consequences

Tenants under Slovenian law are in general not entitled to postpone or withhold rent payments during epidemics, unless explicitly allowed to by the lease agreement. Except for an exemption from rent available to tenants of state and municipality-owned commercial real estate, there were no state intervention measures adopted to help tenants who were banned from performing their business activities during the first lockdown in 2020. Many tenants finding themselves in a difficult financial situation tried to agree on a deferral or reduction of rent with their landlords, but only some succeeded. Many companies that implemented remote work have been negotiating rental incentives, rent-free periods, and earlier lease terminations.

Only in December 2020 were certain measures adopted to help the tenants of privately-owned commercial real estate. As of December 31, 2020, tenants who are prevented or significantly restricted from carrying out economic activities and cannot use leased premises in whole or in part for the agreed-upon purpose due to state-adopted intervention measures can now terminate those lease agreements with eight-days' notice. This measure represents a deviation from the Commercial Buildings and Business Premises Act, which provides that lease agreements concluded for an indefinite period must be terminated through the court and with a minimum of one-year's notice. If termination of lease is not in a tenant's interest, he can request a deferral of payments under the lease agreement or an extension of the lease from the landlord if the agreement has been concluded for a definite period. These measures are currently valid until June 30, 2021, but the government may extend them for an additional six months.

Under certain conditions, tenants and landlords can also benefit from the partial reimbursement of uncovered fixed costs. This measure is targeted at legal entities from economic sectors that were prohibited by governmental decree from offering goods and services to customers, and which consequently saw revenues fall sharply during the eligible period. The measure was originally adopted for the period from October 1 to December 31, 2020, but the government has already extended it until March 31, 2021.

In practice tenants have mainly requested a deferral of financial lease obligations and/or partial reimbursement of uncovered fixed costs, with lease terminations based on adopted measures rarely attempted.

Looking to the Future

The temporary nature of the state's intervention measures raises the question of whether these measures should be permanently enacted for situations like epidemics. The Commercial Buildings and Business Premises Act is already outdated and in desperate need of reform. As the current law has proved to be insufficient in addressing situations such as this epidemic, we believe it would be worth considering amending it in this respect.

So far, the new measures have not had much impact on the rental market. Most tenants have not yet used their right to terminate leases, and therefore, despite a slight decline in demand due to the COVID-19 epidemic, we do not expect a flood of free office space. Average rents for business premises are expected to remain stable, as there is a shortage of quality premises. Even though remote working is currently on the increase, it will probably represent only an occasional way of working in the long-term. Therefore, downsizing of leased office space is unlikely. Average rents for industrial space are expected to remain stable for modern premises, while downward rent pressure will continue for outdated industrial space. Due to the continuous growth of e-commerce, increased real estate development in the logistics sector is expected in coming years. ■

MONTENEGRO: REAL ESTATE IN MONTENEGRO – GENERAL OVERVIEW

By Jelena Vujisic, Partner, Law Office Vujacic

The Montenegrin Real Estate market hit a high in 2007 and has remained active since then.

Montenegro's accession to NATO in 2017 contributed to the rise of the curve of the real estate market again due to the growing interest of foreigners, attracted by additional security for their investments, low tax rates, and positive business practice.

In the first half of the last decade, interest in Montenegrin real estate was focused on the purchase of houses and apartments, while in the second half investors focused on large investment projects such as luxury tourist resorts and hotels, including, most notably, the Porto Montenegro, Lustica Bay, and Portonovi projects.

The Real Estate business picked up in 2019 due to the new Economic Citizenship Program, allowing individuals to obtain Montenegrin passports. The program, which started in January 2019, will help the national economy grow by attracting wealthier investors interested in Montenegrin citizenship. The project is also designed to develop the northern and mountainous part of the country by speeding up the construction of high-class hotels currently missing from the area. Therefore, the Economic Citizenship Program can be only a winning combination for both investors and Montenegro.

The ECP program, like the above-mentioned large investment projects, provides additional incentives for foreign investors and generates interest in independent properties like old stones houses or apartments in small residential buildings along the beautiful coast. There is also significant interest in exclusive, small plots of land on the coast, where the building of villas for individual housing has been permitted.

The lockdown of most countries caused by the COVID-19 crisis has resulted in a freeze of the development of Montenegro's Real Estate market, causing a total crash of the summer tourist season in 2020. In the fourth quarter of 2020 Montenegro started easing the restrictive measures, including those related to the entry of foreigners into Montenegro. This immediately led to the return of interested investors, and the Real Estate market began to revive. Indeed, despite the difficulties caused by the COVID-19 crisis, work on already-started projects continued, and some new projects were even launched.

Despite the impact of COVID-19, Real Estate prices have not fallen significantly, because it is expected that development in real estate will return, faster and more efficiently, immediately after stabilization. Information concerning the development of projects in the Real Estate sector, and our personal experience in the field, reveal that real estate development is really amazingly active despite the crisis. For example, one major project (which our office is involved in as local legal adviser) involves the development of a residential tourist resort on the seaside, which started in October 2020, and which is moving forward aggressively.

It is not simply optimism, but fact, that Montenegro will become even more popular and attractive with the continued development of its Real Estate in the near future. ■

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