



CEE

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AUGUST 2015

# LEGAL MATTERS

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

■ ACROSS THE WIRE: DEALS AND CASES IN CEE ■ MARKET SPOTLIGHT: AUSTRIA AND SERBIA ■  
■ EXPERTS REVIEW: TMT ■ INTERVIEW WITH THE GENERAL COUNSEL OF THE EBRD ■  
■ CEE BUZZ ■ HIDDEN TRICKS AND FEATURES OF THE CEE LEGAL MATTERS WEBSITE ■  
■ INSIDE INSIGHTS ■ LAW FIRM PR IN CEE ■ INSIDE OUT ■ THE SERBIAN BEACHHEAD ■

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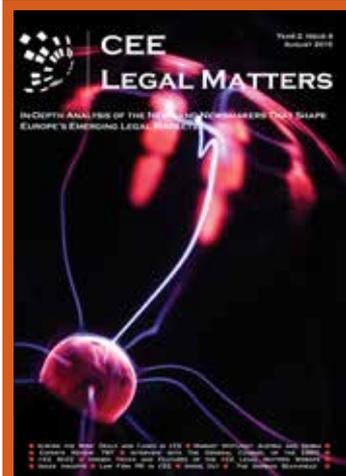
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A map of Central and Eastern Europe (CEE) with 17 office locations marked by blue dots. The cities are: Poznan, Warsaw, Prague, Vienna, Bratislava, Budapest, Ljubljana, Zagreb, Belgrade, Sarajevo, Podgorica, Tirana, Bucharest, Sofia, and Istanbul. Moscow is also marked with a white dot in the far east.

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



### The Editors:

David Stuckey  
david.stuckey@ceelm.com

Radu Cotarcea  
radu.cotarcea@ceelm.com

### Letters to the Editors:

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

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# Editorial: Ode to Kasia



## Strophe

Why an Ode to Kasia?

As I was polishing up some of the final articles for this

issue I received an e-mail from one of the law firm marketing representatives in the region – I'll call her Kasia. Her e-mail read simply, "if you are going to report on deal X, we advised party Y, and I will follow-up with details as soon as I have them" – straight-forward enough! We've been telling our readers for years now that we depend greatly on their input if we are to keep track of all that is going on in the region (and there is plenty!), and here was a perfect example of someone listening. Implicit in her e-mail was her recognition that, if a big deal is concluded in one of the markets we cover, we'll immediately begin trying to identify the firms involved and other details of significance. For articulating that (correct) assumption, which should be shared by all the readers who turn to us regularly to learn who has worked on what legal matters in CEE, Kasia, we salute you!

## Antistrophe

But Kasia is not just a person. Kasia is a trend. Receiving an enquiry recently sent out by my Co-Editor David, following up on an item posted on a firm's website, one of Kasia's peers wrote: "You are the best spies ever!" We appreciate the compliment, but the trick is really fairly simple: With the help of various technologies, we carefully monitor – as we have from the day we launched CEE Legal Matters – the newswires, websites, press releases, and other sources of information for news and articles of significance. The trend that Kasia represents, however, is the extent to which those sources have shrunk in significance. Instead, Kasias everywhere have been proactively reaching out to us and keeping us apprised of deals in almost real

time with calls, e-mails, and (even) SMSes, often well before deals are reflected on firm websites. For this vote of confidence in our reach and diligence of coverage. Kasias, we salute you!

## Epode

It is to Kasia, then, that we dedicate this August issue, which contains an Experts Review feature summing up expert analysis from CEE jurisdictions on Technology, Media, and Telecommunications, and Market Spotlights on Austria and Serbia.

Those Market Spotlights, as always, contain interviews with prominent General Counsel (in the "Inside Insight" section) and reviews of particular industries (in the "Market Snapshot" section). In this issue, for the first time, the Market Spotlights also feature in-depth reviews of recent deals of significance, in our new "Inside Out" section – this time focusing on (for Austria) the financing provided by Bank Austria and pbb Pfandbriefbank to the Immofinanz Group, and (for Serbia) SBB's acquisition of EUnet.

But the issue, as always, is hardly limited to the Market Spotlights and Experts Reviews. The Buzz offers an overview of the hot discussion points among lawyers in CEE, while an article on law firm PR best practices and pitfalls in CEE illustrates the particular challenges facing those critical providers of law firm support. Another valuable article highlights some of the lesser-known functionalities of the CEELM website, and we feature an interview with Marie-Anne Birken, General Counsel of the EBRD, who will be the Keynote Speaker at the 2015 CEE GC Summit scheduled for September in Budapest – an event you cannot miss!

So ... Kasia, enjoy the read!

Radu Cotarcea

*Any resemblance to persons living or dead should be plainly apparent to them and those who know them, but may be coincidental.*

# Guest Editorial: Made in Slovakia



It would be almost impossible to write this editorial without mentioning the hottest economic topic in Slovakia at the moment: Land Rover's intention to open a production plant in Slovakia, which some are calling the investment of the decade in the country.

Let me step back. Some 15 years ago, I relocated to Dublin, Ireland. Along with the constant rain, I remember how little anyone knew about Slovakia. "Where is it you are from? Slov.... Slovenia? Czechoslovakia?" people would ask. "It's Slovakia, actually. In the heart of Europe. No, we don't live by the sea, no, we don't speak Russian," I would answer. When asked for some interesting facts about Slovakia, I would mention our communist history, name some geographical points of interests, talk about Andy Warhol (yes, he was born here), and describe as best I could bryndzove halusky (our national dish).

Fast forward to 2015, and Slovakia is the No. 1 car producer per capita in the world thanks to Volkswagen, Kia Motors, and PSA Peugeot Citroen, producing in total up to a million cars a year. Not bad – finally

something to brag about, and people love statistics (although no one seems to ask me that question anymore).

Now a fourth major automotive car manufacturer, British Land Rover, is eyeing Slovakia, and it's not bryndzove halusky they're after. With an investment of 1.5 billion euros, Land Rover plans to build a plant near Nitra that will employ 4,000 people to produce fancy Jaguars and Land Rovers.

The automotive business in Slovakia is undeniably booming, as it has been for the past few years, and we've felt it in many areas of everyday life – including in the legal practice.

There are many good law firms in Slovakia, but it's not just about being good anymore. It's not even about providing that prompt, user-friendly, straight to the point legal advice. It's about everything else. Providing all that extra to clients, making lives easier for their managers, supporting them along their way to success. Knowing the client's business and the sector they operate in and using that industry knowledge to identify opportunities and anticipate problems. Knowing how a client operates and reflecting that in the way you provide advice is the key to building a strong relationship.

So we have an automotive team at Glatzova & Co., as you might have guessed, that focuses solely on the automotive sector and is striving to do just that: build strong relationships. And the practice is focused not only on car producers, but also their suppliers, distributors, and sellers.

But is it just sector specialization that makes you a law superstar? Of course not. And forget that you are anyhow special with that newsletter you send to the clients and invitations to yet another business breakfast. It is appreciated, yes, but it doesn't set you

apart. Rather, you must be a true and sincere fan of your client's business and their product. You have to be their cheerleader and their advocate, support their nominations in different awards, their charity if they have one, run and cheer for their team. And nothing tastes better than their own beverage during a meeting in your office. This is what shines through.

Eleven years ago The New York Times compared Slovakia to Detroit in an article by Mark Landler titled: "A 'Detroit' for Europe takes shape in Slovakia." Since that article was published the world has gone through a global financial crisis, and Detroit itself filed for bankruptcy ... but no major lasting effect on the automotive industry in Slovakia occurred. So were we just lucky?

We see our clients invest in their employees, strive for continuous improvement, and invest into research and development. And we see that Slovakia is responding too, creating partnerships between schools and practice, so that the advantages of the Slovak labor force are not limited only to "low cost." Attracting large car producers such as Land Rover is a signal that Slovakia is not resting on its laurels.

Going back to my studies in Ireland, I remember more often than not being referred to as "the Eastern girl" rather than the Slovak girl. Will Ireland's neighbor's large investment in Slovakia help put us firmly on the map and correct this idiom? Most likely not. But next time you're looking to buy a new car, look under the bonnet/hood and check the sticker, if there is one. Chances are it will say, "Made in Slovakia."

*The opinions in this article are personal and do not necessarily reflect the views of Glatzova & Co.*

Veronika Pazmanyova,  
Head of Slovakian Branch, Glatzova & Co.

## Write to us

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](mailto:press@ceelm.com)

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



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# Legal Ticker: Summary of Deals and Cases

Full information available at: [www.ceelegalmatters.com](http://www.ceelegalmatters.com)

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

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
18-Jun	Allen & Overy; Wolf Theiss	The Warsaw office of Wolf Theiss has advised PORR Bau GmbH, a wholly owned subsidiary of PORR AG, on the purchase of Bilfinger Infrastructure S.A. from Bilfinger SE, which was advised by A&O Frankfurt. Closing is expected by year end, subject to antitrust clearance.	N/A	Austria
3-Jul	Schoenherr; Hule Bachmayr-Heyda Nordberg	Schoenherr advised Hamburg-based Union Investment Real Estate GmbH on its investments in Green Worx, the first LEED Platinum-certified office complex in Austria. Green Worx's developers were advised by Hule Bachmayr-Heyda Nordberg.	N/A	Austria
6-Jul	Binder Grosswang	Binder Grosswang advised Lenzing AG on the sale of several business units of Lenzing Technik.	N/A	Austria
7-Jul	Binder Grosswang; Schoenherr	Schoenherr advised Osterreichische Volksbanken-Aktiengesellschaft in the restructuring of the Volksbanken sector and the continuation of OVAG as a run-down entity based on the new run-down regime established under Austria's newly implemented Federal Act on the Recovery and Resolution of Banks.	N/A	Austria
9-Jul	Schoenherr	Schoenherr provided support to the negotiating group established by Austria's Federal Ministry of Finance for the talks that led to the successful conclusion of a political agreement in principle between the Republic of Austria and the German state of Bavaria aimed at settling all legal disputes concerning HETA.	N/A	Austria
16-Jul	CMS; Schoenherr	CMS advised Union Asset Management Holding AG in its acquisition of 100% of shares in Volksbank Invest Kapitalanlagegesellschaft m.b.H (VB Invest) as well as 94.5% of shares in Immo Kapitalanlage AG (Immo KAG). Schoenherr advised VB Invest and Immo KAG.	N/A	Austria
17-Jul	Cerha Hempel Spiegelfeld Hlawati; Bichler & Zrzavy.	CHSH advised red-stars.com data AG in connection with its acquisition of 33% of the share capital and voting rights in Machine & Voice Communication GmbH – which was advised by Bichler & Zrzavy.	N/A	Austria
17-Jul	Wolf Theiss	Wolf Theiss is advising listed Italian energy company ERG Renew and Russian oil major Lukoil on the complex separation of LUKERG Renew, an Austrian-based 50-50 joint venture created in 2011 with a view to investing in the wind sector throughout CEE.	N/A	Austria
17-Jul	Schoenherr	Schoenherr advised Allianz Capital Partners (ACP) on its acquisition of four wind parks in the Austrian state of Lower Austria from ImWind, one of the country's largest wind farm operators, with a portfolio of 320 MW in operation.	N/A	Austria
17-Jul	Allen & Overy; Brandl & Talos; Freshfields; Herzog Neeman Fox	Brandl & Talos and Freshfields (on English law issues) are advising bwin.party on its expected takeover by 888 Today Holdings. Allen & Overy (advising on English law) and Herzog Neeman Fox (on Israeli law) are advising 888 Holdings on the deal.	N/A	Austria
21-Jul	bvp Hugel; Gleiss Lutz	bvp Hugel (in Austria) and Gleiss Lutz (in Germany) persuaded the General Court of the European Union to reduce the fine imposed jointly and severally on Voestalpine AG and its subsidiary Voestalpine Austria Draht GmbH (now Voestalpine Wire Rod Austria GmbH) for participating in a pre-stressing steel market cartel from EUR 22 million to EUR 7.5 million.	N/A	Austria
23-Jul	Binder Groesswang; Linklaters; Wolf Theiss	Wolf Theiss advised the UNIQA Insurance Group AG on the successful placement of Subordinated Notes (Tier 2) with institutional investors in Europe, with the bank consortium advised by Linklaters as to German Law and Binder Groesswang as to Austrian Law.	EUR 500 million	Austria
23-Jul	Allen & Overy; B-Legal; Binder Groesswang	Binder Groesswang advised the Swiss real estate investor Corestate Capital on all Austrian law aspects of its joint venture with Austria's Soravia Group regarding the development of four high-rise buildings in Vienna.	EUR 432 million	Austria
24-Jul	Binder Groesswang; Wilkie Farr; Schoenherr	Schoenherr advised DPx Fine Chemicals Austria, a subsidiary of DPx Holdings BV, on the sale of its Linz-based Exclusive Synthesis and Maleic Anhydride Intermediates & Specialties (business divisions to the Ardian France SA investment firm. Wilkie Farr & Gallagher was international transactional counsel for Ardian France, with Binder Groesswang advising Ardian France on due diligence, carve-out of the divisions, SPA, and tax matters.	N/A	Austria
27-Jul	Baker & McKenzie; DLA Piper	Baker & McKenzie advised the now former owners of the Vienna-based Mona Group on the sale of the company to a wholly-owned subsidiary of NASDAQ-listed The Hain Celestial Group, Inc, a leading US organic and natural products company. Hainz Celestial was advised by DLA Piper.	N/A	Austria
29-Jul	Wolf Theiss	Working on behalf of 18 creditors, Wolf Theiss persuaded Austria's Klagenfurt regional court to issue decisions requesting that the Austrian Constitutional Court set aside the Hypo Reorganization Act and the Hypo Reorganization Regulation, which the Constitutional Court subsequently did, annulling them entirely.	EUR 400 million	Austria
31-Jul	CMS; Gleiss Lutz; Pollath & Partners	CMS advised the mid-market Equistone Partners Europe Limited private equity firm, on the acquisition, made through its Fund V, of all shares of TriStyle Mode GmbH, from selling shareholders Primondo Specialty Group GmbH and Wirth Beteiligungs GmbH. Gleiss Lutz represented the sellers, while Pollath & Partners represented the management.	N/A	Austria
14-Aug	CMS	CMS advised the Austrian energy group EVN in the course of a cross-border restructuring. Some operations of the Essen-based group company WTE Wassertechnik GmbH were spun off and subsequently transferred to the Austrian group by way of a cross-border merger.	N/A	Austria

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
31-Jul	CMS; Hogan Lovells; Schoenherr	Schoenherr advised the EQT V private equity fund on the sale of the blizoo Bulgaria cable operator to the Vienna Stock Exchange-listed Telekom Austria Group. Hogan Lovells advised EQT on English law matters, and CMS represented Telekom Austria on the deal.	N/A	Austria; Bulgaria
14-Aug	CMS; Squire Patton Boggs	CMS advised the Munich-based Aurelius Group on its acquisition of the European Crafts business of UK company Coats plc, the world's leading manufacturer of sewing threads, craft yarns, and craft accessories. Squire Patton Boggs advised Coats on the deal.	N/A	Austria; Bulgaria; Czech Republic; Hungary; Romania; Slovakia
9-Jul	Baker & McKenzie; Havel, Holasek & Partners; Schoenherr	Schoenherr advised VB-Leasing International on the sale of VB Leasing Slovakia to CSOB Leasing and on the replacement of 100% of the shareholder funding at par (including accrued interest) by the KBC Group. KCB and CSOB Leasing were advised by Havel, Holasek & Partners on Slovak matters and by Baker & McKenzie on Austrian law.	N/A	Austria; Slovakia
7-Aug	Allen & Overy; Arzinger; Clifford Chance; Freshfields; Skadden, Arps, Slate, Meagher & Flom; Yegin Cifti Attorney Partnership, Sorainen; Wardynski & Partners	Clifford Chance (and the Yegin Cifti Attorney Partnership – the Turkish arm of Clifford Chance) advised Mondelez International and Skadden, Arps, Slate, Meagher & Flom, Allen & Overy, and Freshfields advised Acorn Holdings B.V. and D.E. Master Blenders 1753 B.V. (DEMB) on the combination of the coffee businesses of Mondelez International and D.E. Master Blenders 1753 into Jacobs Douwe Egberts, expected to be the world's leading pure-play coffee company with annual revenues of more than EUR 5 billion. Sorainen advised Mondelez International on Lithuanian, Latvian, Estonian and Belarusian aspects, and Arzinger advised on Ukrainian aspects. Polish advice on HR matters related to the deal was provided to DEMB by Wardynski & Partners.	N/A	Belarus; Bulgaria; Croatia; Czech Republic; Estonia; Hungary;
8-Jul	Dimitrov, Petrov & Co.	Dimitrov, Petrov & Co. signed a consultancy contract with the European Bank for Reconstruction and Development for assistance in the implementation of the Bank's "Policy Advice and Implementation Support for e-Procurement Reform in the Public Procurement Sector in Bulgaria" project.	N/A	Bulgaria
10-Jul	Reed Smith; Wolf Theiss; CMS	Reed Smith and Wolf Theiss advised Arco Capital Corporation Ltd., a Cayman-based fund, in connection with the EUR 103 million refinancing of Business Park Sofia, the largest office park in Southeastern Europe, with UniCredit Bank Austria AG and UniCredit Bulbank AD, which were advised by CMS.	EUR 103 million	Bulgaria
23-Jul	CMS	CMS Bulgaria advised SDN Company Ltd on its acquisition of the Bulgarian company Solar Group Systems JSCo.	N/A	Bulgaria
11-Aug	Kambourov & Partners	Kambourov & Partners advised on the Bulgarian part of Aryzta AG's acquisition of the Fornetti distributor of bakery products.	N/A	Bulgaria
24-Jul	CMS	CMS advised the Riverside Company on its purchase of a majority interest in Fadata, a leading IT company providing software solutions to the global insurance industry.	N/A	Bulgaria; Poland
26-Jun	Dentons	Dentons assisted AmRest Holdings SE in acquiring Starbucks franchises in Romania and Bulgaria from the Marinopoulos Group.	EUR 16 million	Bulgaria; Romania
21-Jul	CMS; Divjak Topic & Bahtijarevic	Divjak Topic & Bahtijarevic advised the Zagreb Stock Exchange on its agreement to take over 100% of the Ljubljana Stock Exchange shares from the CEE Stock Exchange Group, which was assisted in the deal by CMS.	N/A	Croatia; Slovakia
22-Jun	PRK Partners	PRK Partners advised Komerčni banka in connection with a project finance loan facility provided to the Energiea charitable organization, which intends to operate a hydroelectric power plant in Steti, a city approximately 60 km north of Prague, on the Elbe River. The first phase of the transaction was successfully completed in Q1, 2015.	N/A	Czech Republic
14-Jul	Noerr	Noerr advised the China Fire Safety Enterprise Group Limited on the acquisition of a 40% interest in the Albert Ziegler Group from the China International Marine Containers Group, which in turn acquired 30% of the shares in CFSE.	EUR 56 million	Czech Republic
17-Jul	Clifford Chance; Dentons	Dentons advised the Europa Fund IV pan-European investment fund, managed by Europa Capital, on its acquisition of the Hadovka Office Park in Prague for EUR 43 million from George Leslie, a rescue manager who held the company's shares.	EUR 43 million	Czech Republic
31-Jul	CMS; Wolf Theiss	CMS advised Invesco Real Estate on the sale of the Varyada shopping center in the spa town of Karlovy Vary, Czech Republic, to the European Property Group (EPG). Wolf Theiss advised EPG on the deal.	N/A	Czech Republic
5-Aug	Dentons; Wilson & Partners	Dentons counselled Crestyl on the acquisition of a company owning several buildings on Wenceslas Square in Prague for further development of a mixed-use (office and retail) property scheme. The project was sold by Ballymore Properties, which was represented by the Wilson & Partners law firm.	N/A	Czech Republic
12-Aug	Dvorak Hager & Partners	Dvorak Hager & Partners advised the Hopi Group in its acquisition of shares in Rohlik.cz.	N/A	Czech Republic
15-Jul	P+P Pollath + Partners; White & Case	White & Case advised Super Group Limited on its acquisition of the IN tIME group from funds advised by Equistone Partners Europe. Equistone was advised by P+P Pollath + Partners.	EUR 153.5 million	Czech Republic; Hungary; Poland; Romania
24-Jul	Havel Holasek & Partners; Kocian Solc Balastik	Havel Holasek & Partners advised Genesis Capital on the sale of its share in JRC Czech to Hamaga. Kocian Solc Balastik advised Hamaga on the deal, which also included the simultaneous acquisition of Genesis Capital's minority shareholder Slavomir Pavlicek's share.	N/A	Czech Republic; Slovakia

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
29-Jul	Vasil Simonovic & Partners; White & Case	White & Case advised Kofola, the leading Czecho-Slovak producer of non-alcoholic beverages, in its acquisition of the entire stake in the Slovak company WAD Group from private owners advised by the Vasil Simonovic & Partners law office.	N/A	Czech Republic; Slovakia
30-Jul	Alston Bird; CMS; Kinstellar	CMS has advised Erste Group Bank AG and its subsidiaries (“Erste Group”) on its agreement with Global Payments Inc., a leading worldwide provider of payment technology solutions, to establish a joint venture providing merchant acquiring and payment processing services to retailers in the Czech Republic, Romania, and Slovakia. Alston Bird provided English law counsel to Global Payments, with Kinstellar providing local law advice in CEE.	EUR 29.94 million	Czech Republic; Slovakia
16-Jun	Red	Red Legal advised EfTEN on the initial public offering of shares in its new alternative real estate investment fund EfTEN Real Estate Fund III AS.	N/A	Estonia
26-Jun	Glimstedt;	Glimstedt advised LHV, the Estonian bank, in developing CUBER (which the firm describes as a “globally unique new kind of certificate of deposit”) and a mobile app called CUBER Wallet.	N/A	Estonia
9-Jul	Castren & Snellman; Cobalt; Lindahl	Cobalt – working together with Lindahl and Castren & Snellman – advised Hanza Holding AB on Estonian aspects of its July 1, 2015 acquisition of all outstanding shares in Metalliset Oy, a provider of high quality mechanical manufacturing.	EUR 7.5 million	Estonia
10-Jul	Sorainen	Sorainen prepared the Technopolis group’s TP documentation to demonstrate that pricing for intra-group services and financing transactions was in line with the arm’s-length principle.	N/A	Estonia
15-Jul	Glimstedt; Red Legal	Glimstedt advised Gazprom of Russia on its sale of 37 percent of its shares in the AS Vorguteenus Valdus gas transmission network in Estonia to Estonian electricity transmission system operator Elering for EUR 19.9 million. Elering was advised by Red Legal.	EUR 19.9 million	Estonia
17-Jul	Cobalt; Linklaters	Cobalt and Linklaters have advised Rakuten – Japan’s version of Amazon.com – on its acquisition of Fits.me, a startup founded in Estonia and now headquartered in London.	N/A	Estonia
22-Jul	Hedman Partners	Hedman Partners helped investors belonging to the Estonian Business Angels Association to allocate EUR 85 thousand into Capster – a health technology start-up company that develops innovative solutions for effective cold treatment.	EUR 85,000	Estonia
31-Jul	Alterna	Alterna successfully represented Eventus Ehitus in litigation over public procurement proceedings relating to its tender to construct the new Parnu Beach Stadium, leading to the signing of the construction contract for the stadium.	N/A	Estonia
6-Aug	Hedman Partners	Hedman Partners advised Lohmus Holdings on its investment in the company behind the Barking mobile parking app.	EUR 100,000	Estonia
22-Jun	Arend & Medernach; DLA Piper; Eversheds, Norton Rose Fulbright; Tark Grunte Sutkiene	Norton Rose Fulbright, Tark Grunte Sutkiene, DLA Piper, and Arend & Medernach advised Mezzanine Management on its provision of mezzanine finance to support the growth of Mogo Finance, a non-bank car financing provider operating in the Baltics and Georgia. Mogo was advised by Eversheds Bitans.	EUR 23.3 million	Estonia; Latvia; Lithuania
6-Jul	Sorainen	Sorainen advised the Castovanni debt collection company on its acquisition by the Julianus Grupp.	N/A	Estonia; Latvia
31-Jul	Drakopoulos	Drakopoulos, working in cooperation with React – its client – and the Greek police, has played an unspecified role in the police’s “huge seizure of 54,420 fake watches,” on June 18th, 2015, in a warehouse located near the city center.	N/A	Greece
17-Jul	Clifford Chance; Deloitte Legal; Lakatos, Koves & Partners	Lakatos, Koves & Partners and Clifford Chance advised Mercor S.A. on its acquisition of 100% of shares in the Hungarian firm Dunamenti Tuzvedelem, which trades in passive fire protection systems. Deloitte Legal in Hungary represented Dunamenti Tuzvedelem on the deal.	N/A	Hungary
22-Jul	Szabo, Kelemen & Partners; Weil, Gotshal & Manges	Weil, Gotshal & Manges advised GE Capital on the sale of its banking subsidiary in Hungary, Budapest Bank Zrt. and its regulated finance subsidiaries to Corvinus Zrt., a company owned by the Hungarian Development Bank, for USD 700 million. The Hungarian state was advised by the Szabo, Kelemen & Partners law firm.	USD 700 million	Hungary
12-Aug	Dentons	Dentons advised the seller of a prime real estate portfolio in Budapest – which includes, among others, MOM Park Shopping Center and Offices and West End Business Center Offices – to a consortium consisting of Morgan Stanley, Wing, and CC Real.	N/A	Hungary
12-Aug	Schoenherr	Schoenherr advised Selectivity International BVBA (part of the Revor Bedding Group) on the buy-out of its 50% joint venture partner, T.T.B. Holding CVA, in Medal Hungary Kft. (now renamed Revor International Kft.), a Hungarian bed-manufacturing company.	N/A	Hungary
22-Jun	Sorainen	Sorainen assisted Merfish Pipe & Supply – a US master distributor of carbon steel pipes, fittings and flanges – in asset recovery. The case involved a cross-border criminal investigation into fraudulently transferred funds.	N/A	Latvia
3-Jul	Borenien	Borenien advised AS SEB banka as the arranger on Latvenergo AS’s June issuance of notes. Under the program the company issued seven-year green bonds.	EUR 75 million	Latvia
10-Jul	Borenien	Borenien agreed to provide legal assistance to the Latvian Ministry of Transport on the implementation of the Rail Baltica rail transport project.	N/A	Latvia
5-Aug	Sorainen	Sorainen advised the Vienna Insurance Group on its purchase of 100% of the shares of the Baltikums insurance company from BBG AS, Baltikums Bank AS, and two private individuals.	N/A	Latvia
11-Aug	Sorainen	Sorainen assisted the Latvian Football Federation on its agreement with the Arcers construction company regarding the reconstruction of a sports complex in Riga.	N/A	Latvia

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
19-Jun	Tark Grunte Sutkiene	Tark Grunte Sutkiene (TGS) successfully represented BAB Ukio Bankas in a dispute with the German bank Commerzbank AG regarding the ability of Lithuanian companies in bankruptcy to apply for debt recovery from foreign contractors in Lithuanian courts, thus significantly reducing the costs of such cases.	N/A	Lithuania
15-Jul	Tark Grunte Sutkiene	Tark Grunte Sutkiene advised INVIL Technology, a company investing in information and communication technologies, on its successfully-completed public offering of shares with a total issue price of over EUR 10 million and admission thereof to trading on the NASDAQ OMX Vilnius.	EUR 10 million	Lithuania
15-Jul	Cobalt	Cobalt advised Cgates on its acquisition of Lithuania's Kava telecom operator.	N/A	Lithuania
16-Jul	Motieka & Audzevicius	Motieka & Audzevicius advised the management and a group of investors (including leading laser manufacturers Sviesos Konversija, Eksma, and several unnamed financial investors), on the buy-out of shares of UAB Brolis Semiconductors, a company developing advanced diode laser and sensor technologies, from Litcapital I.	N/A	Lithuania
29-Jul	Tark Grunte Sutkiene	Tark Grunte Sutkiene advised Etronika, a leading developer of electronic banking, mobile signature, electronic transport tickets, and retail software solutions, on an investment from Norway Registers Development, a Norwegian investment and IT services company controlled by INVIL Technology.	EUR 400,000	Lithuania
11-Aug	Sorainen; Valiunas Ellex	Valiunas Ellex – the Lithuanian firm that until recently operated under the LAWIN brand – assisted and advised the Lithuanian equity and real estate investment company UAB Landmark Capital on its acquisition of 100% of the shares in UAB Tiltu Ekspertu Centras from Alpha Projects. Sorainen's Vilnius office advised Alpha Projects on the deal.	N/A	Lithuania
16-Jul	Schnitzer	The Schnitzer law firm has advised Montenegro on its accession to the World Trade Organisation's Government Procurement Agreement, completed within the framework of a project financed by the European Bank for Reconstruction and Development.	N/A	Montenegro
19-Jun	Weil, Gotshal & Manges; White & Case	White & Case advised the Global Coordinators, Joint Bookrunner, and Co-manager on the sale by Fleet Holding S.A., a company under the control of Abris CEE Mid-Market Fund, of 7,145,304 shares representing 60 percent of the share capital in Prime Car Management S.A. through an accelerated book-building. Weil Gotshal & Manges advised Fleet Holding on the sale.	EUR 72.3 million	Poland
23-Jun	Domanski Zakrzewski Palinka	DZP advised GlaxoSmithKline on Polish aspects of its global three-part conditional transaction with Novartis AG involving GSK's acquisition of Novartis's global vaccines business (excluding influenza vaccines), Novartis's acquisition of GSK's oncology business, and the mutual creation of a consumer healthcare joint venture. The transaction covered 52 jurisdictions.	N/A	Poland
24-Jun	Norton Rose Fulbright	Norton Rose Fulbright advised Abris Capital Partners, acting through its subsidiary CLRD, on the acquisition of 100 per cent of shares in Graf-Poz, a Polish premium cardboard packaging manufacturer.	N/A	Poland
24-Jun	Allen & Overy; CMS	CMS and Allen & Overy teamed up to successfully represent P4 in a dispute with the Polish Court of Competition and Consumer Protection.	N/A	Poland
24-Jun	Studnicki Pleszka Cwiakalski Gorski	SPCG advised the Money Makers brokerage house on its restructuring into an investment fund company, including during proceedings before the Polish Financial Supervision Authority.	N/A	Poland
25-Jun	Kochanski Zieba Rapala & Partners	KZRP successfully persuaded the Regional Court of Warsaw that the requirement as part of the non-monetary award made to Kornatowski in al 2008 trial ordering the firm's client to publish a formal apology in the Dziennik Polska-Europa-Swiat newspaper is unenforceable.	N/A	Poland
25-Jun	BSWW Legal & Tax	BSWW Legal & Tax (the firm formed the week before as a result of a merger between BWW Law & Tax and Wojnar Smoluch i Wspolnicy), advised PayTel S.A., on its successful application for permission from the Polish Financial Supervisions Authority to act as a "national payment institution."	N/A	Poland
1-Jul	Greenberg Traurig	Greenberg Traurig advised on the sale of the 2015/2016 - 2018/2019 media rights of the Polish Premiere League to the nc+ and Eurosport broadcasting networks.	N/A	Poland
1-Jul	Weil, Gotshal & Manges	Weil, Gotshal & Manges acted as legal counsel to BZK Group in connection with an April 15, 2015 agreement to establish a joint venture between it and China's Ningbo Beidahuang Logistics Group Co., Ltd.	N/A	Poland
1-Jul	Konchanski Zieba Rapala & Partners	Kochanski Zieba Rapala & Partners successfully persuaded the Regional Court in Warsaw to dismiss a claim filed by Katarzyna Tusk against the firm's client, Ringier Axel Springer Polska, in its entirety.	N/A	Poland
3-Jul	Studnicki Pleszka Cwiakalski Gorski	SPCG advised the Dephi Group on Polish aspects of the global sale of its Thermal business to MAHLE Behr.	N/A	Poland
6-Jul	Magnusson	Magnusson advised Immofinanz on its acquisition of the remaining shares in Warsaw's Empark Mokotow Business Park. Immofinanz – which previously held 50% of Empark – purchased the remaining shares from its former joint venture partner, an affiliate of Heitman LLC.	N/A	Poland
10-Jul	Allen & Overy; Clifford Chance	Allen & Overy advised Grupa Lotos and Lotos Asfalt on the preparation, financing, and implementation of the "EFRA – Effective Refining" project, which consists of the construction and operation of a delayed coking unit with auxiliary infrastructure in the immediate vicinity of the Grupa Lotos refinery in Gdansk. Clifford Chance advised a consortium of financial institutions on the financing.	PLN 2.5 billion	Poland
14-Jul	CMS; White & Case	CMS successfully advised the Value4Capital private equity fund on the sale of its Home.pl portfolio company to 1&1 Internet SE, a subsidiary of United Internet. White & Case advised United Internet on the deal.	EUR 150 million	Poland

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
15-Jul	CMS	CMS advised IPF Investments Polska – a company belonging to the international financial group International Personal Finance plc – on a bond issue on the Warsaw Stock Exchange.	PLN 200 million	Poland
22-Jul	Greenberg Traurig	Greenberg Traurig advised Cyfrowy Polsat on its bond issue, which was governed by Poland's new Bonds Act that came into force on July 1, 2015.	N/A	Poland
23-Jul	Greenberg Traurig	Greenberg Traurig advised Orlen Upstream in connection with its entrance into a Joint Operating Agreement with Polskie Gornictwo Naftowe i Gazownictwo, the Polish state-controlled oil and natural gas company. The companies aim to jointly conduct analytic and research works in eight concession blocks in the Podkarpackie Voivodeship.	N/A	Poland
24-Jul	BSWW Legal & Tax	BSWW Legal & Tax advised Ideal Idea – a Polish developer of warehouse and office small business units – on the sale of the Ideal Idea Park III office and warehouse center in Warsaw to a subsidiary of BPH TFI.	EUR 12.5 million	Poland
27-Jul	BSWW Legal & Tax	BSWW Legal & Tax is advising the ECC group, which specializes in commercial and housing developments, in connection with the acquisition of the Nowa Stacja shopping center in Pruszkow, Poland.	N/A	Poland
28-Jul	CMS; Weil, Gotshal & Manges	CMS advised the CVC Capital Partners private equity fund on the purchase of PKP Energetyka from Polish National Railways (PKP). PKP was advised by Weil.	EUR 477 million	Poland
28-Jul	Sojka Maciak Mataczynski;	Sojka Maciak Mataczynski advised the Polish Minister of the Treasury on the proposed Law on the Control of Selected Investments, which aims to protect strategic Polish companies in the gas, electricity, chemical, petrochemical, and defense sectors against hostile takeovers.	N/A	Poland
29-Jul	GFKK Grzybczyk Kaminski Gawlik	GFKK Grzybczyk Kaminski Gawlik will support Tractebel Engineering S.A. – operating on behalf of Polskie LNG S.A. – in preparing a feasibility study for the extension of the liquefied natural gas terminal located in Swinoujscie, Poland.	N/A	Poland
31-Jul	Domanski Zakrzewski Palinka	Domanski Zakrzewski Palinka advised Maciej Sadowski, the founder and owner of Magodent sp. z o.o., on the sale of 80% of shares in the company to the LUX MED Group.	N/A	Poland
6-Aug	CMS; Dentons; Greenberg Taurig	CMS advised Bluehouse Capital Advisor Ltd. on its purchase – made as part of a joint venture with two investment vehicles managed by independent Polish fund and asset manager REINO Partners – of Malta House in Poznan from Skanska Property Poland. Dentons advised Skanska on the deal, with Greenberg Traurig advising REINO Partners.	N/A	Poland
7-Aug	Dentons; Linklaters	Dentons advised Union Investment on the acquisition of the Radisson Blu hotel in Wroclaw, Poland, from Poplar Company Spolka z Ograniczona Odpowiedzialnoscia Spolka Komandytowa, a member of the UBM Development AG Group. The Poplar Company was advised by Linklaters.	N/A	Poland
12-Aug	Domanski Zakrzewski Palinka	DZP advised the Bauer Media Group on the purchase of all the shares in Rankomat.pl SA, the owner of the largest online insurance platform in Poland.	N/A	Poland
13-Aug	BGST; Clifford Chance; CMS; Greenberg Taurig	CMS advised Bluehouse Capital and Greenberg Traurig advised REINO Partners on their joint venture acquisition of the Alchemia I office building in Gdansk (Poland) from Torus, a Gdansk developer that specializes in the construction and commercialisation of modern office space. Clifford Chance and the BGST law firm advised Torus on the deal.	N/A	Poland
14-Aug	Clifford Chance; Dubinski Fabrycki Jelenski; Greenberg Taurig; Lesnodorski Slusarek and Partners; Weil Gotshal & Manges;	Clifford Chance acted for PBG's largest financial creditors in negotiating and coordinating the comprehensive restructuring documentation signed on July 31, 2015 with PBG S.A. in arrangement bankruptcy. Weil Gotshal advised PBG, the Dubinski Fabrycki Jelenski firm advised the group of bondholders, and Lesnodorski Slusarek and Partners advised ING NV. Greenberg Traurig advised Bank Pekao S.A. on the bankruptcy.	N/A	Poland
14-Aug	Dentons; Karanovic & Nikolic (Odvjetnici/Croatian attorneys at law)	Dentons advised TPG Real Estate, the real estate platform of global private investment firm TPG, on the acquisition of TriGranit, one of Europe's largest privately-owned developers and managers of retail and office assets. Odvjetnici/Croatian attorneys at law in cooperation with Karanovic & Nikolic assisted Dentons with Croatian aspects of the transaction.	N/A	Poland
24-Jun	Deloitte Legal; Dentons; Squire Patton Boggs; Voicu Filipescu; Wystrand	Squire Patton Boggs offices in Warsaw and Brussels, with the assistance of Voicu & Filipescu in Romania, advised Avallon on its acquisition of NovoTech Polska from Time Technoplast Ltd. Deloitte Legal advised Time Technoplast, and Dentons represented ING Bank Slaska, the financing bank.	EUR 100 million	Poland, Romania
19-Jun	Bondoc & Associates	Bondoc & Asociatii assisted Fondul Proprietatea, as borrower, in connection with a revolving committed credit facility granted by Citibank Europe PLC Dublin – Romanian Branch.	EUR 111.4 million	Romania
1-Jul	Reff & Asociatii; Tuca Zbarcea & Asociatii	Reff & Asociatii advised IKEA Romania on its June 12, 2015 acquisition of property on which it intends to open its second store in Romania. The seller, the Broadhurst Investments fund, was assisted by Tuca Zbarcea & Asociatii.	N/A	Romania
1-Jul	Buzescu Ca; Dentons	Dentons advised the Petroceltic oil and gas company on the purchase of equity in two exploration blocks in the Romanian sector of the Black Sea: (1) 40% in the EX-27 Muridava Block previously held by a subsidiary of Sterling Resources, and (2) 30% in the EX-28 Est Cobalcescu Block previously held by a subsidiary of Beach Energy.	N/A	Romania
3-Jul	Bondoc & Asociatii; Clifford Chance	Clifford Chance advised Abris Capital Partners in its investment in the Pehart group of companies, which was assisted in the deal by Bondoc & Asociatii.	N/A	Romania

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
6-Jul	Nestor Nestor Diculescu Kingston Petersen; PeliFilip	NNDKP advised Globalworth on its acquisition of the Green Court Building A from Skanska Romania. The seller was assisted by PeliFilip.	EUR 42 million	Romania
7-Jul	Buzescu Ca	Buzescu Ca successfully appealed the decision of the court of first instance – which ruled in favor of Foradex – on behalf of its client Amromco regarding disputed ownership of a natural gas production well.	N/A	Romania
9-Jul	Buzescu Ca	Buzescu Ca obtained a victory for Statkraft Markets in a case regarding a claim filed by Transelectrica, the Romanian electricity system and transmission operator, regarding claims for charges for cross-border electricity trading.	N/A	Romania
22-Jul	Buzescu Ca	Buzescu Ca represented Gazprom Marketing & Trading with regard to its application for and receipt of an electricity trader license from the Romanian Energy Regulatory Authority.	N/A	Romania
23-Jul	Bondoc & Asociatii	Bondoc & Asociatii secured a victory for Europharm Holding before the High Court of Cassation and Justice of Romania.	N/A	Romania
5-Aug	Allen & Overy; Bondoc & Asociatii; CMS; Nestor Nestor Diculescu Kingston Petersen; White & Case	RTPR Allen & Overy advised the Advent International Corporation on the sale of its majority stake in Centrul Medical Unirea S.R.L. – a healthcare services provider conducting its business under the brand name “Regina Maria” – to the private equity fund Mid Europa Partners. The Enayati family sold their minority share as well, and were advised by NNDKP. Mid Europa Partners was advised by White & Case and Bondoc & Asociatii, with CMS advising Erste Bank – acting as the sole underwriter of the acquisition facility – on debt financing provided to Mid Europa Partners.	N/A	Romania
23-Jun	Dentons	Denton advised the Region Group of Companies on the acquisition of the Mercedes-Benz Plaza in Moscow.	N/A	Russia
23-Jun	Borenius	Borenius Russia is assisting Telko Oy – a leading Finnish distributor of industrial chemicals, oils, and polymers – in its acquisition of 32,800 square meters of land for construction of an industrial and logistics complex in the Greenstate industrial park from YIT St. Petersburg	N/A	Russia
24-Jun	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners (EPAM) successfully completed one of the first Russian securitizations of car loans.	EUR 208 million	Russia
25-Jun	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners successfully completed the legal support of another securitization of mortgage assets for the Housing Finance Bank (AO Bank ZhilFinance).	N/A	Russia
30-Jun	Dentons	Dentons advised Israeli developer Morgal Investments on the successful completion of the first stage of the sale of part of the land intended for the implementation of the Planetograd project.	N/A	Russia
7-Jul	Pepeliaev Group	The Pepeliaev Group persuaded Russia's Constitutional Court to rule invalid the requirement of the Russian Tax Code that taxpayers should include in the tax base for VAT not only the cost of goods, work, or services sold, but also any insurance payout they have received because the buyer breached its obligation to pay for the goods.	N/A	Russia
9-Jul	Goltsblat BLP	Goltsblat BLP won a case for IKEA in the court of appeal regarding claims made by Khimki Collective Agricultural Enterprise.	N/A	Russia
10-Jul	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners obtained pre-closing clearance from the Federal Antimonopoly Service of Russia for XPO Logistics' purchase of shares in Norbert Dentressange.	N/A	Russia
10-Jul	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners obtained the approval of the Russian Federal Antimonopoly Service for client ROSSIUM Concern LLC's acquisition of a controlling stake in FC URALSIB.	N/A	Russia
13-Jul	Goltsblat BLP	Goltsblat BLP won an open tender to provide advisory legal services to the Russian Federal Property Management Agency, and will advise the agency on signing a shareholders' agreement with the Republic of Bashkortostan in relation to the Joint-Stock Oil Company Bashneft.	N/A	Russia
22-Jul	Lidings	Lidings is advising Japan's Mizuho Bank on corporate law issues including the preparation of documentation necessary to open and maintain accounts of the bank's clients.	N/A	Russia
23-Jul	Goltsblat BLP	Goltsblat BLP has successfully challenged a fine levied upon the Freight One company, which together with other railway operators, Russian Railways, and the authorities of the Kemerovo Region of Russia, had been accused by the Russian antimonopoly authority of signing an anticompetitive agreement to transport coal.	N/A	Russia
29-Jul	Linklaters	Linklaters advised the lenders, including VTB Bank and pension funds, on Russia's M11 motorway project – the first PPP project in Russia financed with a combination of bank debt and infrastructure bonds secured by the concession rights.	EUR 1.1 billion	Russia
31-Jul	Goltsblat BLP	Goltsblat BLP – the Russian practice of Berwin Leighton Paisner – has represented Sony Music Entertainment with regard to a settlement of a dispute with the VKontakte social network.	N/A	Russia
31-Jul	Integrites	Integrites successfully defended the interests of Rockwool in litigation regarding the protection of intellectual property rights to its “Lamella” trademark, used to refer to thermal insulation products in CIS countries.	N/A	Russia
6-Aug	Pepeliaev Group	The Pepeliaev Group has been named external counsel of Gazprom Export after winning a public tender for advisory services relating to so-called “deoffshorization” matters.	N/A	Russia
11-Aug	Lidings	Lidings advised Spanish Gruma International Foods S.L., – a Russian subsidiary of Mexico's Gruma International Foods – on changing the company's corporate structure.	N/A	Russia
23-Jun	Karanovic & Nikolic	Karanovic & Nikolic advised Air Serbia in negotiations over and the eventual conclusion of the first collective bargaining agreement signed by the company in 20 years.	N/A	Serbia

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
9-Jul	Jankovici Popovici Mitic	JPM Jankovic Popovic Mitic is advising the Serbian state-owned gas distribution company JP Srbija-gas on the separation of its activities.	N/A	Serbia
17-Jul	Jankovic Popovic Mitic	Jankovic Popovic Mitic is advising the Chinese MEI TA Industrial Company on its agreement to found a new plant in Obrenovac, Serbia	N/A	Serbia
18-Jul	Karanovic & Nikolic	Karanovic & Nikolic advised The Royal Group from Abu Dhabi on obtaining a full Banking License from the National Bank of Serbia for the establishment of Mira Bank in February 2015.	USD 300 million	Serbia
29-Jul	Price & Partners	Prica & Partners persuaded the Serbian Commercial Appellate Court to rule in favor of firm client Mytilineos Holdings S.A..	USD 46 million	Serbia
13-Aug	Jankovic Popovic Mitic; Hrle Attorneys	JPM advised De Heus Animal Nutrition B.V. on its acquisition of 100% of the shares of FSH PROTEINKA from Kartonval doo Beograd. The Hrle Attorneys represented the seller on the final stages of the transaction.	N/A	Serbia
24-Jun	ODI; Dolzan, Vidmar & Zemljarić	ODI advised the Hidria Group on a EUR 150 million out-of-court financial restructuring process, as well as all legal aspects of corporate reorganization. Dolzan, Vidmar & Zemljarić advised the consortium of eight banks involved in the restructuring.	EUR 150 million	Slovenia
18-Jun	Aykan Acar Ergonene; Paksoy; Weil Gotshal & Manges	Paksoy served as Turkish legal advisor to Opera Mediaworks, the mobile advertising subsidiary of the Norwegian browser maker Opera, on its May 2015 acquisition of a majority stake in the Mobile-like mobile advertising network. Weil Gotshal & Manges advised Opera on US law, and the Aykan Acar Ergonen law firm advised Mobilike on the deal.	N/A	Turkey
22-Jun	White & Case	White & Case advised the lenders and the hedging banks, including SMBC, BTMU, Siemens Bank, and Intesa Sanpaolo, on the financing of a 475-bed hospital public-private partnership in Yozgat, Turkey.	EUR 150 million	Turkey
25-Jun	Baker & McKenzie (Esin Attorney Partnership)	The Esin Attorney Partnership – the Turkish member firm of Baker & McKenzie - and Baker & McKenzie's Frankfurt office advised ING on a loan facility to the Izmir Metropolitan Municipality for the procurement of light rail cars.	EUR 23.5 million	Turkey
26-Jun	Paksoy; Linklaters; Yarsuvat	Paksoy advised funds advised by Triton on the sale of Compo's Expert division – one of the leading suppliers of specialty fertilizer products for professional applications – to Goat Bidco (a subsidiary of the XIO Group). Compo was advised by Linklaters as international counsel, and Goat Bidco was advised by the Yarsuvat Law Firm.	N/A	Turkey
30-Jun	Baker & McKenzie (Esin Attorney Partnership)	The Esin Attorney Partnership, a member firm of Baker & McKenzie International, advised Burgen Bank A.S. on its inaugural syndicated loan obtained for general trade finance purposes.	USD 119 million	Turkey
1-Jul	Baker Botts; Paksoy; Pekin & Pekin	Paksoy advised Anixter International Inc. on the completion of the previously announced sale of its OEM Supply - Fasteners segment to American Industrial Partners (AIP). Baker Botts was global counsel to AIP, and Pekin & Pekin provided the company with local advice.	USD 380 million	Turkey
1-Jul	Baker & McKenzie (Esin Attorney Partnership)	The Esin Attorney Partnership, a member firm of Baker & McKenzie International, advised South Korea's Hahn & Company private equity fund on Turkish elements related to its acquisition of Halla Visteon Climate Control Corp.	USD 3.6 billion	Turkey
6-Jul	Baker & McKenzie (Esin Attorney Partnership)	Baker & McKenzie SCP (Paris) and the Esin Attorney Partnership, a member firm of Baker & McKenzie International, advised the Mandated Lead Arrangers in relation to a EUR 213 million and USD 17.5 million Multi Tranche Term Loan Facility extended to Türkiye Sinai Kalkinma Bankasi A.S., to fund project finance-related transactions and its customers' trade finance transactions.	EUR 213 million	Turkey
14-Jul	Paksoy	Paksoy advised the International Finance Corporation on its issuance of TRY 100 million discount notes, becoming the first international finance institution to issue Turkish Lira denominated debt instruments.	TRY 100 million	Turkey
16-Jul	Paksoy; Herguner Bilgen Ozeke	Paksoy advised Turkish optical product distributor Merve Optik on its acquisition by the French eye-glass giant Essilor Optica International Holding. Herguner Bilgen Ozeke advised Essilor Optica.	N/A	Turkey
22-Jul	Kolcuoglu Demirkan Kocakli	Kolcuoglu Demirkan Kocakli has advised M&C Saatchi on its acquisition of a minority stake in INSPI(RED), an advertising agency based in Istanbul, and the resulting creation of M&C Saatchi Istanbul.	N/A	Turkey
29-Jul	Baker & McKenzie (Esin Attorney Partnership)	The Esin Attorney Partnership – a member firm of Baker & McKenzie International – advised corporate real estate firm Jones Lang LaSalle Gayrimenkul Hizmetleri Ticaret on its acquisition of AVM Ortaklari Proje Yonetimi A.S. from private individuals Aydin Yurdum, Mehmet Tarkan Ander, Dora Sahinturk, Can Sahinturk and Gokhan Faik Yazici.	N/A	Turkey
31-Jul	Paksoy; Simmons & Simmons	Paksoy advised Plastipak Packaging on Turkish aspects of its acquisition of APPE, the packaging division of La Seda de Barcelona (which is in liquidation), which closed on July 1, 2015. Simmons & Simmons was global counsel to Plastipak on the deal.	N/A	Turkey
6-Aug	Akol Avukatlik Buroso (White & Case); Yegin Giftci Attorney Partnership (Clifford Chance)	The Yegin Giftci Attorney Partnership – the Turkish firm associated with Clifford Chance – advised the International Finance Corporation and a fund managed by the IFC Asset Management Company on their acquisition of a 27% stake in GAMA Enerji. GAMA Enerji was advised by the Akol Avukatlik Buroso – the Istanbul firm associated with White & Case – on the deal.	N/A	Turkey
7-Aug	Greenberg Traurig; Mayer Brown; Paksoy	Mayer Brown was global counsel to the Dow Chemical Company and Paksoy advised on Turkish elements of the company's sale of AgroFresh, Dow Chemical's post-harvest speciality chemical business, to the Boulevard Acquisition Corporation, a public investment vehicle formed by Avenue Capital Group, for more than USD 900 million. Greenberg Traurig was global counsel to BAC on the deal.	N/A	Turkey

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
12-Aug	Esin Attorney Partnership (Baker & McKenzie)	The Esin Attorney Partnership – a member firm of Baker & McKenzie International – advised the Abraaj Group's Anatolia Growth Capital Fund on its acquisition of a stake in Yu-Ce Tibbi Gerecler Ithalat Ihracat Mumessillik Sanayi ve Ticaret A.S. from Cengiz Balcik and Yumnu Balcik, who were advised by sole practitioner Deniz Eray.	N/A	Turkey
14-Aug	White & Case	White & Case advised the International Finance Corporation on its agreement to subscribe for 23 percent of the shares of UNIT Investment NV, the power sector development and investment arm of UNIT Investments S.A.	N/A	Turkey
18-Jun	KPD Consulting	KPD Consulting has been engaged by Greek-based Autohellas in connection with the establishment of a Ukrainian subsidiary – Autotechnica Fleet Services LLC – and commencement of rent-a-car business activity in Ukraine.	N/A	Ukraine
18-Jun	Aequo	Aequo advised the EBRD on various issues related to the restructuring of its loans to Ukrainian borrowers operating in the territories affected by military actions, as well as assisting with corporate, tax, and compliance matters.	N/A	Ukraine
23-Jun	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners (EPAP) Ukraine assisted the global chemicals company Kemira Oyj with obtaining merger clearance from the Antimonopoly Committee of Ukraine for the acquisition of the paper chemical business of AkzoNobel, the largest global paints and coatings company.	EUR 153 million	Ukraine
30-Jun	Vasil Kisil & Partners	Vasil Kisil & Partners successfully represented the interests of Budynok Pobutu Obolon PrJSC, a subsidiary of Dragon Ukrainian Properties & Development, in a dispute with the State Emergency Service of Ukraine regarding termination of the construction of a residential and office complex in the Obolonskyi District of Kyiv.	N/A	Ukraine
1-Jul	Asters	Asters acted as legal counsel to KARA Energy Systems, a worldwide producer and supplier of combustion systems for wood and biomass, in connection with the June 22, 2015 launch of cooperation with the Ukrteplo group of companies, a leading Ukrainian biomass heat generation company.	N/A	Ukraine
3-Jul	Sayenko Kharenko	Sayenko Kharenko advised the Soufflet Group on potential investment in the state-owned Illichivsk seaport. The project provides for the construction of a grain transshipment terminal with annual processing capacity of 1-1.2 million tons.	N/A	Ukraine
3-Jul	Baker & McKenzie (Esin Attorney Partnership)	Baker & McKenzie acted as legal advisor and contributed to the Ukraine section of the Report on the Preparedness for Emissions Trading in the EBRD Region.	N/A	Ukraine
15-Jul	Baker & McKenzie;	Baker & McKenzie is acting as legal advisor to the European Bank for Reconstruction and Development on the Corporate Governance Reform of Naftogaz.	N/A	Ukraine
17-Jul	Baker & McKenzie; EY Law	Baker & McKenzie acted as legal advisor to the owners of the Rozetka business, a market leader in the Ukrainian e-commerce industry, in connection with the sale of a stake to Horizon Capital. Horizon was represented by EY Law on the deal.	N/A	Ukraine
22-Jul	Aequo	Aequo advised NCH Capital (USA) on the Share Purchase Agreement entered into by the Deposit Guarantee Fund and AGRO Holdings (Ukraine) Limited (a Cypriot subsidiary of the investment fund managed by NCH Capital), for 100% of the shares of PJSC Astra Bank.	EUR 3.9 million	Ukraine
27-Jul	Aequo; Vasil Kisil & Partners	Aequo advised the European Commission on Ukrainian and international law matters related to a disbursed loan – the first instalment under the new Macro-Financial Assistance (MFA-III) program for Ukraine, which amounts to a total of EUR 1.8 billion.	EUR 600 million	Ukraine
27-Jul	I.L.C. Eucon	I.L.C. Eucon successfully challenged tax-notice decisions and estimated tax liabilities on CPT and VAT in the amount of UAH 2.3 million imposed on client Vostok LLC by the Ukrainian State Tax Inspectorate in the Solomenskiy district of Kiev.	UAH 2.3 million	Ukraine
28-Jul	Lavrynovych & Partners	Lavrynovych & Partners successfully achieved a substantial decrease in the “illegally accrued penalties” levied upon its client – a private individual who requested anonymity – by Rodovid Bank, following the client's default.	N/A	Ukraine
28-Jul	KPD Consulting	KPD Consulting advised TOV “Region Invest” – the Ukrainian subsidiary of Shell Retail – in connection with setting up LPG terminals at company's service stations in Ukraine.	N/A	Ukraine
31-Jul	Sayenko Kharenko	Sayenko Kharenko successfully represented Ukrainian grain trader KAIC in an arbitral proceeding before the Grain and Feed Trade Association.	N/A	Ukraine
6-Aug	Lavrynovych & Partners	Lavrynovych & Partners agreed to render legal services to the Representative Office of Grohe AG in Ukraine and will act as its legal counsel advising on matters of Ukrainian law.	N/A	Ukraine
7-Aug	Dentons	Dentons advised Turkcell in Ukraine on the acquisition of SCM Holdings Limited's 44.96% stake in Euroasia Telecommunications Holding B.V.	EUR 100 million	Ukraine
11-Aug	Lavrynovych & Partners	Lavrynovych & Partners has been engaged by The Law Debenture Trust Corporation to advise on matters of banking and financial law in connection with Eurobonds of an unnamed Ukrainian bank.	N/A	Ukraine
11-Aug	CMS	CMS advised a syndicate of banks on a credit facility for a subsidiary of Kernel Holding S.A., the Ukrainian agricultural conglomerate.	USD 65 million	Ukraine

# On the Move: New Homes and Friends

## Poland's SPP Legal Joins CEE Attorneys Network



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

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

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

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

## BWW Law & Tax Merges With Wojnar Smoluch i Wspolnicy

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

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

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

## Clifford Chance Announces Withdrawal from Ukraine



Clifford Chance has announced that, starting in December 2015, its Kyiv office will operate as an independent law firm: Redcliffe Partners. Redcliffe Partners will initially have three partners, Olexiy Soshenko, Dmytro Fedoruk, and Yevhen Deyneko, who currently head Clifford Chance's Banking and Finance, M&A, and Antitrust practices in Ukraine, respectively. Under the agreement, Clifford Chance and Redcliffe Partners will enter into a “best friends” referral arrangement, and Clifford Chance's current Kyiv-based lawyers and business services staff will all transfer to Redcliffe Partners.

According to a Clifford Chance press release, “the new set-up supports the strategic aims of both parties. It provides Redcliffe Partners with greater flexibility for investment in developing a practice aligned with the opportunities and realities of the Ukrainian market, as Clifford Chance looks to focus on its

global strategic priorities. The continued working relationship, under the ‘best friends’ arrangement, ensures that multinational, major regional and local clients will continue to benefit from high-quality legal advice from its established team in Ukraine, and access to a leading global platform.”

Clifford Chance Managing Partner Matthew Layton explains that, “we have developed a very successful practice in Kyiv, with an excellent reputation and a highly regarded team which sees good opportunities for growth in that market. However, the firm has an ambitious new global strategy which is dependent on us strictly concentrating our investment and resources on our priorities. Olexiy and Dmytro have been with Clifford Chance since 2008, and we are delighted that the new arrangement will see them, with Yevhen, establishing Redcliffe. The new arrangement frees up the Redcliffe team to pursue exciting opportunities for further developing their client offer in Ukraine. We look forward to continuing to work together on client matters with this talented team.”

Olexiy Soshenko, who will assume the role of Managing Partner at Redcliffe Partners, comments, “This is an exciting step for us and for our team. We see plenty of opportunities to further expand our capabilities and create rewarding long term career paths for our people. The shared platform with Clifford Chance – working jointly on client matters and with access to their resources – means we are well positioned to remain one of the leading law firms in the market.”

Jared Grubb, Clifford Chance’s current office Managing Partner in Kyiv will continue to act as a Clifford Chance relationship partner for Redcliffe Partners. Grubb will reportedly be relocating within the Clifford Chance network in 2016.

In leaving, Clifford Chance will become the third international firm in recent years to withdraw from Ukraine, following Schoenherr’s departure earlier this year and Chadbourne’s exit in 2014.

## Kennedys Arrives in Moscow



Kennedys has opened an office in Moscow – its first in CEE – operating in an arrangement with CIS Advocates under the name Kennedys CIS Advocates. The office is based at 1 Usacheva Street, in Moscow.

Russian advocate Constantin Saranchouk is managing the firm’s

operations in Moscow. Saranchouk previously headed Clyde & Co’s insurance practice, and the Moscow office of Kennedys will carry the firm’s traditional insurance focus as well, attracting work from Saranchouk’s and its own client base of international insurance groups and London Market insurers, as well as major Russian insurance companies.

“I have known Kennedys’ partners for the last ten years,” Saranchouk said of the office opening, “having been jointly instructed by mutual clients on a number of occasions. The firm has an excellent reputation in the insurance market and a growing international reach that will appeal to my client base. Given the current levels of activity in the Russian energy, construction, and aerospace markets and a rise in disputes, I expect the office to attract contentious instructions from both international insurers as well as major Russian carriers.”

Saranchouk is joined by Associate Irina Molchanova, who specializes in high value insurance claims and insurance disputes in Russian commercial courts and international arbitration.

## SOGG and PwC Legal Spin-offs Come Together to Establish Gecic, Aksic & Stojkovic



A new firm has been launched in Belgrade: Gecic | Law (aka Gecic, Aksic & Stojkovic). The new firm is led by Partners Bogdan Gecic, Nikola Aksic, and Miomir Stojkovic.

Prior to the move, Gecic was a Partner with the Samardzic, Oreski, Gecic & Grbovic Law Firm (SOGG) for two years. Before that he was an Associate in Brussels with Cadwalader, Wickersham & Taft for one year, preceded by a period of three years as an Associate with Karanovic & Nikolic in Belgrade. He commented: “We are excited to have the opportunity to merge our respective niche practice areas into one of the most specialized firms in the market. This approach guarantees flexibility to provide the right expertise to carefully selected matters that require sophistication and extensive knowledge of our partners and senior lawyers.”

Nikola Aksic joins the new firm from PwC Legal, where he has been a Manager/Attorney at Law since September 2010. Before that he was an Associate at Karanovic & Nikolic between December 2007 and September 2010. He also worked as a Legal Advisor within the Government of Serbia for the Ministry of International Economic Relations and the Ministry of Fi-

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nance. Aksic commented: “Our goal is to provide our clients with 360-degree solutions that go far beyond traditional legal services. We are well aware of contemporary business requirements, which imply considering issues from different angles in a synchronized, quick, and intensely focused manner.”

Miomir Stojkovic also joins from PwC Legal, where he spent over 3 years as an Attorney at Law. His earlier legal career involved working for Law Office Stojkovic, first as a Legal Trainee and later as an Attorney at Law. He stated: “Our law firm is a destination for those clients that seek only premium legal services. And by dedicating ourselves to the complete satisfaction of our clients, we are fully and permanently committed to delivering such services timely and cost-efficiently.”

Jelena Adamovic, Special Counsel with Gecic | Law, added: “Our approach enables us to attract talented, creative, and entrepreneurial lawyers and multidisciplinary professionals. To that extent and despite being a relative newcomer to the market, our team members come from some of the leading U.S. and European universities, including Harvard, Florence EUI, Nottingham, Pantheon-Assas, KU Leuven, Cambridge, Carnegie Mellon, and Chicago Booth.”

Following Gecic’s departure SOGG announced it will be operating under the new name of SOG / Samardzic, Oreski & Grbovic in a press release that concluded with the note: “We wish Bogdan every success in his future endeavors.”

## Integrites Opens New Office in the Netherlands

Integrites law firm has opened an office in Amsterdam, designed for “developing new practices of Asset Tracing and Foreign Trade, as well as for the purpose of further expansion of the company in Europe.”

The new office will be led by Dutch Partner Dirk Sijbersma, who for the time being manages two other lawyers. According to a statement released by Integrites, “the strategic objective of the office in the Netherlands is to provide legal support in cross-border projects and increase the firm’s presence in the European Union. The new office will continue the strategy of the company and will work in line with general strategic quality standards and principles of the firm.” The firm also reports that, “taking into account the peculiarities of doing business in the Netherlands, the main practices of our office in Amsterdam are international trade, assets tracing, trade & project finance.”

The Amsterdam office is the firm’s seventh, as the firm has a presence in Kyiv, Moscow, and across Kazakhstan, plus a small base in London.

## GRATA International Opens Associated Office in Turkey



Grata International has signed a Memorandum of Understanding and Co-operation with the Isikal Law Office in Istanbul, giving the Central Asian firm a foothold by the Bosphorus.

The Isikal Law Office was established by Alper Isikal. According to a Grata press release, Isikal “provides legal support and consulting services in many areas of law, such as: real estate and construction, business, energy, commercial law, corporate law, contract law, zoning law, intellectual property, as well as providing opportunity to clients by acting as a solution partner.”

According to Grata Senior Partner Tiek Baigabulov, the “appearance of our associated office in Turkey, represented by Isikal Law Office, is a great convenience for our customers, professional development for the team, and strengthening of the friendship between our countries and people. Office in Istanbul will be a great support for the further promotion of our firm.”

Alper Isikal, the Founding and Managing Partner of his eponymous law office, is similarly enthusiastic: “I think it is exciting for all of us that the professional expertise and experience of the team of the Isikal Law Office is going to integrate with Grata International. As is known, Turkey is between Asia and Europe from the East to the West as well as it is between Russia and Middle East from the North to the South. The Isikal Law Office is located in Istanbul, which is the heart of business life in Turkey. I believe the team of the Isikal Law Office will continue to give legal support to clients effectively and efficiently, and within this association with Grata International will carry out it to an enlarged area.”

Grata’s announcement of its associated office in Istanbul comes a mere 3 months after it entered into a similar MOU with the Arzinger & Partners law firm in Minsk.

## Summary Of Partner Lateral Moves

Date covered	Name	Practice(s)	Firm	Moving From	Country
3-Aug	Bernhard Kock	Corporate/M&A	Fellner Wratzfeld & Partners	N/A	Austria
22-Jun	Borivoj Libal	Corporate/M&A	PwC Legal	Havel, Holasek & Partners	Czech Republic
18-Jun	Jacek Bieniak	Corporate/M&A	BSWW Legal & Tax	BWW Law & Tax	Poland
18-Jun	Piotr Smoluch	Capital Markets; Private Equity	BSWW Legal & Tax	Wojnar Smoluch i Wspolnicy	Poland
18-Jun	Michal Wielhorski	Real Estate	BSWW Legal & Tax	BWW Law & Tax	Poland
18-Jun	Piotr Wojnar	Corporate/M&A	BSWW Legal & Tax	Wojnar Smoluch i Wspolnicy	Poland
18-Jun	Marek Wojnar	Capital Markets; Real Estate	BSWW Legal & Tax	BWW Law & Tax	Poland
2-Jul	Krystyna Szczepanowska-Kozłowska	TMT/IP	Allen & Overy	DLA Piper	Poland
8-Jul	Cosmina Simion	IP; Gaming	NNDKP	DLA Piper	Romania
14-Jul	Constantin Saranchouk	Insurance	Kennedys	Clyde & Co	Russia
17-Jul	Kim Latypov	Corporate/M&A	DLA Piper	Linklaters	Russia
4-Aug	Maria Oleinik	Corporate/M&A; Energy	Dentons	White & Case	Russia
4-Aug	Richard Cowie	Corporate/M&A; TMT/IP; Energy	Dentons	Hogan Lovells	Russia
27-Jul	Bogdan Gecic	Corporate/M&A; Antitrust	Gecic   Law	Samardzic, Oreski, Gecic & Grbovic	Serbia
27-Jul	Nikola Aksic	Banking/Finance; Capital Markets;	Gecic   Law	PwC Legal	Serbia
27-Jul	Miomir Stojkovic	Litigation/Dispute Resolution;	Gecic   Law	PwC Legal	Serbia
11-Aug	Veronika Pazmanyova	Corporate/M&A; Employment	Glatzova & Co (Counsel/ Head of Office)	White & Case	Slovakia
3-Aug	Tolga Ismen	Corporate/M&A; Competition	DL Attorneys at Law (Deloitte)	Ismen Gunalcin (Locke Lord)	Turkey
8-Jul	Olexiy Soshenko	Banking/Finance	Redcliffe Partners	Clifford Chance	Ukraine
8-Jul	Dmytro Fedoruk	Corporate/M&A	Redcliffe Partners	Clifford Chance	Ukraine
8-Jul	Yehven Deyneko	Antitrust	Redcliffe Partners	Clifford Chance	Ukraine
16-Jul	Serhiy Verlanov	Tax	Sayenko Kharenko	PwC	Ukraine

## Summary Of In-House Appointments And Moves

Date covered	Name	Company	Moving From	Country
12-Aug	Tamara Kosutic	Croatian Post	Siemens Convergence Creators	Croatia
18-Jun	Tereza Simanovska	APS Holding SE	Clifford Chance	Czech Republic
8-Jul	Anastacia Soldatova	Kontinental Hockey League	(Promoted)	Russia
12-Aug	Aleksandar Vujosevic	Neoplanta	Bambi-Banat	Serbia

Full information available at: [www.ceelegalmatters.com](http://www.ceelegalmatters.com)

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

## Summary Of New Partner Appointments

Date Covered	Name	Practice(s)	Firm	Country
26-Jun	Marc Lager	Antitrust	Baker & McKenzie	Austria
26-Jun	Wendelin Ettmayer	Corporate/M&A	Baker & McKenzie	Austria
19-Jun	Jan Krakora	Banking/Finance	Wilson & Partners	Czech Republic
2-Jul	Lenka Patermanova	Corporate/M&A; Real Estate	Hruby & Buchvadlek	Czech Republic
31-Jul	Vladimir Cizek	Corporate/M&A; Capital Markets	Schoenherr	Czech Republic
31-Jul	Zoltan Palinkas	Corporate/M&A; Employment	Schoenherr	Czech Republic
31-Jul	Gabriela Porupkova	Corporate/M&A; Real Estate	Schoenherr	Czech Republic
26-Jun	Anton Subbot	Antitrust	Baker & McKenzie	Russia
16-Jul	Artem Rodin	Infrastructure/PPP	CMS	Russia
31-Jul	Alexander Vyazovik	Banking/Finance; Real Estate; Tax	Vegas Lex	Russia
31-Jul	Evgeniy Rodin	Energy	Vegas Lex	Russia
22-Jun	Dino Jusufovic	Litigation/Arbitration	Jankovic Popovic Mitic	Serbia
10-Aug	Matej Firicky	Corporate/M&A; Tax	Havel, Holasek & Partners	Slovakia
18-Jun	Sera Somay	Banking/Finance	Paksoy	Turkey
2-Jul	Denys Kytsenko	Litigation/Arbitration	Integrites	Ukraine
8-Jul	Gleb Bialyi	Litigation/Arbitration; Trade/Customs	Egorov Puginsky Afanasiev and Partners	Ukraine

## Other Appointments

Date Covered	Name	Firm	Appointed to	Country
8-Jul	Monika Dmochowska	PwC Legal	Head of Employment Law	Poland
20-Jul	Adam Kozlowski	Norton Rose Fulbright	Head of Real Estate and Construction Law	Poland
7-Aug	Adam Milosz	GALT	Vice-President of the Regional Chamber of Insolvency Practitioners	Poland
25-Jun	Alexander Sitnikov	Vegas Lex	Re-elected to the Board of Directors of the TNS Energo power utility	Russia
16-Jul	Dominique Tissot	CMS	Head of Tax Practice	Russia
18-Jun	Vladimir Sayenko	Sayenko Kharenko	Board of the Ukrainian Bar Association	Ukraine
23-Jun	Vadym Belyanevych	Vasil Kisl & Partners	Member of the High Council of Justice of Ukraine	Ukraine
2-Jul	Mariya Nizhnik	Aequo	State Commissioner of the Antimonopoly Committee of Ukraine	Ukraine
13-Jul	Nina Sydorenko	Peterka & Partners	Antimonopoly Committee of Ukraine	Ukraine
29-Jul	Roman Marchenko	Ilyashev & Partners	Member of Emergency Arbitrator Proceedings Task Force of the International Chamber of Commerce's Commission on Arbitration and Alternative Dispute Resolution.	Ukraine

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# Legal Matters: The Buzz

## The Buzz

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

## Albania

*“Searching for strategic investors”*

Albania is making headway with a renewed push by Albanian legislators to promote local production and attract foreign direct investment into the country, according to Ekflodia Leskaj, Partner at Drakopoulos. Leskaj explains that one of the biggest legislative packages enacted recently addressed “some concerns of foreign investors such as the bureaucratic processes they face.”

In addition to several new fiscal incentives and a revised law of public private partnerships, the new Law on Strategic Investments, Leskaj reports, contains one big novelty for Albania, as the Albanian Investment Development Agency (AIDA) will now act as a one-stop-shop for investors that achieve “strategic investor” status – covering the full process from gaining the status to concluding specific agreements in the country.

Several sectors were defined as “strategic” for this purpose, including energy, oil and mines, transportation, tourism, agriculture, and technical and economic development areas (several more are likely to be added as well). The “strategic investor” status will be based on a minimum investment in one of these sectors ranging from between EUR 1 million to EUR 100 million (depending on the sector), combined with a minimum amount of created jobs, and will result in the offer of an assisted procedure or a special procedure by the AIDA, which Leskaj describes as “a unification of procedures in case the project involves applications with different institutions under normal circumstances.”

While it sounds good in theory, Leskaj says that there are still several issues which need to be worked out. Specifically, there are concerns over the lack of input by the Competition Authority during the drafting and discussion of the law. According to the law, the Competition Authority’s opinion may be requested on a case-by-case basis – which Leskaj says is considerably less ideal than having included the authority in the original discussions and factoring in its opinions beforehand.

Another point of excitement within the Albanian legal world relates to a pending reform of the justice system, which, according to Leskaj, is intended to make the judiciary more independent from the political world. Leskaj says that this will necessitate several constitutional changes, meaning that its potential implementation is still a bit further down the line.



## Croatia

*“Bankruptcy and Tax at the top of the agenda”*

According to Mario Krka, Partner with Divjak, Topic & Bahtijarevic, one of the significant bits of news from Croatia is the new Bankruptcy Act that was adopted recently and will come into force on September 1. Furthermore, there are talks in the country about bankruptcy for physical persons, a concept that, while present in most EU countries, does not exist in Croatia.

Another exciting development is related to the tax system. Krka explains that, as a result of the updated General Tax Act, taxpayers are empowered to request a “formal opinion” from tax administration agencies to clarify uncertainties which they will be able to rely on should a tax agency attempt to apply tax laws differently than is stated in that opinion. Lawyers in the market are still waiting to see the bylaws and how this will work in practice, but Krka believes it will likely fill a gap in terms of addressing what he describes as the “grey areas,” and will likely provide an added level of certainty for economic agents.

Other areas of recent interest in Croatia, according to Krka, include renewable energy and capital markets, with “an increased movement for mid-sized IPOs and SPOs in the country in the last 2-3 months.”



## Estonia

*“Attracting investors and Estonian Airlines’ future”*

The first half of the year in Estonian M&A “stayed fairly active,” Marina Tolmatshova, Partner at Cobalt, says, though she points out that the deals closing, both in terms of value and volume, were not as many as in the previous year. The main thing that has Estonian lawyers excited is the interest expressed by investors, primarily from Scandinavian countries and Poland.

In terms of recent legislation, the new Commercial Code amendments were passed earlier in the year and came into effect on July 1, bringing increased flexibility (e.g., convertible bonds and different classes of shares are now possible for private limited companies) and transparency for potential investors, particularly in the start-up scene, according to Tolmatshova. The Cobalt Partner explains that the general hope is that these changes will make the jurisdiction substantially more attractive.

At the same time, Tolmatshova says, the Estonian legal community is buzzing over the “extensive work going into establishing and developing a new Investment Act meant to increase investment attractiveness – essentially driven by the Alternative Investment Fund Directive’s implementation.” Tolmatshova explains that this primarily aims to introduce new and more flexible types of investment funds and collective investment structures – such as those common in Luxembourg or the Netherlands.

The last noteworthy point on the agenda has a bit of a political flavor. Specifically, the National Airline of Estonia is “undergoing difficulties” and is expecting a final decision from the EU as to whether the loans and equity injections from the state constitute unfair state aid. The future of the airline has been discussed for the last three years, but now that an EU decision is expected in early fall, it has once again been pushed up the agenda.



## Lithuania

*“Trending in Lithuania”*

While there have not been any major legislative updates in Lithuania in the last couple of months, according to Zilvinas Zinkevicius, Partner with Valiunas Ellex, several interesting trends have started to surface in the country. The first identified by Zinkevicius exists in the M&A market, where more and more investments are done using collective investment undertakings. “There are several likely reasons for this, Zinkevicius explains, “but it basically comes down to it being a good instrument to raise funds.”

The other trend relates to litigation, in which more and more cases have appeared that involve professional liability issues for auditors, construction designers, and fund managers. While the source of the trend is unclear in Zinkevicius’ view, clients, he says, do seem to be increasingly aware of professional advisors’ duties.

Also in the litigation world, another trend relates to cases involving piercing of the corporate veil. The Valiunas Ellex Partner explains that while many companies in Lithuania are limited liability companies, some claimants are trying to employ this strategy because in many cases there are simply not enough assets to be recovered otherwise.

In terms of the legal market itself, the recent Ellex/Cobalt alliance reshuffling remains the major talking point in Lithuania and the region. Apart from that, Zinkevicius points to the relatively old trend of the claims by the Big Four that they are strengthening their legal teams in Lithuania. Aside from tax advisory, Zinkevicius feels that this remains more at the level of declarations than anything else.

## Latvia

*“No pinch felt in Latvia”*

The geopolitical issues of Ukraine and Greece are at the top of the list in terms of discussion points in Latvia, but Filip Klavins, Managing Partner of Klavins Ellex, reports that the country has yet to feel a significant pinch from either. Last year, he explains, Latvian business took a hit because of Ukraine, but the impact is felt considerably less now (with the small exception of some local producers who were focused on Russian exports and are now re-orienting towards Western clients).

At the same time, Latvia seems determined to get up to speed in terms of its NATO obligations with regards to GDP percentage dedicated to military spending, which will likely create more defense contract work in the country – something that Klavins says is reflected across the Baltics. “Even if it will come down to simple hardware purchases, it’s going to be good work next year,” he says.

Klavins also points towards projected market consolidations in some key industries such as timber and food product as well as new procurement work as a pipeline of work that has the market excited at the moment.

One last hot topic among lawyers in Latvia that the Klavins Ellex Managing Partner identifies are the ongoing discussions related to the actual legal form of law firms. He explains that Latvian firms are “not exactly a limited partnership or a limited liability company,” but rather a peculiar form created by special law. There is a concrete movement for a modernizing “mini-revolution” within the Bar, Klavins claims, and it has stirred a heated debate over potentially allowing firms to become LLPs and/or LLCs. The timeline and likelihood of this is still uncertain, as well as how taxing the profession will work as a result, but discussions are progressing gradually within the Latvian Bar Association, with the Ministry of Justice and tax revenue service being eager to push them along.

### Poland

*“Financial institutions under scrutiny in Poland”*

There are a couple of developments that lawyers are talking about in Poland, according to Malgorzata Surdek, Partner at CMS – both involving a combination of new legislation and ongoing investigations of various watchdogs in Poland. While they address two different problems they both relate to increased activity of regulators and general scrutiny of financial institutions.

The first involves insurance companies, which, according to Surdek, have been active in recent years in selling unit-linked life insurances – a type of investment insurance product. Surdek explained that these are structured such that, if a person wanted to exit the product before the 10th anniversary of the policy, he or she would have to pay a considerable surrender fee, which “is so high that even if you resign in year 1 or 2, you stand to lose all the premiums paid.” While some commentators argue that this amounts to a form of consumer trap, these policies are structured in such a way so as to cover the costs incurred in setting up the policy – a big part of which involves commissions for agents.

There are several ongoing class actions started by various groups of policyholders (with Axa, Skandia, Generali, Aegon, and OpenLife, among others, as defendants), with several pending actions in preparation stages. At the same time, there is an ongoing investigation by the Office for Competition and Consumer Protection, an agency which, Surdek explains, has the ability to impose fines of up to 10% of the yearly revenue of a company. In light of all of these, the Financial Services Authority ran a series of stress tests recently to determine how insurers would cope with a drop in the surrender fees, which revealed that four or five of them would end up with negative equity, meaning that either bankruptcy or immediate capital injections from shareholders would be needed. A few more companies would have a hard time achieving the solvency margin levels that meet statutory requirements.

To make matters even more complicated, according to Surdek, a new draft insurance law looks like it will regulate unit-linked insurance products in more detail, including a lowering of the surrender charge to the levels tested by the FSA – a discussion that is also influenced to a great extent by the fact that it is all taking place right before the October 25 general elections.

Similar patterns were highlighted by the CMS Partner related to the continuing fallout of the drop in Swiss francs and the challenges posed by it to banks which were granting mortgage loans denominated in or indexed to CHF. Pending class action suits, investigations from authorities, and draft legislation influenced by the same elections are looming, making it a particularly interesting period for lawyers working in the financial services sector.

### Romania

*“NPLs – an Austrian recipe in the Romanian market”*

Nonperforming loan portfolios is the name of the game in Romania, according to Bryan Jardine, the Managing Partner in Bucharest of Wolf Theiss. The main example he identifies was the so-called Project Neptune, a portfolio put out by BCR that had all firms in the local market scrambling to get involved, with a number of international consortia initially expressing an interest to acquire it as well. Local media are using the EUR 3.5 billion heading when reporting on the portfolio (though Jardine believes that some skepticism should be applied to that evaluation), but it is definitely a project that has the market excited. The Wolf Theiss Managing Partner points out that it is not the only such project ongoing in the market, with even more activity in the area being anticipated, primarily as a result of both regulatory pressure to clean up balance sheets and banks looking to rationalize portfolios.

According to Jardine, similar trends can be observed in other CEE jurisdictions, with noticeable activity in Slovenia, Croatia, the Czech Republic, and, recently, Poland. What sets the Romanian market a bit apart is the fact that the Romanian banking sector tends to be dominated by Austrian banks, meaning that they benefit from an “advantage of scale” when it comes to such matters. He explains that while there are definitely some local nuances to be considered, it helps these Austrian banks that they can transfer a great deal of manpower and know-how from Vienna in terms of packaging and marketing loans and negotiating with potential buyers. He points out that, in many instances, portfolio cross-border transactional documents also tend to be drafted under Austrian law, which makes it a particularly exciting period for a regional CEE firm such as his.

### Russia

*“Making sense of deoffshorization (still) and new Civil Code concepts”*

Deoffshorization continues to be on the tip of the tongue for lawyers in Russia, according to Mikhail Kazantsev, Partner at Egorov Puginy Afanasiev & Partners. According to Kazantsev, a third iteration of the deoffshorization law was passed a month ago, and the business world is still trying to figure out how to best comply with the new amendments – i.e., through their existing corporate structures or by developing new ones. He reports that while many clients have already made changes internally, others are still waiting, betting on future amendments and wishing to avoid incurring more restructuring costs than necessary. While some expect further updates in the law, the general feeling seems to be that no other “huge changes” are realistic.

Another big development that has the legal community buzzing are the recent updates to the civil code, which, according to Kazantsev, have introduced many “nice things that Russian law did not have” – primarily drawing from common law. Kazantsev explains that many are familiar concepts – especially for those who have operated with common law for a few years – but that there are still pending questions revolving around a few provisions, since some of the new concepts do not represent a 100% adaptation of English law. Kazantsev says that he expects it will take up to a year for the Russian market to get accustomed to it all, especially since it is a matter not just of adapting these new concepts into business agreements, but also of developing court practices to provide predictability for lawyers.

## Slovenia

*“NPLs with a (Slovenian) twist”*

Like Bryan Jardine in Romania, Uros Ilic, the Managing Partner of the ODI Law Firm, points towards Nonperforming Loans as the big topic of conversation in Slovenia. According to Ilic, the trend developing in Slovenia is that traditional claim holders (banks) are now moving away from “Plan A” – restructuring – and contemplating “Plan B”: selling their non-performing loan portfolios to the highest bidder. Ilic points to the Hypo Group (through its internal bad bank HETA) and BAMC (the Slovenian bad bank) as the two financial institutions that started this type of deal, only to be followed by two banks in liquidation. Ilic explains that they were successfully selling not only claims towards one company, but also bigger portfolios. Other banks have started following suit, including the biggest national banks, such as NLB.

One Slovenian-specific aspect (NPLs are a hot discussion topic in many CEE jurisdictions) is that banks with claims towards the same company are these days making consortium sales in order for the best bidder to buy majority claims which – as Ilic explains – provides them with a broader scope of options. He clarifies that if a bidder were to buy only a minority of a company’s exposure, legal advisors to the bidders would not have a lot of options in terms of strategy. Enforcement of security rights could be limited, since a majority of creditors in the restructuring agreement is often required. Such a buyer would also not be able to block all decisions made by other creditors from the restructuring agreement if the buyer did not agree with them (usually the agreement envisages 2/3 majority to pass a decision). “When 75% of the exposure is owned, however, there are a lot of other options that become available, such as compulsory settlement (since you have the quorum not only to start those proceedings but also to confirm them),” Ilic explains. “In the process you can convert part or whole of that loan to equity without shareholder consent and simultaneously delete present shareholders, which means you are becoming not only economic but also legal owner of the company.” This translates in a higher purchase price, which in turn means lower losses incurred on the bank side. Ilic points to the recently reported York Capital acquisition of Istrabenz Bank claims as an example of such deals in the country. [As reported by the CEE Legal Matters website on June 16, 2015, ODI advised an affiliate of York Capital Management and Elements Capital Partners on the purchase of receivables and obligations against Istrabenz in the amount of EUR 46.7 million from BAWAG and banks in the Erste Group, while the sellers were being advised by Wolf Theiss and Houlihan Lokey].

In terms of who is looking to make purchases in the NPL world in Slovenia, Ilic points towards (primarily US-based) private equity funds and hedge funds as the likely suspects, while also pointing out that there is an increasing tendency for local-international joint venture efforts to put together strong bids.



## Ukraine

*“On leaving or surviving in Ukraine”*

The big news in Kyiv these past two months is Clifford Chance’s announcement that it intends to close its Ukrainian office, according to Andriy Stelmashchuk, Managing Partner of Vasil, Kisl & Partners. His impression is that, in contrast with the other internationals that have been “surviving in the market,” Clifford Chance was not that active in Ukraine. Stelmashchuk argues that the firm’s decision was also likely because its main areas of focus tended to be antitrust and M&A work, but the latter has dried up in Ukraine in recent months. The Vasil Kisl Managing Partner points out that Clifford Chance did not have a dispute resolution team, unlike the international firms that have managed to survive in the country, which worked hard to build up such teams, especially in the financial, insurance, and real estate sectors that feed many of the lawyers in Ukraine at the moment.

On dispute resolution, on top of the sectors already mentioned, Stelmashchuk says that law firms are also actively pitching for work from Ukrainian companies potentially suing Russia for losses incurred as a result of Crimea’s annexation.

### We thank the following for sharing their opinions and analysis:

- Andriy Stelmashchuk, Managing Partner, Vasil, Kisl & Partners
- Bryan Jardine, Managing Partner – Bucharest, Wolf Theiss
- Ekflodia Leskaj, Partner, Drakopoulos
- Filip Klavins, Managing Partner, Klavins Ellex
- Malgorzata Surdek, Partner, CMS
- Marina Tolmatshova, Partner, Cobalt
- Mario Krka, Partner, Divjak, Topic & Bahtijarevic
- Mikhail Kazantsev, Partner, Egorov Puginsky Afanasiev & Partners
- Uros Ilic, Managing Partner, ODI Law Firm
- Zilvinas Zinkevicius, Partner, Valiunas Ellex

# EBRD General Counsel On Bringing About Law Reforms



Marie-Anne Birken is the General Counsel of the EBRD and will be the Keynote Speaker at the CEELM 2015 GC Summit. In preparation for the conference CEE Legal Matters spoke to her briefly about the subject of her speech: Inspiring legal reforms.

To learn more about the GC Summit visit:  
[www.gcsummit.ceelegalmatters.com](http://www.gcsummit.ceelegalmatters.com)

**CEELM:** We are honored to have you join us at the 2015 CEE Legal Matters GC Summit. Why did you decide to attend?

**MA.B.:** First, the geographical focus was important since CEE is a very important region for us at the EBRD. I

like to reach out to the legal community and don't often get the opportunity to speak to lawyers working on the ground in the jurisdictions in which the EBRD operates.

The other aspect is that the event promises to draw in very senior lawyers and my hope is that my message will be shared by participants with their legal teams. It is really hard to bring senior lawyers together since they tend to be really busy so I was happy to have the opportunity to address so many of them in one room.

**CEELM:** You mentioned engagement with the legal community as part of your mission. Can you elaborate?

**MA.B.:** It comes down to the mission of the EBRD whereby we try to have an impact in the jurisdictions where we work. Yes, first and foremost that tends to be impact through the projects that we finance, but we also get involved in policy dialogue to bring about reforms. We do this through our diagnostics and technical assistance but also through outreach that includes inspiring local stakeholders to engage in legal and regulatory reforms. Through these policy efforts we support EBRD's mandate of fostering transition towards an open-market oriented economy and the promotion of private and entrepreneurial initiative in our countries of operation.

**CEELM:** As the Keynote Speaker at the GC Summit, you'll be discussing the role of GCs in inspiring law reforms. What was the source of inspiration for the topic for you?

**MA.B.:** It originally stems from my personal experience, in particular my experience working as a private practice lawyer in Vietnam, back in 1995. It was a fascinating experience since I was working on complex transactions



but much of the local legal framework at the time was under-developed and we had to go beyond the scope of simply applying existing laws and regulations but actually get involved in developing them.

**CEELM:** You mentioned that you worked as a private practice lawyer at the time. Are lawyers within law firms better positioned to implement such legal changes?

MA.B.: No, I wouldn't say that. In-house lawyers would have similar opportunities when supporting their businesses. Later on in my career as an in-house counsel at Barclays I was responsible for a number of jurisdictions in Africa and I had similar opportunities to support legal development. I find it fascinating – and rewarding – to see how much the legal certainty that we were helping to create helps markets develop through increased foreign investment.

**CEELM:** Without giving away the punch line of your presentation, what is the main message you are keen on conveying to peers in CEE and why?

MA.B.: My key message to lawyers is try to find opportunities to get involved in legal reform, for example through legal networks or trade associations. A lawyer's role can be so much more than supporting clients – internal or external. I am keen to meet participants at the conference and – who knows, in the future we might be working together on supporting the legal framework in their countries!

*Radu Cotarcea*



# Site Seeing:



## Hidden Functionalities and Secrets on the CEE Legal Matters Website

*Many of the 40,000+ people who visit to the CEE Legal Matters website each day know it to be more than simply the best source of information about the deals, transactions, promotions, hires, and lateral moves involving lawyers in Central and Eastern Europe. In fact, the site functions as a key resource for market research and analysis, competitive intelligence, and important hiring/recruiting decisions. Here's a quick primer to bring you up to speed on some of the site's key functionalities you may have missed.*

### **An Ideal Source of Competitive Intelligence**

In almost every one of the 1300+ deals and disputes that have been described on the CEE Legal Matters website since its launch in December 2013, the individual lawyers advising on the deals have been identified and credited. As a result, thousands of lawyers have been named on the site, associated with the deals and cases they guided to successful completion.

Thus, the site functions as an excellent and easily searchable database, showing quickly which lawyers and what law firms have worked on what matters and for what clients. For example, a simple search shows that Muhsin Keskin, a Partner at the Esin Attorney Partnership in Istanbul, appears in 24 stories on the CEE Legal Matters website, 21 of which involve deals he has worked on.

You get the idea. With judicious use of

the search function on the CEE Legal Matters website, readers wishing to learn more about the experience of firms and lawyers in the region – whether general counsel researching external counsel, managing partners considering candidates for lateral hire, legal recruiters preparing for interviews, or lawyers wanting to scope out their counterparts across the table – can obtain that knowledge quickly, easily, and free of charge. If you need to know who has worked on what, the search function



DATE	FIRM(S) INVOLVED	INDUSTRY/DESCRIPTION	INDUSTRY	COUNTRY	CLIENT	PRACTICE AREA	INDUSTRY PRACTICE AREA (IF APPLICABLE)	CONTACT
2-Dec-15	Zelenkova	Workshop conducted for TSN (T) Group in several client cases related to restructurings, priority and admissibility, and represented the client in administrative court in a case raised by the protection of journalist's law.	NA	Poland	T&T	Liquidity / Dispute Resolution	Other	General Inspector for Personal Data Protection (GIODO); TSN
2-Dec-15	Wolf Thesess	Wolf Thesess advised Gemina Group on the restructuring of Assicurazioni Generali and on the acquisition of additional participation in ZAO Vostok.	NA	Bulgaria		Banking / Financial Services	Corporate / Commercial / M&A	General Group - ZAO Vostok
2-Dec-15	Tyco Services & Assets; Wolf Thesess	Wolf Thesess advised the Hungarian International Bank on the sale of 100% of its shareholding to E.ON Holding SA.	NA	Hungary		Banking / Financial Services	Corporate / Commercial / M&A	E.ON Holding SA; Hungarian International Bank
2-Dec-15	LH&Mers	LH&Mers acted as the advisor to the Polish State Treasury on the selling shareholder in a transaction consisting of the public offering of secondary shares in Energa SA, which is owned by the Polish State Treasury. The transaction constituted first phase of privatization of Energa SA.	NA	Poland		Energy / Natural Resources / Utilities	Capital Markets	Mitsubishi Bank; Powszechny Zakład Ubezpieczeń (Treasury Ministry)
2-Dec-15	Wolf Thesess	Wolf Thesess advised BNP Paribas on formal registration of variable mortgage and deals with financial instruments. Wolf Thesess advised and securing a legal opinion covering several related to EU emissions allowances transactions to be entered into with Bulgarian counterparties under the EEA Market Agreement and the relevant services.	NA	Bulgaria		Banking / Financial Services	Capital Markets	BNP Paribas
2-Dec-15	Wolf Thesess	Wolf Thesess advised GE International on export financing for the supply of a 32 MW combined cycle gas turbine for Tuziulovska Power EAD.	NA	Bulgaria		Energy / Natural Resources / Utilities	Energy / Natural Resources / Utilities	GE International Inc.
2-Dec-15	Alex & Overy	Alex & Overy advised Robocash on the sale of Polaris bank SO2 to BNP Paribas.	NA	Poland		Banking / Financial Services	Corporate / Commercial / M&A	BNP Paribas; Robocash
2-Dec-15	Ward	Ward advised Anafi in entering into a joint venture with US Invest for the acquisition of a shareholding in a company owning and operating 545 Latin Real-estate and money market in Riga.	NA	Estonia; Latvia		Real Estate / Construction	Corporate / Commercial / M&A	Anafi; US Invest

CEE Legal Matters Deal List

that were reported on the website, supplemented at year's end with many that firms did not publicize earlier – is available under the Deal List tab on the menu bar.

The list is simple and user-friendly, and it can be organized by firm, country, client, practice area, industry, or date.

In other words, readers wishing to see a complete list of deals that a particular law firm participated in last year can do that. Readers wishing to see a complete list of deals involving leading law firms in the agri-business sector (or any other) can do that. Readers wishing to see a complete list of deals involving major law firms in Russia, Slovenia, or any other CEE country, can do that. And so on.

Legal Analysis and Firm-Branded Landing Pages

The information available on the website is not limited to news about deals, promo-

tions, and lateral moves. Instead, simply by clicking on the Thought Leadership tab on the CEE Legal Matters website menu bar, visitors can access a dynamic and ever-growing library of legal analysis articles, easily searchable by country using the list of the 24 CEE countries on the right-hand side of the page.

In addition, above that list of countries visitors will find a listing of firms which have arranged for special branded landing pages, providing easy access both to the articles written by their legal experts and to a complete collection of all client matters or other news stories involving that firm that have appeared on the website. Firms such as Karanovic & Nikolic, Varul, Wolf Theiss, and JPM Jankovic Popovic Mitic have taken the extra step to ensure that visitors to the website can easily access examples of and information about their capabilities.

In addition, once a firm's landing page has

on the CEE Legal Matters website is your friend.

The Deal List Puts That Information in One Place

The Deal List on the website is another way of getting information about which firms worked on what deals ... and is much more than that.

Readers of the CEE Legal Matters magazine know that each issue of this magazine contains a multi-page summary of all deals and disputes reported on the CEE Legal Matters website in the preceding two months (pages 6-13, in this issue). What they may not know is that last year's complete deal list – consisting of all the deals

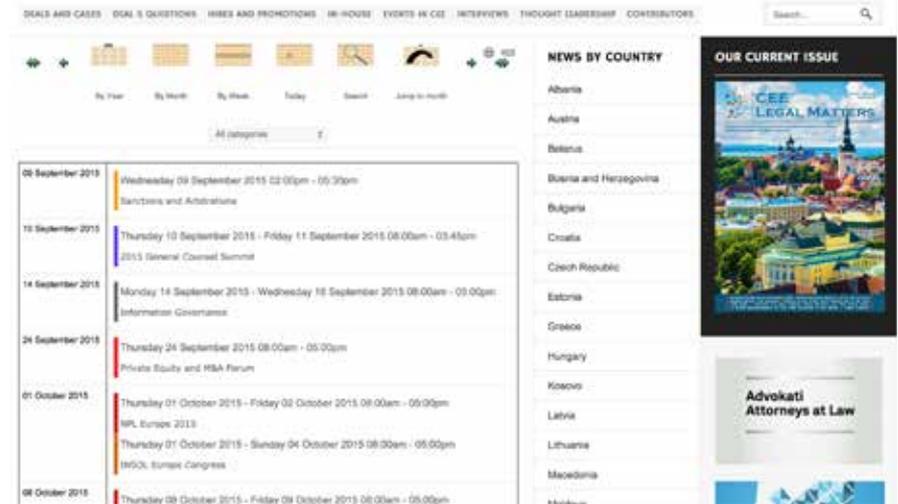
CEE Legal Matters Thought Leadership Section

been created, all news stories involving that firm will be hyper-linked directly to it, making it even easier for readers to learn more about the firms involved on particular deals. For General Counsel considering a retainer, among others, this constitutes a complete and valuable resource.

## Putting Our Contacts, Skills, and Experience to Work for You

In July 2015 a new tab – CEELM Services – appeared on the website menu bar, directing visitors to a summary of special services offered by the founders of CEE Legal Matters.

With CEELM Services, law firms and others in the CEE legal community can benefit from the contacts, expertise, market knowledge, and writing skills that have become so closely associated with the CEE Legal Matters brand. Law firms interested in making sure their submissions to ranking services are polished, professional, and complete can find assistance. Partners interested in hosting Round Tables or one-on-one sit-downs with General Counsel from a particular industry can ask us to arrange them. And Managing Partners and Marketing Directors interested in obtaining a professionally-conducted, efficient,



## Legal Events Calendar

and useful competitive-intelligence or client-feedback report now have a way of doing so.

For all of these services, and many others, a simple click on the CEE Legal Matters website is a good place to start.

## What, Where, and When

Right there on the right-hand side of the website, midway down, is our Events Calendar, containing an updated list of conferences, seminars, and other events for

lawyers, across CEE. Marketers wanting to promote their events, and lawyers wanting to learn about what events are coming up in the region, should be aware of this valuable resource.

## The Best is Yet to Come

In the 20 months since the CEE Legal Matters website was launched, it has transformed from a simple summary of deals, promotions, and hires in the legal profession into what it is now: The go-to source of news, analysis, thought leadership, and other information involving lawyers in the 24 countries of Central and Eastern Europe.

And the site continues to grow. Readers should expect to see a new Jobs section, where firms and legal recruiters alike can post open roles and opportunities for lawyers interested in moving to a new home. In addition, the Thought Leadership and Events Calendar sections of the website will be re-organized and expanded to become even more user-friendly. A current and searchable deal list for this year will appear for subscribers. And the popular Five Questions feature will be expanded.

And much, much more. We encourage our readers to visit the website, play around, and make sure they know all its features and functionalities. The CEE Legal Matters website was designed for our readers – the lawyers living, working, and/or interested in CEE – and we are committed to making sure it remains useful and responsive to their needs.



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# Law Firm PR in CEE: Insight from the Experts

“The old adage of the more things change, the more they remain the same still holds some truth,” said law firm consultant Paramjit Mahli in a 2008 article for *Law Practice Today*. “Public perceptions still have a strong hold in society. Visibility and credibility still go a long way in cementing business relationships and deals. The credibility associated with getting cited in press or seen as an expert is very hard to buy in advertising dollars.” Mahli’s analysis remains on point today, despite the many changes to the media landscape in the intervening 7 years.

In fact, law firm Public Relations representatives are critical (though often silent and hidden) ambassadors for law firms, providing a bridge between the lawyers they work for and the publications that re-

port on those lawyers’ achievements.

Accordingly, we reached out to several highly experienced PR representatives in CEE to learn more about PR practices for

law firms in the region, and to understand better the challenges they face and strategies they employ to succeed in this critical role.

## The Initial Hurdles

Based on input from various PR professionals in the industry – both in-house (i.e., within a law firm) and as external consultants – it appears that, even before particular strategies can be created and employed, PR representatives must clear two fundamental hurdles, which can be called:



Erik Werkman, Head of Business Development and Marketing, Prague, CMS

manded she remain anonymous, noted that “the priority for business development and marketing must come from a senior level within a law firm.” She reports that “this commitment to business development and marketing has not always been the case.”

Jan Posvar, the Business Development Manager for Schoenherr in Prague, says essentially the same thing: “PR with law firms is very often driven by an ‘illuminated’ partner who is aware of the power of PR.”



Georg Baldauf, Founder, Greenberg Advisory

The challenge, often, is that not all Partners in CEE have yet reached the level of marketing savvy that their counterparts in the UK and US have. Posvar says: “I guess the only difference is the size and maturity of the markets. Anglo-Saxon countries are in respect to the legal market more mature, knowing more different tools and having a more positive approach toward public relations (just because they know communication tools better).” Thus, he notes, “CEE countries are still learning about PR and what it means in a very fast changing global environment.”



Jan Posvar, Business Development Manager, Prague, Schoenherr

Mate Bende, now an external consultant as Founder of Pro/Lawyer Consulting, echoes Posvar’s assessment. “The legal market is 5-8 years behind the UK or US markets in terms of law firm management, which includes PR and communications,” Bende says. “The good practices and the business-like approach in a wider scale started here 5-6 years ago (following softened bar regulations). The way of doing legal business is clear; CEE just has to catch up a bit.”



Mate Bende, Founder, Pro/Lawyer Consulting

Bende’s reference to bar regulations leads directly into the second institutional hurdle facing law firm PR representatives in CEE: the conservative nature of many Bar associations in the region. Bende notes that “in some countries it is still forbidden for law firms to advertise or communicate their deals, prices, or clients in any way,” which he refers to as “a very archaic approach.”

One law firm representative (who prefers to remain anonymous) explains that in many CEE jurisdictions the legal profession is “granted” by the Constitution, and the industry is seen “as a vehicle of or a mechanism within the system, used for proper functioning and operations.” As a result, he explains, “profit, fame, self-promotion should come second to that value,”

adding jokingly: “We’re all traditional and important like that!”

### Beyond the Hurdles – the Day-to-Day Realities

Of course, even in the absence of problematic bar regulations and with at least nominal firm commitment to marketing, law firm PR representatives face many additional challenges.

#### The Lights Are On, But Nobody’s Home

The most common mistake many firms in the region make, according to Bende, is for the Partners to attempt to handle PR themselves, and “not having a PR responsible [representative] at all.” And a warm body is not enough. Bende adds that, sometimes, even if a firm has a marketing or PR manager (or an outside consultant), “a lot of times they work on an ad-hoc basis without mid-/long-term communications strategy. That is a good step if they know that they have to communicate, but they still have to figure out the reason.”

#### Jack-of-All-Trades, Master of None

“As a result of the size of law firm offices in CEE, the responsibility for PR or media relations, general marketing, and business development often rests with one and the same person. Many of us are therefore a ‘jack-of-all-trades,’” explains Erik Werkman, Head of Business Development and Marketing, Prague, at CMS. He adds: “The skill sets required for these slightly different tasks are quite similar, so it makes more than just economic sense to combine these roles into one po-sition.”

This is not necessarily a good thing, Posvar, who agrees that “most law firms do not see the basic difference between marketing / PR / business development,” says that many partners “mix up these disciplines, strategies, and tools,” and says that the inevitable result of such confusion is the development of “expectations [that] are just not realistic.” (He claims that, “most lawyers expect that one single [marketing/PR/BD] action ... will ideally lead to a new open case”).

Another common mistake is simply not to understand fully what good PR can mean. Posvar explains, “PR is perceived just as media relations. All other PR instruments

(1) Firm Commitment, and (2) Bar Limitations. Both relate to the relative immaturity of many CEE markets.

The issue of Firm Commitment relates to the need for firms to understand and support PR efforts in the first place. Because law firms are inevitably and necessarily structured around the wishes and demands of the partners – who generally both own and manage their firms – successful PR requires partners enlightened to the value of PR and committed to the concept. One Marketing Manager, whose partners de-

are often totally forgotten, mostly in the line of partner/personal profiling and branding.”

This is perhaps inevitable, according to Werkman: “PR often has a very direct – and often flattering – result. A partner gives a quote one day and the next morning it appears in the newspaper alongside a nice picture. Other marketing or BD activities might require much more time to come to a tangible result.”

### Forgetting Your Ace in the Hole

To a significant extent, of course, lawyers are themselves the best source of good PR. Still, not all lawyers in the region recognize the need. The aforementioned anonymous Marketing Manager believes that in CEE, “there is often insufficient understanding of the importance of [good PR] by lawyers and it is seen as not something that is required of them.” In fact, she says, lawyers are key to a firm’s PR success, as “they

**“To create valuable content a PR agency or a marketer is not enough; you need the proactive involvement of a professional (a fee earner) and that becomes a challenge, knowing how busy lawyers can be.”**

maintain regular contact with existing clients and have the potential to gain new clients on a frequent basis. A firm’s lawyers are its ambassadors.”

Maybe so, Werkman says, but he points out that lawyers have other and more pressing concerns than BD and public relations. “PR is an important part of the marketing mix, but the time that a lawyer has to spend on non-fee-earning work is limited,” he says. “Law firms have to make sure that they do not give in to the temptation of the quick win and spend too much time and effort (both from fee earners and marketing support staff) on PR, in favor of activities that could develop actual fee income.”

### Don’t Say It, Show It

“No, the fifteenth edition of your black-letter law book is really not that interesting and perhaps not as ‘sophisticated’ as you describe it in your press release,” is a message Georg Baldauf, Founder of GreenbergAdvisory, tries to instil in law firm PR representatives. While Baldauf’s

point is to not exaggerate the importance of firm-produced material when talking to the press, his warning also hints at the value of producing – and promoting – genuinely interesting information.

Baldauf believes that major international law firms, at least, are starting to get the message. “Global law firms are putting a lot of money into market research and studies (e.g., about economic development and regulation) which they can publish with aligned PR around the globe.” He describes the end result of these investments as “real news” and “of a certain value, especially when you cooperate with a trusted media brand.”

Beata Niemczuk, Marketing & Business Development Director at Dentons – Warsaw, explains that “nowadays a common trend is that corporate communications is built by using content marketing and thought leadership.” However, she warns, “not all market players know yet how to apply those methods, and they continue with the old ways of communications, telling clients and a wider public what they wish to say (often boring and irrelevant news) rather than what clients really need to know business-wise.”

And Niemczuk makes the same point Werkman did earlier about the conflicting demands for lawyers’ time: “To create valuable content a PR agency or a marketer is not enough; you need the proactive involvement of a professional (a fee earner) and that becomes a challenge, knowing how busy lawyers can be.”

### Getting in The Press: Facilitate the News Cycle, Don’t Try to Break It

Baldauf suggests PR representatives who believe their news is uniquely important may be mistaken. “Don’t think you can break the news cycle,” he says. “Neither with your issues nor with your timing. As you’re not a government or a stock-listed company, you will not succeed.” Journalists and editors have their own rules about how to value information, Baldauf says, which they divide roughly between importance and emotional appeal. As a result, he suggests, “keep this external view in mind and try to follow their issues, [adding] your law

firm knowledge as a plus.”

In addition to this general rule, Baldauf suggests several specific best practices as to how messages can be conveyed to the press for firms with a story to tell:

The first is to always “make sure you describe – in your very first sentence – why this is important for their readers.” He says that PR representatives should “discuss and explain the story first during a morning coffee with journalists,” as “[journalists] have usually not attended law school, so for them it’s often not that easy to understand the connection.”

Second, “what journalists want in general is clear: They want the truth and they want it now.” As a result, Baldauf suggests always getting the message to journalists earlier rather than later: “Tomorrow is not an option. Especially when you are into daily news. The Rule of Thumb: Put your message out in the morning. Punchtime is during breakfast.”

Third, Baldauf says that firms should take care not to distract from the message with unnecessary information or details. In Baldauf’s view, it is critical to discuss the “what, how, and when to disclose sensitive matters” in advance, and once done, a firm’s “internal structure should also not be reflected to the outside world. An international magazine does not want 16 different telephone numbers. One, working, is far enough.”

Finally, Baldauf encourages firms’ PR representatives to position themselves as “a trusted partner for the journalists. Someone they can call, someone who is available and delivers.”

### Conclusion

The PR representatives of law firms in CEE – both in-house and external consultants – have a challenging, important mission: To communicate their employers’ capabilities and successes to the market and to effectively brand their firms as credible, skilled, reliable, and efficient. As the legal markets in the region become ever more competitive, mature, and challenging, their work is more critical than ever.

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# Market Spotlight Austria



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# Guest Editorial: A Legal Market Overview, Trends, and Perspectives



Due to Austria's political stability and security and its well-functioning legal system, Austrian law and Austrian courts are often the jurisdiction of choice for pan-Eastern European transactions. Given the economic prospects of Eastern European countries, it is assumed that the region will be seeing strong growth in M&A activity. Even though the current crisis in Ukraine and Russia and political trends in Hungary (such as high taxes and coercive measures) are having a negative impact on Austrian companies' profitability in terms of investments or business activities in Eastern Europe, growth prospects in the CEE region are nevertheless very promising. This is bound to be advantageous to Austrian law firms, given their gateway function eastwards.

When it comes to Corporate and M&A, we know that in 2013/2014 the legal business stagnated, but it is doing better in 2015, with high-value M&A transactions taking place. Some studies predict a veritable boom in M&A in the second half of 2015. Binder Groesswang had a fantastic first half of 2015 and is working to full capacity, particularly in strategic M&A and corporate restructurings.

Indeed, Austria has been seeing a wave of corporate restructurings, few of which, however, involve expansion; rather, there has been considerable economic shrinkage across the business landscape. This is due to three devel-

opments in Austria's economy: The first of these is the economic stagnation recorded over the past three years. Figures show that real GDP growth in the first quarter of 2015 was a pitiful 0.1% over the previous quarter. Second, there has been a proliferation of new regulatory provisions, not only in the banking and insurance sector, but also in the field of consumer protection. The third development is the increasingly strict application of liability law, particularly as regards breaches of trust. In consequence, managers have become so fearful that they hesitate to make decisions without recourse to expert opinions – or at all – which in turn has slowed down business dynamics, to the detriment of Austria as a business location. All this has led to many of the aforementioned corporate restructurings. Restructurings, especially if they involve mergers, can be complex and conflict-laden, requiring long-term, process-related legal advice in order to achieve harmonious new structures, retain staff, motivate mutual cooperation, and create synergies that will bring future success.

Noteworthy further is the tremendous significance of family-owned businesses in Austria, many of which have strong business ties to Eastern Europe. According to the Austrian Chamber of Commerce, more than 90% of all businesses in Austria are family businesses. Many of them have grown into international market leaders, such as Swarovski and Doppelmayr. In the past, the owners of such leading enterprises usually engaged local or smaller law firms. Now, having become international market leaders, they require professional legal advice on the ownership level in the fields of – for example – restructuring and succession planning, a clear market trend that Binder Groesswang has taken account of by forming a highly specialized practice group dealing with family businesses. Recently, we published the first legal study on Austria's largest family enterprises, analyzing the ownership structure and governance of family businesses.

The Austrian legal market has been impacted by a number of legislative efforts that are expected to revive Austria's economy, which is currently expected to grow at a rate of about 1% in 2015. Most prominently, the Austria government has introduced a new tax bill, which will decrease the overall personal income tax burden and thus should stimulate consumption. In addition, in an effort to further alternative financing, a new crowdfunding law was implemented in July of 2015, from which small and medium-sized enterprises are expected to benefit. Let us all hope that these efforts will be successful and that the economy will gain strength and momentum as a result.

*Thomas Schirmer,  
Managing Partner, Binder Groesswang*

# A Splintering Market

New Boutiques in Austria  
Represent an Alternative  
To the Full Service Model





Alexander Schnider,  
Partner,  
Geistwert



Constantin Kletzer,  
Partner,  
Geistwert



Christoph Liebscher,  
Partner,  
Liebscher Dispute Management



Christian Mayer,  
Partner,  
Starlinger Mayer



Thomas Starlinger,  
Partner,  
Starlinger Mayer



Gerold Zeiler,  
Partner,  
Zeiler Partners

Identifying the specific moment that a series of individual circumstances becomes a “trend” is as elusive as it is tempting. But while there may be disagreement about whether or not the recent proliferation of new split-off law firms in the Austrian market is a change in the market itself or simply reflects coincidental timing by the highly-regarded senior lawyers who founded them, one thing is clear: Companies searching for high quality legal advice in Austria have more options than ever before. We decided to speak to several of the new market participants to learn more about their strategies, plans, and operations.

### Liebscher Dispute Management.

Christoph Liebscher spent some 17 years with Wolf Theiss in Vienna, almost all of them as the head of the firm’s Arbitration practice. Liebscher hired and trained his eventual successor at Wolf Theiss, Florian Haugeneder, and last year he decided that it was time to step aside. “I felt for some years that my main responsibility from a business point of view was to make myself redundant,” he says. “I’m dead serious – I wanted to continue to work in arbitration (primarily as an arbitrator) and I was not willing to hang over my young colleague like a shadow and try to artificially stay involved to meet the budgeting process. So we came very quickly to the very simple agreement that by the middle of last year, by June, that was it.”

He hung out his shingle last summer, and under the banner of Liebscher Dispute Management he focuses primarily on his role as Arbitrator, while devoting about 10-20% of his time to counseling select clients. He says, “I don’t go around and ask people to give me counsel work. If people think I can be useful as a counsel I try to jump on board and be part of the crew. But I’m not walking the streets asking people to think of me as a counsel. I’m happy if they think of me as an Arbitrator.”

Liebscher also assists with trainings and skill development of young lawyers, a challenge he enjoys. He focuses, naturally, on dispute-focused trainings, but insists he’s available “really for any situation where a client asks me to analyze legal risks in a preliminary stage.” He says, “I may do several seminars next year ... it’s something I really like.”

With Liebscher wearing different hats,

Liebscher Dispute Management is, essentially, a one-man show. “My goal was not to set up an arbitration or disputes boutique,” he says. “It’s really just me. Of course I have 2-3 assistants, but in terms of qualified legal work, it’s not a boutique. It’s me.” And when he’s asked whether he has any plans to add people down the road, he laughs. “No indeed. I am absolutely fine. I

*“It’s now much easier to get big mandates and good clients ... as long as you are specialized. A few years ago that would have been pretty difficult, because everybody went either to Wolf Theiss, Freshfields, Binder, or Schoenherr. But that changed.”*

**- Gerold Zeiler**

think my set-up is good. I tell my former colleagues, I am no longer a competitor.”

Liebscher rejects the suggestion that the recent split-offs in Austria indicates a change in the market, noting, “I wouldn’t say that – I think it’s a coincidence.” Instead, he says that for ADR lawyers in particular splitting off from full-service law firms can be almost necessary, where commercial considerations can limit their options, especially in firms with large geographic footprints in smaller markets. In such firms, Liebscher claims, “it’s easy to accumulate a substantial number of clients with potential for development, but which block you, if you go into disputes,” whereas, he notes, “they don’t block you if you stay in advisory or structuring.”

Clarifying his point, Liebscher explains that the major conflict for arbitrators therefore is not with existing clients, but rather with colleagues who hope to develop clients down the road. Liebscher says, “they say, ‘no, don’t take this case in the chemical industry, because we’re trying to expand in that,’ or ‘don’t take this client in this other industry, because we want to focus on that.’”

Now away from that obstacle and working independently, Liebscher is content. “This is what I had hoped it would develop into. I couldn’t wish for better, really.”

### Zeiler Partners

Just as Christoph Liebscher was leaving the Arbitration practice he had long led at Wolf Theiss, Gerold Zeiler left the arbitration practice he had long led at Schoenherr, and like Liebscher’s, Zeiler’s eponymous venture opened in June 2014.

Unlike the one-person show that is Lieb-

scher Dispute Management, however, Zeiler Partners is among the largest of the new players on the Austrian market, with five equity Partners – Lisa Beisteiner, Martin Huger, Hans Georg Laimer, and Alfred Siwy, in addition to Zeiler himself – an Of Counsel in Christoph Schreuer, and six Associates. Zeiler also says he expects to add another Partner at the end of the year,

but is reticent about the addition, revealing only that it’s a “Viennese arbitration lawyer.”

Beyond that, however, Zeiler predicts no significant growth in the near future, saying, “there is no need to grow further. Excellent arbitration practitioners are always welcome, but growth for growth’s sake is not a strategy for us.” When asked whether his firm expects to add new practice areas, Zeiler re-emphasizes the point. “Nobody here is interested in being a full service firm.” He laughs. “I was at a full service firm for 25 years, [so] I’ve done that. Now I’m doing something else.”

Zeiler also refers to the conflict of interest challenges Arbitration experts face in a large and multi-jurisdictional firm as a reason for splitting off. In addition, his decision to create his own firm reflected a simple desire to make his own way. “I wanted to try something else in life,” he says. “Schoenherr is an excellent firm, of course. But after having spent the most part of my life there, I thought, ‘well, if there is an occasion to do something else, then it’s now.’”

Zeiler believes the time is particularly felicitous for single-practice split-offs in Austria. “There is certainly a trend in acceptance on the client’s side of specializing firms,” he says. “It’s now much easier to get big mandates and good clients ... as long as you are specialized. A few years ago that would have been pretty difficult, because everybody went either to Wolf Theiss, Freshfields, Binder, or Schoenherr. But that changed. Don’t ask me why.”

And Zeiler is convinced the move away from a full-service model only benefits his clients. “What we are doing now,” Zeiler

says, “that didn’t change very much from the way we worked at Schoenherr. We were the same team there, we were very specialized, we were one specialized group in a full-service firm, now we are one specialized group outside of a full-service firm. Now that means fewer conflicts of interest, less organization, definitely lower overheads. Otherwise it’s completely the same.”

And, Zeiler reports, the first year of Zeiler Partners has “absolutely” been a success. “Much more than we expected, frankly.”

### Geistwert

Of course, it’s not only Austrian Arbitrators who conclude that their best options lie outside the full service firm model. The five IP/IT specialists who started the Geistwert firm – Constantin Kletzer (from Fiebinger Polak Leon), Max Mosing (from Gassauer Fleissner), Alexander Schneider (from Baker & McKenzie), and Juliane Messner and Rainer Schultes (both from Taylor Wessing) – believe the same.

The five Partners had long known one another as peers, colleagues, and friends, and Kletzer says that, “we all knew this is the right thing to do, right now, and in Austria this is exactly what the clients want. It is basically the right thing to have: an experienced IP boutique with an exchange of experiences, an exchange of networks, and supplying the clients with the best IP service possible.”

And, sure enough, the Geistwert Partners discovered that the market was ready and waiting for a highly skilled IP/IT boutique. “The creation of the Geistwert brand was a big deal in the Austrian market,” Constantin Kletzer explains. “We launched in August/September last year, and by October we had new potential clients contacting us. Not asking for Mr. Kletzer or for Mr. Schneider, but asking for Geistwert. Which is what we wanted to achieve.”

Schneider believes that bigger firms tend to treat IP/IT and some other practices as supplementary rather than core practices. “What we saw in other firms was that IP and IT didn’t get the attention it really deserved. I mean, many of the largest Austrian law firms are mostly driven by M&A, transactions, project and finance, or banking law ... that is their main business. So everything else, including IP and IT, seems more or less to be an add-on. So you have the situation where IP/IT guys regularly don’t have the say in the firm. So

what we thought is, if we joined forces and put our individual business cases and our individual international networks together, we can multiply the effects of establishing this firm – an IP/IT boutique in Austria – and what we have seen is that many clients actually were looking forward to something like us. They were happy that we entered the market in that formation.”

Schnider believes that the importance of IP practices is bound to grow. “In times like these, IP becomes more and more the most valuable asset for companies. That of course applies for software companies, but also to engineering companies and other

*“...what once was, ‘let’s go to one firm and they do it all,’ has become ‘we go to these four firms, which are the best in their fields in the market, and we can choose with whom we work,’ and that is a development that is good for us, of course.”*

**- Alexander Schnider**

patent-holders.” This coincides, Schnider believes, with a truly significant change in the legal services market overall: “What we see – and this is more or less a Pan-European development – is that big companies, multinational companies, are tending to move from full-size law firms to boutiques, true for each sector, for each field of law. So what once was, ‘let’s go to one firm and they do it all,’ has become ‘we go to these four firms, which are the best in their fields in the market, and we can choose with whom we work,’ and that is a development that is good for us, of course.”

And the Geistwert Partners maintain that they’ve discovered that a network of modern boutiques can make cross-selling as easy as it is within a full-service law firm. Schnider says, “What we saw is that in the past years, many boutiques were founded, many spin-offs from major law firms were founded, so what happened then is that all these boutiques – Labor Law boutiques, Public Procurement law boutiques, and boutiques like that – they established their own network. So essentially what happened in Vienna is that a boutique network can act like a full-service network.”

Indeed, Schnider says, it may function even better. “Although the full service law firms have many strengths, we’re confident in the model we’re pursuing. Because we specialize in one particular area and have no colleagues in other practices, we do not feel the kind of pressure to refer clients to colleagues that may sometimes arise in

multi-practice firms. As a result, our model – we believe – actually provides clients with greater choice, and, ultimately, more effective service.”

Geistwert operates with no associates, and only one paralegal. According to Alexander Schnider, “we wanted to have a very lean cost structure. We strongly believe that IT and IP work – at least the high level work – can only be done with a lot of experience.” According to Schnider, their model eliminates the multiple reviews of work product necessitated by the “pyramid-like structures” of full service firms, and thus “keeps work and costs low for everybody.”

Although the firm plans to add one associate and one paralegal soon to offer clients “low rates for commodity work or lower-tier litigation,” otherwise there are no plans to expand. Kletzer says, “I think the strategy we have so far is keep the costs down, and keep the work with the partners, which keeps the quality high. Which, especially with the litigation work we do, the IP contracting and licensing work we do, is of utmost importance. This is valued so much by clients – that here they know we’re experienced partners. We are not seeking to grow.”

The Geistwert website announces that, “we can claim, quite immodestly, to be the best of the best.” The lawyers at the firm are, needless to say, highly confident of their prospects.

### Starlinger Mayer

Starlinger Mayer was founded in March, 2015, by established energy expert Thomas Starlinger and competition specialist Christian Mayer – both of whom split off from Fiebinger Polak Leon – along with Contract Partners Valentina Spatz and Moritz Am Ende.

Mirroring the lean structure of the other split-offs, the firm has only one associate. Christian Mayer explains that “the partner contact is very important for clients, and we’re doing to a certain extent quite sophisticated stuff that is difficult to do with inexperienced associates.”

Still, despite being committed to main-

taining a small workforce, Starlinger and Mayer resist the term boutique. Mayer says, “I think it’s difficult to call yourself a boutique these days, because at the end of the day you’re doing as much as you can. What distinguishes us from the full-service law firms is that we focus on what believe we can do best and know what we don’t want to do, or are not qualified to do. This is the concept of our firm, because this is what we’ve learned from our times with other law firms ... we want to avoid overheads. We want to advise as experts and we always want to give the client the expert experience they might not find in a firm that does everything.”

When asked why they decided the time was right to leave Fiebinger Polak Leon and start their own office, Mayer said, “You know, Thomas and I worked together on many cases, even when we were at Fiebinger, and we realized that the way we worked together is quite fine. There is no jealousy ... we just want to do good work as a team, and we don’t care whose client it is, we just want to do the work, and at the end of the day we want the client to be happy, and this is something you don’t always find at other firms in Austria, where everybody has their clients, and they safeguard their clients.”

Mayer says it’s still a bit too early to calculate the specific financial terms of their success, but he smiles when describing other elements of it. “In terms of business it has been amazing, and way more than we expected. We were able to maintain most of our long-standing clients, and we got many new clients, and the reaction was so positive. And we received great support from our clients who said this is a great idea, and it’s good that you did it, and when we can work together we will, so that gave us momentum that we didn’t expect.”

Unlike some of the other new firms on the Austrian market, Starlinger Mayer plans to grow over time. According to Starlinger, “the vision is sort of controlled growth. We do want to be bigger. We do want to add certain fields to our firm. We do want to widen the transactions business for our firm. We don’t want to expand our activities at any price, so we don’t hire randomly, but when we see an opportunity we try to take it. I don’t want to have 20 partners in 5 years, but if we have 5 partners in five years I’ll be happy.”

David Stuckey

# Market Snapshot: Austria



## Ordre Public, Arbitration, and Competition Law: Results Matter, Reasons Don't



Elo Moritz Am Ende,  
Attorney, Starlinger Mayer  
Attorneys-At-Law

By Elo Moritz Am Ende, Attorney (admitted to the bar in Frankfurt am Main), Starlinger Mayer Attorneys-At-Law

*Sometimes, you may be right and still lose in your day in court. The Austrian Supreme Court, with its decision of February 18, 2015 (Case 2Ob22/14n), added a new twist to that story: Sometimes, an arbitral award may be based on an erroneous application of EU competition law, and still be left valid.*

### The Case

The plaintiff, a Russian gas export company, had lost arbitral proceedings in which it had claimed more than 400 million Euros based on a take-or-pay clause in a long-term gas delivery agreement. The defendant, it had argued, had failed to fulfill the minimum purchasing obligation. The arbitral tribunal, however, had sided with the defendant, which had relied on another clause in the agreement, entitling it to reductions in the annual minimum purchasing obligation in the amount that the plaintiff, directly or indirectly, had delivered gas to direct customers of the defendant or to direct customers of those customers.

The plaintiff turned to the Austrian courts, demanding that the arbitral award be set aside, on the grounds that the clause allowing for the reductions of the minimum purchasing obligation

would amount to a hard-core restriction in violation of Article 101 Treaty on the Functioning of the European Union (TFEU), with the consequence that, in turn, the arbitral award would violate the Austrian *ordre public*.

### The Decision

The Austrian courts, despite concluding that plaintiff's argument regarding incompatibility of the take-or-pay reduction clause with Article 101 TFEU might well be valid, nonetheless dismissed plaintiff's motion.

The Court of Appeal noted that the arbitration tribunal had held in relation to a different aspect of the case that the take-or-pay reduction clause was not severable from the take-or-pay clause on which the plaintiff relied: The relatively high level of the take-or-pay obligation could not be viewed independently from the take-or-pay reduction clause, which had been specifically designed to allow the plaintiff to enter the defendant's market. The Court of Appeal found no fault with this assessment and drew a simple conclusion: Either the agreement did not infringe competition law, in which case the defendant had not failed to fulfill its minimum purchase obligation, or it did infringe competition law, in which case not only the take-or-pay

reduction clause, but also the take-or-pay clause itself was null and void pursuant to Article 101(2) TFEU. In either case, plaintiff's claim would be unfounded.

The Supreme Court concurred, basing its decision on well-established case law. It did so also in regard to the final step of the Court of Appeal's reasoning: even though EU competition law forms part of the Austrian *ordre public*, it is only the result – and not the reasoning – of an arbitral award that matters when assessing whether an application for annulment of an arbitral award must be granted. Since the result of the award – the dismissal of plaintiff's claim for payment – was in any event compatible with Article 101 TFEU, the question of how the arbitral tribunal had come to that result did not matter any further.

### The Lessons

The case is a reminder that even though EU competition law forms part of the *ordre public* of the EU Member States, that does not mean that parties are entitled to a full review of arbitral awards which are not to their liking. In this case, the differentiation between the result of the arbitral award and the reasoning behind it meant that the courts could limit their assessment to one single question of substance.

## Real Estate in Austria – Overview

By Stefan Artner, Managing Partner, Dorda Brugger Jordis



Stefan Artner, Managing Partner,  
Dorda Brugger Jordis

**Introduction.** According to the internationally renowned Mercer study (Mercer 2015 quality of living rankings), Vienna has again been elected as the world’s most liveable city in the world. We are happy to take this opportunity to illustrate why people want to live and invest in Austria and to describe the major legal framework for foreign investments.

**Stable Market.** Vienna is one of the most stable office markets in Europe and does not see such highs and lows as other markets. Even during the financial crisis, yields and rent level have not dramatically changed. Due to this stable environment and due to the economic, social, and political conditions in Austria, investing in Austria has been an interesting opportunity for many international investors. Hence, the commercial property investments volume reached a peak of EUR 2.8 billion in 2014. The largest group of buyers were Austrian investors, followed by investors from Germany and then other international investors.

**Ownership in Real Estate.** The Austrian Land Register is a public electronic register with folios for each piece of land showing the identification number of the property, its owner, and the rights and obligations related to it. Information shown in the Land Register enjoys specific protection and is deemed correct if the purchaser has in good faith relied on its correctness. It is, therefore, advisable and in some cases even sufficient to obtain all information from the land register before acquiring real estate.

Any legal person – both individuals and legal entities – can purchase and own land in Austria. This right is, however, limited by the legislation of the nine Austrian provinces and their land transfer acts. European citizens and legal entities resident in the European Union may acquire land under the same conditions as Austrian citizens. For others, the acquisition of real estate may require an approval (though in some provinces share deals are exempt from this requirement). In Vienna, for example, investments in real estate can be structured in such way that even non-EU-citizens do not require an approval.

**Taxes on Property Acquisitions.** The purchase of real estate triggers a land transfer tax in the amount of 3.5% and a registration fee of 1.1%, both based on the purchase price or market value of the property. According to market practice the purchaser usually bears these costs; the total transaction costs for the purchase of real estate, including taxes, broker fees, and lawyer and notary costs, amount to roughly 10% of the purchase price.

**Strict Rules for Leases.** Most of the residential and commercial leases in Austria are subject to the quite strict rules of the Austrian Rent Control Act, which mainly protects tenants’ interests. Under these rules, the landlord’s right of termination is usually restricted, and lease agreements for indefinite terms may, in

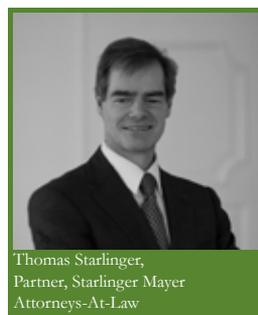
practice, only be terminated for good cause.

Residential leases are often made for specific terms of 3, 5, or 10 years. Usual terms for commercial leases are between 5 and 15 years, often with an option for renewal by the tenant. Depending on whether the Austrian Rent Control Act is fully applicable or only applicable in part, the amount of operating costs to be borne by the tenant varies. However, costs relating to substantial structural repair (shell and core) and costs relating to serious damage to the structure are usually borne by the landlord, with the tenant being in principle responsible for internal repairs and redecoration.

**Stamp duty on Leases.** Lease agreements in Austria are subject to a stamp duty of 1% of total gross rent. As the tax base for a lease with an indefinite term is triple the annual rent, and for a lease with a specific term the whole term (with a maximum of 18 years), the costs for stamp duties on commercial leases might be substantial. Various legal models for avoiding the accrual of stamp duty are possible and are, after discussions between landlord and tenant, sometimes agreed.

## Austria’s Energy Business: Between European Visions and National Realities

By Thomas Starlinger, Partner, Starlinger Mayer Attorneys-At-Law



Thomas Starlinger,  
Partner, Starlinger Mayer  
Attorneys-At-Law

While Europe formulates new visions of a level playing field, national targets and national implementation create new borders within the European energy market.

### European Influence

Austria’s energy business is very much influenced and determined by European initiatives and legislation.

On July 15, 2015, the European Commission launched a “summer package” on energy consisting of proposals for further discussion, including proposals for the re-structuring of the CO2 emission trading regime as of 2021, energy efficiency label revisions, and the empowerment of energy consumers.

Almost at the same time, Commission Regulation (EU) 2015/1221 of July 24, 2015 on Capacity Allocation and Congestion Management in Electricity was enacted, which is supposed to enhance cross-border trade in Europe.

### Possible Future Capacity Restrictions for Electricity at the Austrian/German Border

However, while the European Union takes initiatives to create a European energy market without borders and with coherent regulations in all Member States, the Austrian energy industry is closely monitoring the discussions in Germany on possible restrictions at the German/Austrian border for electricity transmission in order to address disturbances in its electricity transmission grid created by the rapid increase of Renewable electricity generation in Germany.

Such restrictions would divide the current common Germany/Austria electricity market and could lead to an increase in market prices in Austria.

This shows that we are still far away from a Eu-

ropean Energy Union.

### Austrian Energy Efficiency Act

In addition, the implementation of the 2012 EU Energy Efficiency Directive into national law creates new barriers for entering into national markets, with incoherent regulations in different Member States. In Austria, the Energy Efficiency Act (“EEA”) puts the main burden on energy suppliers.

Starting with this year, energy suppliers are obliged to provide annual proof that they have realized energy efficiency measures in the amount of 0.6 per cent of their total energy supply for energetic use to end customers in Austria in the previous year.

A guideline, which should, among other things, clarify the requirements for the documentation of the energy efficiency measures, has still not been published at the time of writing.

This causes legal uncertainty for the energy suppliers.

One issue, however, seems to have been solved recently: Energy suppliers selling energy on a stock exchange or OTC will not be treated as energy suppliers and burdened with the corresponding obligations under the EEA as long as their counterparties do not declare themselves end-customers. Such end-customers purchasing directly at the stock exchange or OTC take over the EEA obligations for the energy bought and used by themselves.

### Developments in the Gas Business

The regulatory authority E-Control Austria is adapting the main ordinance specifying de-

tailed rules for the Austrian Gas Market Model to comply with Commission Regulation (EU) 984/2013 establishing a Network Code on Capacity Allocation mechanisms in Gas Transmission Systems, which enters into force on November 1, 2015.

On July 10, 2015, the EU and the Energy Community countries in the Central Eastern and South Eastern European region, including Austria, signed a Memorandum of Understanding regarding the building of missing gas infrastructure links, technical and regulatory issues which hamper security of supply, and the development of a fully integrated energy market in the region.

From an Austrian perspective it is striking that the list of infrastructure projects identified as top priority in this MoU does not include any interconnection to and from Austria. The same applies to the list of projects selected for re-

ceiving financial assistance under the first CEF Energy 2015 call for proposals as published by the European Commission on July 14, 2015. There seems to be no project at hand to replace the Nabucco and South Stream projects, which would all have led to the Austrian gas hub Baumgarten. This might have implications for Austria as a major gas transit country in the future.

The current restructuring of major European energy companies also has its impact on Austria. EDF is planning to divest its 25% share in the Styrian energy company ESTAG. It is rumored that an investment fund managed by the Australian Macquarie Bank intends to acquire this stake in ESTAG. It remains to be seen whether or not the province of Styria, which holds 75% of shares, will exercise its preemption right.

## Welcome to Austria's Crowdfunding Paradise



Thomas Trettnak,  
Partner, CHSH



Alexander Babinek,  
Senior Attorney, CHSH

By Thomas Trettnak, Partner, and Alexander Babinek, Senior Attorney, CHSH

Welcome to Austria's Crowdfunding Paradise

The Austrian Alternative Financing Act (*Alternativfinanzierungsgesetz*), due to enter into force in autumn 2015, will establish the legal basis for the financing of SMEs (small and medium-sized enterprises, as defined in EU law) through crowdfunding and citizen participation models. Furthermore, it will create a legal framework for the operators of crowdfunding platforms. Some of the most important elements of the Act are:

### Broad Scope of Application

The Alternative Financing Act applies to typical SME's – i.e., to businesses in need of financing which: (a) have fewer than 250 employees and (b) either generate annual turnover of no more than EUR 50 million or with an annual balance sheet totalling not more than EUR 43 million.

This broad scope of application thus opens crowdfunding up to a whole range of SMEs across Europe, not necessarily restricted to Austrian companies or start-ups.

### Issue Volume Up to EUR 1.5 Million

The new law will significantly increase the maximum issue volume currently admissible without

issuing a capital markets prospectus, raising it from its present level of EUR 250,000 to EUR 1.5 million, thereby enabling the financing of slightly larger investment projects. Investments over EUR 5 million (minus the funds already repaid) raised over a seven-year observation period will trigger the need to publish a prospectus.

### Alternative Financing Instruments

The scope of the new law covers shares, bonds, and business shares in capital companies and cooperatives, as well as profit participation rights, silent partnerships, and subordinated loans that are very common in practice. Donations or similar voluntary payments do not fall within the scope of the law. Special rules apply to shares and bonds offered to the public with a total consideration of no less than EUR 250,000 and no more than EUR 1.5 million (prospectus obligation "light").

### Individual Investments up to EUR 5,000

In line with the principle of investor protection, individual investments are generally limited to a maximum of EUR 5,000 (per project, within a period of 12 months, in instalment payments). In principle, only "professional investors" are exempt from the above limitations.

### Broad Information Requirements Vis-à-Vis Investors

In addition to information on the business and the alternative financing instrument, the current annual accounts, the business plan including de-

tails specifying the intended issue volume that is expected to raise the capital through the issue of alternative financing instruments, and other contractual terms applicable to the financing instruments need to be disclosed.

This minimum information must be "verified" by an expert (i.e. attorney, accountant, notary public, chamber of commerce, management consultant, or financial adviser), as the Austrian Financial Market Authority (FMA) does not have any powers of verification.

### Relief for Crowdfunding Platforms

In the future, operators of a crowdfunding platform must either hold trade licences entitling them to act as financial advisers (for investment transactions) or investment service providers (for transactions in alternative financing instruments under the Securities Supervision Act (*Wertpapieraufsichtsgesetz*)) or be in possession of a licence issued by the FMA. This has the decisive advantage that in the future a trade licence, which is fairly easy to obtain, will suffice. However, in addition to this, operators will be obliged to take out third party liability insurance and to adopt measures to prevent money laundering and the financing of terrorism, which could see the administrative costs increase somewhat.

### Summary

Crowdfunding remains a high risk investment, and its success or failure may be a very close call. However, for Austria as a business location and major start-up hub, crowdfunding will foster financing possibilities for SMEs.

# Inside Insight: Ferdinand Trauttenberg

## Head of Group Legal at .A.S.A. Abfall Service AG



*Ferdinand Trauttenberg has been the Head of Legal at .A.S.A. Abfall Service since November 2014. Prior to joining .A.S.A. Abfall he was Head of Legal – M&A at Raiffeisen Centrobank between May 2012 and December 2014, and Head of Legal and Compliance at Raiffeisen Investment for almost a year and a half. Earlier experience included working as the General Counsel of Welser Profile.*

**CEELM: You mentioned to us that you love working as in-house counsel for an industrial company. Why is that?**

FT.: After graduating from law school in Salzburg, I started my career with DLA Piper. After a couple of months I pursued my desire to work in an industrial company (I wanted to be close to production) and spent about five years in the automotive industry. I spent some time working for a steel profiling business, during which time I also passed my MBA and after which I joined the Raiffeisen Group, where I worked primarily on the M&A side but ended up returning to my original “love” of working for an industrial company. I just think you cannot beat the feeling of actually seeing the end product towards which you are advising internal clients.

**CEELM: You have spent almost your entire career working as an in-house**

**lawyer. Was the idea of working in private practice ever attractive?**

FT.: Indeed, I only worked briefly for DLA Piper and after a very short time I moved out of the private practice world. I have remained on this side since – and never looked back – because I found it to be far more challenging to be a part of the full production cycle of a company rather than acting as a pure advisor.

**CEELM: Why was that?**

FT.: For me, the interaction with all the different departments and different people made the real difference. You need to be able to interact with both, with management at all levels as well as all the different functions of the company, which means you need to cover a very broad base of drivers, and I always enjoyed and found it challenging to have to merge both the legal

side and the business/commercial side of things.

I see this even in my approach in managing the legal function. When we hire someone in-house, it is important for me that any lawyer we bring on has a certain commercial/industrial knowledge and affinity, whereas in the cases where I retain external counsel, I tend to look a lot more for some form of specialization. It is true that, in today’s legal world, any lawyer from a law firm expecting a mandate needs to know the industry he/she is pitching, but specialized knowledge is still key.

**CEELM: You mentioned you graduated from an MBA program. How do you find such a degree adds value to an in-house counsel?**

FT.: I think it influenced my approach and sharpened my knowledge and personality to handle the daily business. As a lawyer I was trained to focus on detecting and mitigating risks, but with an MBA and the strategic exposure it offers, you get a broad understanding of what is needed in a company – meaning you can understand the different needs and the broader context of the other functions, and it makes you a bit more solutions-focused rather than only seeing things from a legal perspective. I think the latter in particular is critical since, in a daily business setting, it’s not just about the risks incurred but possible solutions to issues faced. I think it is important to understand the bigger picture, and an MBA offers that insight.

**CEELM: You are currently responsible for legal matters in eight jurisdictions. Did you opt to hire local in-house counsel outside of Austria or rely on external counsel?**

FT.: Within the group we’ve used both solutions. In some ways, that is related to the history of the company. In others it is linked to specifics on the ground.

For example, in Bulgaria, we acquired the company approximately seven years ago and decided to keep the counsel both out of a desire to keep the existing expertise and because it made sense from a budgeting perspective. In Serbia, the specific legal framework, related to providing services

to individual households, pushed us into needing an in-house lawyer simply because of the regular workload. The Czech Republic counsel was one we hired after my joining. The rationale in that case stemmed from the fact that when I first joined the company, one of my initial duties was to analyze the external legal costs in each country. The Czech Republic (which is the biggest operation in our group) seemed to

*“As a lawyer I was trained to focus on detecting and mitigating risks, but with an MBA and the strategic exposure it offers, you get a broad understanding of what is needed in a company – meaning you can understand the different needs and the broader context of the other functions, and it makes you a bit more solutions-focused rather than only seeing things from a legal perspective.”*

have rather high costs. At the same time, we figured out that a lot of expenses were used for basic general and corporate legal work (such as contracts or other standard corporate procedures), so we decided we could cover all these internally. Of course, there is a cost incurred in hiring an employee as well but aside from lowering costs overall, the flexibility of having a dedicated in-house counsel was also weighed.

**CEELM: What about the other four countries – what was different there that made you stick with external support only?**

F.T.: In Poland and Slovakia for example we found that the legal work executed by external firms ended up being very efficient from a cost side. We use a mixture of global and local law firms and lawyers and they also use a lot of templates for corporate work in place, which kept costs below the needed threshold for us. At the same time, the feeling that we have reliable external counsel that know us and our needs well was also factored in when opting to continue to rely on external counsel only. There was also a logistical factor. Slovakia is not far from Vienna, meaning I can easily coordinate lawyers there.

**CEELM: In your experience, what are the pros and cons of the two approaches?**

F.T.: As I mentioned, it is a cost factor of course to even have someone on the payroll but, if you take a lot of external work, it balances out.

Another distinction is that, if you hire an in-house counsel, you will likely not hire a specialist – rather a generalist who will be able to handle most small matters that pop up. This offers great flexibility within the company not just in terms of addressing

issues as they arise but also because it offers a “sparring partner” for management which makes their lives a lot easier in terms of pushing the business forward while mitigating risks.

Of course, that’s a double-edged sword, since the lack of specialization does mean that you still depend on external advisors on specific/more complex issues.

**CEELM: How do you ensure quality control over the work executed by firms in jurisdictions where you are not qualified?**

F.T.: It is indeed difficult at times and there are situations (especially in more complex or higher risk projects) where we work with more than one firm and thus have two opinions if needed. There are plenty of situations however where we only work with one firm, but I think it comes down to building relationships of trust and relying on your selected counsel – otherwise, why select them to work with?

**CEELM: Does the professional liability insurance policy matter to you – do you ask about its coverage?**

F.T.: For bigger projects, yes, definitely. For smaller/less important ones it is of course less important.

**CEELM: What best practices have you developed in terms of managing a virtual team? How do you communicate and coordinate on ongoing matters?**

F.T.: For me it is important, besides writing e-mails and asking for reports, to use the phone. It’s rather irregular – once or even a couple of times a week – but I do need to talk with my team live.

Face-to-face time is also critical, and I make sure I go to every country to meet the people and discuss how to coordinate best, how to structure our communications.

As I mentioned, this is fairly unstructured – we don’t have a “formal call set up every Friday” type of approach, but I do think that personal touch is needed to be able to liaise well on an ongoing basis – not just when issues come up.

**CEELM: When you will be looking to**

**hire new local in-house counsels, what are the main attributes you will look for in candidates?**

F.T.: Similar to what I described earlier, a business approach is critical but I think it will always come down to experience and technical knowledge. If they come from private practice, I will be on the lookout as to whether he or she has specialized, and has experience in, fields that are relevant to our industry.

**CEELM: How do you find it easier to assess these?**

F.T.: When it comes down to an interview it really is more of a matter of having a free discussion and talk about various scenarios and situations and see how the candidate approaches different situations by taking into consideration not only legal aspects. A free-flowing talk also allows me to get to know them and assess the critical aspect of their communication skills and the overall chemistry – which is always subjective of course.

**CEELM: In the jurisdictions where you rely on external counsel only, do you have a steady firm/set of firms you work with or do you pick them on a case-by-case basis? What are the criteria you use in selecting which firms you will be working with?**

F.T.: We do work with several local firms on an ongoing basis. Since in some countries we do not operate in the capital we are therefore not in the position to have the legal support of international law firms. However I do find that, in most situations, local counsels are more than capable of providing excellent advice. The one thing that I do make sure happens is a personal meeting with all we will be working with on an ongoing basis.

The other aspect I am keen in seeing from the lawyers I will work with – and this is applicable in all instances, not just where we do not have in-house counsel – is an ability to provide a quick “hands-on” approach in terms of offering answers. I like the ability of simply calling up a lawyer, run them through the issue at hand, and get a broad quick answer. Of course, for complex projects that is not expected, but I do prefer quick advice where possible over a full brief of hundreds of lines hours later.



## Inside Out: Bank Austria and pbb Pfandbriefbank's Financing To Immofinanz Group

### The Deal

On May 22, 2015, the CEE Legal Matters website reported that CMS and CHSH Cerha Hempel Spiegelfeld Hlawati had advised on EUR 300 million in financing received by a consortium of companies belonging to the Immofinanz Group from Bank Austria and pbb Deutsche Pfandbriefbank, to refinance an Austrian real estate portfolio consisting of 38 properties with a gross leasable area of approximately 218,000 square meters. The transaction, which closed on May 12, 2015, was described by CHSH as “one of the biggest real estate financing transactions in Austria in recent years.”

### The Players:

- Thomas Zivny, Partner, Cerha Hempel Spiegelfeld Hlawati (CHSH): External Counsel to the Immofinanz Group
- Gunther Hanslik, Partner, CMS Austria (External Counsel to Bank Austria and pbb Deutsche Pfandbriefbank)

**CEELM: How did your firm become involved in the deal?**

**Gunther Hanslik (CMS):** We have been

working for Bank Austria Real Estate on a regular basis for more than ten years now. I was contacted by Christian Forch, who was heading the project on the side of Bank Austria. I only had contact with PBB after our quote was accepted by the banks. Although we had not worked for PBB before, I knew that there were contacts to PBB by our colleagues of CMS Germany, which may have helped in winning the mandate.

**Thomas Zivny (CHSH):** We do work for Immofinanz Group on a regular basis, and even though there is no panel of law firms we get invited to pitch for capital markets or banking work on a regular basis. You would have to ask Immofinanz why they selected us, but presumably key components were team availability, track record, our long-lasting relationship with Immofinanz, and competitive pricing.

**CEELM: When you were retained, what was the scope of your assignment? What, exactly, were you asked to do?**

**Gunther Hanslik (CMS):** We were required to quote for providing advice, documentation, etc., on all aspects of the transaction. So, we advised the banks on

the structure – since it was a portfolio transaction, and given the strict financial assistance/capital maintenance regime in Austria this was not trivial – we prepared drafts of all finance documents and negotiated them, supported signing and closing, and did the registration of the mortgage.

**Thomas Zivny (CHSH):** We advised Immofinanz on all Austrian law related aspects of the transaction, including documentary work and the entire security registration procedure.

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

**Gunther Hanslik (CMS):** Anna Konopka and Andreas Goller – both Senior Associates in our Transactions group – were responsible for the preparation of all documents, support in redrafting, preparation of signing, CP check, and so on. Partner Johannes Hysek, Senior Associate Martin Trapichler, and Associate Martin Schweinberger were responsible for property due diligence, supporting in all real estate related matters, filings, etc. I had overall responsibility for the transaction.

**Thomas Zivny (CHSH):** The team

was led by me, a Partner in the Banking & Finance Department of CHSH. Oliver Volkel (Senior Associate, Banking & Finance Department) and Johannes Buchinger (Senior Associate, Banking & Finance Department) were involved in the loan and security documentation as well as the refinancing aspects. Matthias Nodl from our Real Estate Practice Group was involved in all real estate related aspects.

**CEELM: What did the final deal look like, and how did you help it get there?**

**Gunther Hanslik (CMS):** Portfolio transactions of this size (taking into account the amount of the loan and the number of properties (close to 40) and borrowers (12)) are not that common. Therefore, the first task was to help both banks to evaluate the economic value of cross guarantees/cross collateral in Austria in different scenarios. Further, we needed to come up with documentation both banks felt comfortable with. Then, the results of the property due diligence added to the complexity, because it turned out that we had different “transaction speeds” for different types of properties. Collecting and checking conditions precedent was a challenge of its own, given the many properties involved.

Weekly update calls always involved more than 15 people. The project lasted about three months from kick-off to financial

close.

**Thomas Zivny (CHSH):** Negotiations with the banks were as complex as they are these days and involved several personal meetings.

**CEELM: How would you describe the working relationship with your clients in this matter?**

**Gunther Hanslik (CMS):** This is probably more appropriate for the banks to say. I just can say that from our point of view the working relationship was very trustful, open, and direct. This did not come as a surprise as regards long-standing client Bank Austria, but it was also a close working relationship with Sandra Hofmann, legal counsel at PBB. Given the feedback which we got, it was a positive transaction for everybody on our side.

**Thomas Zivny (CHSH):** We have advised Immofinanz on several capital market and banking-related transactions since 2012. The working relationship is, therefore, very close and we appreciate being able to work with them on a regular basis.

**CEELM: How would you describe the working relationship with your counterparts at the other firm on the deal?**

**Gunther Hanslik (CMS):** Very professional and friendly. I have known Thomas

Zivny for quite some time, but I believe it was the first transaction where we acted as lenders’ counsel and they acted as borrower’s counsel. The last drafting sessions were entrusted by the parties to be held as “lawyers only” sessions, where the outcome was sent to the parties thereafter, subject to further comments. In my view this shows that the lawyers managed to act as “deal facilitators,” without making things more complicated than necessary. I believe it fair to say that we both share trust and respect for the other.

**Thomas Zivny (CHSH):** Very good. We have worked with Gunther Hanslik on several occasions throughout the years and highly appreciate his problem-solving approach.

**CEELM: How would you describe the greater significance of this deal?**

**Gunther Hanslik (CMS):** I am not aware of similar portfolio deals of such volume. After all, the transaction comprised around 40 individual properties, large and small, where the view is that the commercial conditions for the borrower in the aggregate were more favorable than on an individual level. Also, the portfolio transaction saved time and costs, when compared to a refinancing of each project individually.

*David Stuckey*



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

Readers can access this list at: [www.ceelm.com/2014-deal-list](http://www.ceelm.com/2014-deal-list)

# Expat on the Market: Ceyda Akbal Schwimann of Specht & Partner



*Ceyda Akbal Schwimann is Head of the Turkey Practice at the Specht & Partner law firm in Austria. Schwimann, who is Turkish, began her career in White & Case's Istanbul office, and she still spends significant amounts of time in Istanbul, where Specht & Partner has an office.*

## **CEELM: What is your background, and how did you get to Specht & Partners in Vienna?**

C.A.S.: I studied law at Galatasaray University in Istanbul. Following my traineeship in Istanbul, I received the Jean Monet Scholarship and pursued an LL.M. at the University of Cambridge. During my studies, I focused mainly on international law. After my LL.M. studies, I started work at White & Case in Istanbul. In 2008, I decided to look for job opportunities in Austria for private reasons. Although I had a few other job offers, I decided on Specht & Partner for various reasons – among others, the firm's entrepreneurial approach and its plans to expand its practice to CEE, Russia, and other former Soviet Union countries.

## **CEELM: Were you hoping to work abroad at some point, or was this an unexpected development?**

C.A.S.: This was an unexpected development. When I was back in Turkey after my LL.M. studies in England, I was determined to pursue my career in Turkey, where I am qualified to practice. Moving

abroad was no option until I met my future husband – which is why the decision to come together took me quite a while.

## **CEELM: There aren't many Turkish lawyers in Austria – though there's a fair amount of Turkey-related work in the country. Do you feel this gives you an advantage?**

C.A.S.: As far as I know, I am currently the only Turkish-qualified lawyer in Austria. There are some Turkish-speaking Austrian lawyers but this does not bring the same type of expertise. The advantage of coming from Turkey is the network of co-workers, the contacts with the business partners and legal community in Turkey, and experience with the Turkish legal system. Furthermore, although practicing in Turkey from Austria is very challenging, I feel the trust of clients in having an attorney on board who understands their concerns, needs, and approach, and thus can offer tailor-made solutions compliant with the Turkish system. As part of both Turkish and Austrian legal systems I am seen as a trusted person both by our clients and their counter-parties. This brings an advantage especially when we deal with

crisis situations.

## **CEELM: There are obviously many differences between the Turkish and Austrian legal markets. What idiosyncrasies or unique challenges involved with the practice of law in Vienna stand out the most?**

C.A.S.: The biggest challenge is the level of involvement of an Austrian client in the legal work, even sometimes in the preparation of briefs for Turkish courts. It takes a while to gain the full trust of an Austrian client. Until then clients tend to comment on every detail of the legal work, compare the Turkish system with different – mostly Austrian – legal systems, and propose solutions which do not always fit with the Turkish system. Such comments are mostly helpful to come up with creative solutions, but sometimes not. After trust is established the relationship is robust. It is easier and, mostly, pleasant to work together.

## **CEELM: Has adapting to those challenges been difficult?**

C.A.S.: Not really. Already in Turkey I worked mainly with foreign clients, among others, Austrians.

## **CEELM: Other than Austria and Turkey, which CEE country do you enjoy the most, and why?**

C.A.S.: I enjoy the experience with CEE countries in proximity to Austria because of their similarity to Austria; likewise, I encountered interesting and unique situations in more remote countries such as Azerbaijan, if it is considered as part of CEE. The combination of Turkish and Russian influence makes Azerbaijan very interesting and I enjoy Azeri language for its similarity to Turkish.

## **CEELM: What one place in Vienna – a restaurant or a park or a tourist attraction, or anything, really – do you enjoy the most?**

C.A.S.: I enjoy hanging out and playing with my little daughter in Liechtenstein Park in the 9th district of Vienna. It is a lovely park with lots of playing possibilities for children.

David Stuckey

# Market Spotlight Serbia



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# Guest Editorial: Serbia in the Regional Spotlight



It's been a long hot summer for much of the Balkans and Central Europe, and with more heat promised I wonder if we will see some of it in the legal markets too. Most top tier law firms talk of this being a very unusual summer in that they have a full work load.

As a short background, I am an Irish lawyer living in Belgrade and working in all the markets of the former Yugoslavia for 20 years now. The resilience of the region never ceases to amaze me. Although we face daily reminders of the recent past and frustrations when opportunities are missed or investments lost, it is clear that this is still an emerging part of Europe full of potential which many investors are looking at more closely.

The work that I do allows me a birds' eye view of a number of these markets, and there certainly are trends to observe. In Slovenia, for example, we have seen a relaunched privatization program and some successful sales over the past 2 years. The recent failure to sell Telekom Slovenia is hopefully not the beginning of a trend. The restructuring of major local companies and sale of NPL portfolios makes Slovenia one of the hottest markets in the region at the moment. Croatia, on the other hand, has been a sluggish market since its EU accession, and despite some offshore oil and gas tenders and PPP projects there is market concern that it's underperforming. Bosnia and Herzegovina continues to be challenged by its political situation and limited investment opportunities for larger deals. Montenegro provides our firm with a constant flow of work, particularly in infrastructure and energy/renewable projects, although, being a small market, it is often overlooked by other service providers. Macedonia has more infrastructure projects on the radar and still attracts some interesting investors in automotive and other industries.

Serbia remains our powerhouse market, however, as our team of 80 lawyers here provides full service to a wide diversity of clients. We have recently been involved in

the largest transactions in the Balkans and observe a trend of more and more cross-border acquisitions. Clients such as Mid Europa and KKR lead the way as they consolidate in certain sectors such as cable and FMCG companies. The small size of the former Yugoslav markets and their complexity has put off many investors, and we hope that with extremely positive exits we will see more PE houses come to the market. We have noticed that PE clients are looking to acquire a substantial asset here and then look at add-on opportunities in nearby markets. This is not a trend that we have seen too much between countries such as Romania and Bulgaria or the Czech Republic and Slovakia for example, and I think this points back to the fact that the former Yugoslavia was one market, and there is still a deep understanding of the region's brands and products.

In September, we will again participate in the SEE M&A and Private Equity Conference which drew over 200 participants last year – a number that a only a few years ago would be considered high.

I have always been a strong advocate for the role of Private Equity in emerging markets. I am really happy to see more and more investors come and at least explore the region better. It's still early days for the levels of growth that they expect, but we hope that as long as the region is stable politically that there will be room to grow economically. A recent trend has been the number of small funds coming from Central European countries such as the Czech Republic, Poland, and Lithuania, in addition to the global players.

Notably, Serbia will see the sale of Telekom Serbia this autumn. The companies that have submitted non-binding bids included 5 PE houses, which reflects a big shift since the last time the Government tried to privatize it. This is a new dynamic to the process and, in my view, a welcome one, as the asset will require large-scale investment and internal restructuring.

I believe there are many more diverse and exciting deals of substance coming along in the next few years which truly merit investigation by players who have been in CEE for years already and hope to expand their business. Global players from the Middle East, China, Russia, Turkey, and Azerbaijan all lend a more international flavor to the local business community.

In summary, over 20 active years in the former Yugoslavia I can say that there's never a dull moment. Opportunity is everywhere, and helping clients to achieve their business plan is what we do and still enjoy.

*Patricia Gannon,  
Partner, Karanovic & Nikolc*

# The Serbian Beachhead

A look at Serbia's  
Strategic Role for  
Investors in the Region





### Betting on The Point of Entry

In an interview with CEE Legal Matters last year, Willibald Plesser, Co-Head of the CEE/CIS Re-gion at Freshfields, attributed a considerable part of his firm's success to the fact that Freshfields had been "the first Austrian firm to start branching out into CEE," a strategy developed as a result of the increasing role of Vienna in funnelling investments towards the rest of the region. For Freshfields, the move two decades ago paid off since Vienna played a critical role as a beachhead for FDI into CEE countries.

It appears that, by opening offices in multiple Balkan jurisdictions, Serbian firms are making a similar bet about their country's future role – at least in the former-Yugoslavian countries. But are their expectations justified?

### Cross-Border Presences

Significantly, a number of Belgrade-based firms have built up multi-jurisdictional presences in the former-Yugoslavian/Balkan countries in recent years. Karanovic & Nikolic is now present in Serbia, Bosnia and Herzegovina, Croatia, Macedonia, and Montenegro, for instance, while BDK is in Serbia, Bosnia and Herzegovina, and Montenegro, and Harrisons is in Serbia and Montenegro. For its part, JPM Jankovic Popovic Mitic is spearheading a regional alliance – "TLA" – with members in Serbia, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, and Slovenia.

At first glance, it seems that the high-profile deals taking place in the country – such as Mid Euro-pa investing in the Danube Foods Group and KKR investing in SBB Telemach (now known as United Group) – and with expectations that these will echo into investments into the rest of the region, would seem to justify this optimism. But the question remains if indeed Serbia is positioned to play such a regional role in attracting FDIs or if such investments are instead merely one-off conversions of circumstance.

In terms of hard numbers, while the Serbian Investment and Export Promotion Agency (SIEPA) claims that in 2011 "Serbia was the leader in CEE in attracting FDI with EUR 2.2 billion of inbound investments," having succeeded in attracting over EUR 24 billion of inward foreign di-

### In this article:



Mark Harrison,  
Managing Partner,  
Harrison Solicitors



Nikola Dordevic,  
Partner,  
Jankovic Popovic Mitic



Patricia Gannon,  
Partner,  
Karanovic & Nikolic



Rob Irving,  
Partner and Co-Chair Global  
Private Equity Group, Dentons

rect investment since 2000, the numbers in subsequent years seem to have registered a drop. Santander reported the FDI Inward Flow in Serbia for 2012 at USD 1.29 billion (EUR 1.17 billion), for 2013 at USD 2.05 billion (EUR 1.84 billion), and for 2014 at USD 1.99 billion (EUR 1.78 billion).

#### Perspectives of Market Participants

The opinions of the experts we spoke to ranges across the spectrum, from a strong belief in Serbian significance, to a belief that it has limited importance, to a dismissal of the concept entirely.

Patricia Gannon, Partner at Karanovic & Nikolic, is one who believes that Serbia does tend to be seen by foreign investors as a beachhead: “It is our experience that our clients have come into the Serbian market with an acquisition and then used its subsidiaries and ancillary companies as a platform for expansion into the region.” The feeling is seconded by Mark Harrison, Managing Partner of Harrison Solicitors, who adds that “foreign investors and in particular PE houses are viewing Serbia as a geographically central location and additionally probably the most opportunistic location for targets in the former-Yugoslav region.”

Nikola Djordjevic, Partner at Jankovic Popovic Mitic, however, suggests that investors may use Serbia as a launching pad for investment in some former Yugoslavian countries more than others, saying, “Serbia is often used for further investments in Bosnia, Montenegro, and Macedonia, but it is not used frequently for investments in Croatia and Slovenia.” He goes on to explain that, “On one hand, the Croatian and Slovenian markets are not fully opened for investments from Serbia, and, on the other hand, these two countries are already in the EU, so it is quite natural that foreign businesses establish their presence first in these two countries and afterwards in Serbia which is also less developed than Croatia and Slovenia.”

Finally, a Partner at a firm with a significant Balkan practice who requests anonymity claims that there has actually been more PE interest in Balkan countries other than Serbia in recent years, referring in particular to companies like Mercator (Croatia/Slovenia) Droga Kolinska (Slovenia), and Telekom Slovenia. He acknowledges that several deals have recently concluded in

Serbia, but states, “really, the stars have aligned in order to permit a couple of investments in Serbia, but this does not reflect any particular strategy of using Serbia as a beachhead for investments in the Balkans.”

#### The Natural Choice?

Those who do believe in Serbia’s significance point to a variety of reasons. According to Harrison, for instance, Serbia is a natural point of entry in the region historically in light of “Serbia/Belgrade’s position pre the troubles, 25 years ago,” when “in Yugoslavia everything emanated and revolved around Serbia/Belgrade.” He says, “this is again being replicated.”

Gannon also points to the country as a natural choice, but she refers primarily to the country’s size, pointing out that, “simply, Serbia is the largest market in the region and is logically the first choice for investors wishing to create a platform for market expansion.”

“A highly educated work force, favorable geographic position, low operating costs, and financial incentives provided by the government” are other aspects, which, according to Djordjevic, play a considerable role in making Serbia an attractive investment ground. Djordjevic also points out that “due to the free trade agreements with countries such as the Russian Federation, Turkey, and Belarus, Serbia is a fertile ground for foreign companies to expand their business activities in the aforementioned countries.” He refers to the country’s Free Trade Agreement with Russia, signed in August 2000, which stipulates that goods produced in Serbia (or which have at least 51% value added in the country), are considered of Serbian origin and exported to Russian Federation customs free, and suggests that it is, “considered to be a very favorable factor for foreign companies that strive not to lose any additional profit due to the current political situation.”

Another aspect influencing the attractiveness of Serbia is the country’s potential EU accession, which Rob Irving, Dentons Partner and Co-Chair of the firm’s Global Private Equity Group, describes as “both a boon and a curse.” Djordjevic explains that, “due to the accession to the EU, the Republic of Serbia falls within the IPA funding programme. This is probably the reason why the main host countries of companies investing in Serbia are from the

EU.” On the other hand, as Harrison notes, “there are advantages in doing business in a non-EU country: less restrictions on all ar-

“Simply, Serbia is the largest market in the region and is logically the first choice for investors wishing to create a platform for market expansion.”

- Patricia Gannon

reas of your business; less trade restrictions; less regulations and less stringent laws; and the ability to trade freely with other countries.”

### The Flagship Deals

Most Partners who are optimistic about Serbia’s future role in the region point to a number of re-cently concluded deals, such as Mid Europa’s 2014 sale of the SBB/Telemach Group to Kohlberg Kravis Roberts & Co (KKR). Following that deal, Robert Knorr, a Senior Partner of Mid Europa, commented: “This transaction validates our long-held conviction that this region offers excellent growth opportunities and our ability to create value by building regional champions.” And, indeed, pursuing the opportunities Knorr referred to led a year later to SBB’s acquisition of EUnet (see page 59). According to Gannon, the Mid Europa portfolio sale is a clear example of a regional perspective on Serbian investments: “This is exactly what they did. With an acquisition, they entered the market and through a series of subsequent acquisitions they built the regional platform to a point where a global PE house was interested in acquiring and further developing it.” Gannon adds: “We expect to see KKR further develop this regional

“Now instead of the old familiar faces of Italy, Greece, Germany, and Austria, we have the likes of India, China, and of course Russia. The most important active investor has to be the UAE and in particular Abu Dhabi.”

- Mark Harrison

platform.” And referring to Mid Euro-pa’s 2015 acquisition of a controlling stake in the Danube Foods Group B.V. and Clates Holding B.V., Gannon claims that, “with Mid Europa’s latest acquisition, we can expect that they will follow suit with a similar plan for developing this FMCG platform.” Noting that the Danube Food Group has subsidiaries in Bosnia, Montenegro, and Macedonia, Djordjevic foresees the same likely pat-tern in the investment.

“In previous years the most important acquisition of this kind was the acquisition of no.1 Serbian food retail chain Delta

Maxi by Belgium’s Delhaize,” says Djordjevic, adding that the regional scope existed in that deal as well, as Delta Maxi had subsidiaries in Albania, Bosnia, Bulgaria, and Montenegro at the time.

And there is a considerable pallet of potential targets of acquisition in Serbia. Gannon says: “Aside from the Telecom / cable and FMCG sectors mentioned above,

“Some of these privatizations will be difficult and will require political commitment in the face of what may end up being lukewarm interest.”

- Rob Irving

manufacturing has been a sector with large investments. We believe that this is mainly because of a favorable geographic position, near the EU but yet outside of it making it a cost effective place with a highly skilled labor force for investment.” Harrison points to agriculture as “one of the key areas, in addition to mining and natural resources and IT.” Djordjevic casts his net even wider, claiming that: “agriculture and food industry, energy, telecommunication, construction and infrastructure, and banking and finance are considered to be the most attractive Serbian sectors to invest in at the moment.” He continues: “The Serbi-

an automotive industry recorded large investments, both in value and project numbers, showing that it is one of the most prominent sectors in Serbia, too. The pharmaceutical sector is also quite interesting to investors, especially when it comes to the Russian Federation, where Serbian pharmaceutical products are exported in significant scale.”

These opportunities are matched by “FDI

widening in origin,” according to Harrison, who says: “Now instead of the old familiar faces of Italy, Greece, Germany, and Austria, we have the likes of India, China, and of course Russia. The most important active investor has to be the UAE and in particular Abu Dhabi.”

### The “IFs” for FDI

The critical first step is to keep the FDI pipeline healthy, and Irving says that “the immediate areas where Serbia can attract FDI are (1) potential transactions by some of the Serbian domestic groups with Western multinationals, attracting investment into players with attractive market positions (much like Adris grupa has done in Croatia by selling its tobacco unit to British American Tobacco) and (2) the current pri-

vatization wave (Komercijalni banka, Telekom Srbije, Belgrade Airport, the energy sector, etc.), if the Serbian government can keep up momentum.”

“Some of these privatizations will be difficult and will require political commitment in the face of what may end up being lukewarm interest,” Irving concludes. “SEE may not be the biggest priority for a number of the traditional strategic investors in industries such as telecoms and banking, and it will be interesting to see if the government can sustain its commitment to sell what are perceived to be ‘crown jewels’ to financial investors.”

### Conclusion

While Gannon says that Karanovic & Nikolic’s expansion has primarily been fueled by regional corporate/M&A work, the firm’s optimism is not necessarily shared by all. Even if FDI into Serbia do materialize, Djordjevic argues, there are still challenges to using Serbia as a beachhead: “In-vesting in other Balkan countries from Serbia is not developed yet, and a similar case is with investments from other Balkan countries to Serbia.” The JPM Partner looks forward to an improving climate, however: “This is the field where an increase, hopefully, can be expected in the future.”

Radu Cotarcea

# Market Snapshot: Serbia



## Security Agents for Syndicated Loans in Light of the Restrictions in the Foreign Exchange Operations Regulations

By Tamara Curovic, Partner, ODI Law Serbia



Tamara Curovic,  
Partner,  
ODI Law Serbia

Serbia has shown a strong commitment to establishing a modern market economy and has been strategically focused on the development of a sound legal and institutional framework, as well as on the implementation of international business standards and best practices. Substantial reforms have been initiated to that end, particularly in creating a business-friendly environment. These include legal and economic reforms in all areas, aimed at ensuring legal security and harmonization with EU legislation and economic policies.

The Law on foreign exchange operations (hereinafter the “Law on FX”) provides for syndicated loans but limits domestic banks to participating in syndicated loans granted to non-residents only if payment security instruments are provided by the non-resident. Domestic banks may participate in a syndicated financial loan granted by a group of foreign creditors to a resident only if these financial credits are used for the payment of imports of goods and services and for financing the performance of construction works abroad, are concluded by residents within the scope of their activity, or for the repayment

of refinancing. Residents may take foreign financial credits for other purposes as well, in the manner and under conditions prescribed by the National Bank of Serbia.

Serbia recognized the concept of a security agent in syndicated loans for the purpose of registering collateral except for mortgages over real estate. Mortgages, as a means of collateral, did not accommodate the needs of syndicated lenders, since the only possibilities were to register mortgages in favor of all lenders – thus losing the meaning of a syndicated loan and a security agent – or to register mortgages in favor of one lender (i.e., security agent) – thus creating a two-tier system in which one lender is beneficiary of the mortgage and the rest of the lenders are not, which in effect gave less legal security to such lenders.

The lack of a security agent in syndicated loans was one of the shortcomings that made it imperative to change the Law on Mortgage. The Serbian Parliament adopted the Law on Amendments and Supplements to the Mortgage Law which entered into force on July 16, 2015 (the “Law on Amendments”). The Law on Amendments provides a higher level of legal and economic security for creditors, while also taking into account the need to protect the

interests of debtors.

The Law on Amendments provides for establishing a mortgage in favor of a security agent and enable creditors of syndicated loans to appoint one of the syndicate’s members (or a third party) with the power to undertake, on behalf of the secured creditors, any legal act aimed at protecting and enforcing the mortgage. This change has been welcomed by the banking community, as it enhances the certainty and flexibility of security arrangements for syndicated loans. It also facilitates foreign credit operations in Serbia, which are restrictively regulated by the Law on FX. It is now expressly envisaged that security agents will be registered with the real estate cadastre as the mortgagee.

Despite all the positive effects brought by the Law on Amendments, one of the priority areas that need to be aligned with the EU regulations is the Law on FX. Although certain steps towards liberalization in the field of foreign exchange operations were taken during the past few years, applicable regulations in Serbia are still significantly restrictive. However, we consider it necessary to expand the list of liberalized transactions, whenever justified and possible, especially in the field of foreign credit operations.

## New Energy Legislation in the Republic of Serbia and Requirements for Unbundling and Corporate Restructuring

By Jelena Gazivoda, Senior Partner and Nikola Djordjevic, Partner, JPM Jankovic Popovic Mitic

Serbia's new Energy Law was enacted in December 2014. The principle aim of the new legislation is harmonization with the *aquis communautaire* and liberalization of the market, ensuring the freedom to conduct business activities and free access to the system for all third parties. The law also imposes an unbundling obligation and prescribes deadlines for harmonization of the operations of the companies active in the energy sector with the new law.

Regarding the obligation to unbundle energy-related activities (which means to separate the activities of production, public supply, transmission, and distribution), the new Energy Law sets a deadline for unbundling, certifying new operators, and obtaining the necessary licenses of two years from the date of its entry into force.

Unbundling of activities has already taken place in the field of electric power, by merger of 14 existing companies into the Public Company JP Elektroprivreda Srbije system. After the merger only three companies remained: (i) JP Elektroprivreda Srbije, in the business of production and supply; (ii) EPS Snabdevanje, as public electricity supplier; and (iii) EPS Distribucija, as operator of the electric power distribution system. The merger took place on July 1, 2015. Transmission of electric power is conducted by Public Company JP Elektromreza Srbije, which was already a separate company.

In the field of natural gas the unbundling is in its beginning stages. On July 1, 2015, the Serbian Government approved the establishment of subsidiaries of Public Company JP Srbija-

gas, which had previously conducted the activities of transportation, distribution, and supply of natural gas. These subsidiaries will take the form of one company to perform the activity of transporting natural gas and another to perform the activity of distributing natural gas, so it is expected that these activities will continue without interruption while the subsidiaries apply for and receive licenses for their respective energy-related activities. JP Srbijagas will itself continue to perform the activity of supplying natural gas.

Electric power transmission system operators and natural gas transportation system operators will have to undergo a certification procedure, demonstrating to the Energy Agency that they are independent from other activities with regard to legal form, organization, and decision-making. The new Energy Law provides more detailed rules regarding the conditions that a natural gas transporter has to fulfill than it does for the conditions an electric power transmission system operator has to fulfill. Certification is the mandatory step preceding the obtaining of a license for conducting the respective energy-related activity.

The companies that will be in the business of distributing electric power or natural gas also have to be independent from other activities with regard to legal form, organization, and decision-making, but they do not have to undergo a certification procedure. Instead, their independence will be assessed within the licensing

procedure.

The prerequisite for commencement of the certification procedure is the enactment of the appropriate bylaw which will regulate this issue in detail. The Energy Agency is required to enact this bylaw by the end of 2015.

Apart from certification and licensing, companies seeking to perform energy-related activities will also have to adopt programs for ensuring non-discrimination, containing measures for preventing discrimination, establishing the obligations of employees and rules of conduct in ensuring non-discrimination, ensuring efficient supervision and regular reporting, and specifying the person in charge of supervising the implementation of these programs. The appointment of this person requires the prior consent of the Energy Agency. The responsible person will be obligated to prepare annual reports on measures undertaken to implement these programs, submit the reports to the Energy Agency, and publish them on the website of the system operator or vertically integrated company.



Jelena Gazivoda, Senior Partner, JPM Jankovic Popovic Mitic



Nikola Djordjevic, Partner, JPM Jankovic Popovic Mitic

## Serbia: Insolvency

By Natasa Lalovic Maric, Partner, and Andjelka Todorovic, Associate, Wolf Theiss

An increasing number of questions have been raised since Serbia's new Law on Bankruptcy and Liquidation of Banks and Insurance Companies ("Law"), together with amendments to the existing Banking Law, became effective on April 1, 2015. With no case law at present to provide structure, there is a need to inspect these new rules closely, as they may considerably affect the management, existing shareholders, and creditors of Serbian banks undergoing liquidation or bankruptcy.

### Terminating the Operations of a Solvent Bank

Bank shareholders may decide to voluntarily terminate the operations of a solvent bank. This decision, however, is subject to approval by the National Bank of Serbia ("NBS") and is quite costly – it must be supplemented by a bank guarantee (unconditional, irrevocable, payable upon first demand, and issued by a first

class bank) in an amount that secures all of the bank's obligations. Once the NBS approves the termination of operations, it appoints the Serbian Deposit Protection Agency ("Agency") as the liquidation administrator. However, if the bank fails to provide the NBS with all required documents, the NBS shall revoke the bank's operating license. Neither the Law nor the Banking Law provides for a voluntary liquidation resulting from the previous voluntary delicensing of a bank, as seen in many EU jurisdictions.

An interesting question is raised at the very outset of executing liquidation of a bank when determining which regulations apply, as such proceedings are regulated by numerous pieces of legislation which call for the application of the Law's provisions on liquidation as well as bankruptcy, and the supplementary application

of the Insolvency Law, with exclusion of certain provisions "as fitting." The Banking Law is also part of this regulatory framework, which in certain instances calls for supplementary application of the Company Law, which the Law does not refer to! This intersection of provisions thus requires considerable legal untangling.

### Bank Bankruptcy

With respect to bankruptcy, by issuing a decision on revocation of a bank's operating license, the NBS simultaneously issues a decision on fulfillment of conditions for initiating bankruptcy proceedings. The Agency here performs duties



Natasa Lalovic Maric, Partner, Wolf Theiss



Andjelka Todorovic,  
Associate,  
Wolf Theiss

of the bankruptcy administrator. Unlike the Insolvency Law, which is applicable to non-banking entities, the Law does not foresee a possibility for a bank to file for bankruptcy, but rather leaves this within the exclusive competency of the NBS.

Creditors of a bank in bankruptcy have a number of matters to consider. Any set-off of claims towards the bank is permissible only until certain deadlines, for example. Also, the Agency and the bank's creditors are entitled to file avoidance claims against the bank's actions, but not against those executed by the NBS or the Agency in relation to any previous restructuring process. The Agency pays out insured deposits of the

bank, as well as any insured amounts of claims of the bank's clients if the bank is a member of the Investor Protection Fund. Notably, unlike bankrupt companies falling under the general regime of Insolvency Law, an insolvent bank cannot be bought as a legal entity in bankruptcy proceedings.

The bank's creditors are given between 30 and 90 days from the moment of publication of announcement on initiation of bankruptcy to report their claims towards the bank. The Agency determines if the claims are justified, and in what amount, whereas the final list of creditors' claims is determined at the examination hearing.

The risks which bankruptcy may generate for shareholders and management should not be overlooked. For instance, the fact that an individual was a member of a bank's management

board at the time the bank went bankrupt could impair that individual's chances of future appointment to bodies corporate of a bank in Serbia, as the NBS may reject such appointments on reputational grounds. Reputational risks also befall present (direct or indirect) shareholders, should they attempt to found a new bank or acquire ownership in an existing one in Serbia, as the NBS also weighs the business reputation of future shareholders in banks when deciding whether to grant consent for acquisition or foundation.

Until these concerns are fully addressed, and until the new regulations and practice are able to provide stronger footholds, Serbian banking waters should be treaded lightly and with great diligence.



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[ceelm.com/thought-leadership](https://ceelm.com/thought-leadership)

# Inside Insight: Predrag Catic

## Specialist for Legal Affairs at the Association of Serbian Banks



*Predrag Catic is in charge of legal affairs at the Association of Serbian Banks – a voluntary, professional organization of banks and other types of organizations whose activities are related to the functioning of the banking system. Prior to joining the Association, Catic held Head of Legal roles with three banks: Banca Intesa (from 2007-2013), Societe Generale (2003-2007), and Zepeter Bank (2001-2003).*

### CEELM: How did your career get you to your current role?

P.C.: First of all my entire education, including the legal one, was completed in Belgrade, where I finished Law School and passed the Bar exam. That means that I am educated to be oriented to the local market. After finishing university I started working in the telecommunication industry, first at the PTT traffic company, then at Telekom Serbia, the largest companies within their industries at the time here.

My first job (and first love) revolved around litigation and insurance. The years I spent in litigation – around 8 years – trained me to understand that as an in-house lawyer/litigator I have my in-house clients and their needs and that I have to work a lot to understand their mindset and their way of understanding “business,” which was radically different from my own “legal” thinking. The “second half” of my daily work – insurance – helped me to get a deeper understanding of business books, logic, and the wonders of accounting. At that time in Serbia (in many ways as today) we had problems with debt resolution and, as a result, alongside litigation I started to negotiate ways of repayment of debt with my

counterparts. My involvement in insurance paved the way to introducing new legal ways of debt resolution and, as curious as I am, that process led me to the banking sector.

**CEELM: Prior to starting to work for the Association of Serbian Banks you were in Head of Legal positions with three banks. What were the commonalities and the main differences in your experiences with them?**

P.C.: Three banks: three different, but at the same time, very common worlds.

The main differences between them were obvious: shareholding capital origin, size, and business orientation, international, cross-border financing projects, number of employees, [and] almost everything. One big difference that affected my work was the size, as, in comparative terms, the last of the three was much bigger. All of a sudden, when I joined Banca Intensa, I was faced with managing a much bigger team than I was used to, which I quickly learned was a far more politically oriented role than a legal one.

The main commonality thing was the special position that clients held in all of them. Everything was about clients, collateralization, and the ability to negotiate when things go wrong.

**CEELM: Why the banking sector? What keeps you excited about it after so many years?**

P.C.: Well, I think it is something I derived from my education. Legal education in Serbia at that time, which I spoke a bit about already, meant gaining a wide scope of legal knowledge. That is something you need to have in the Serbian banking sector even today, when legal environment simplification and specialization are taking place. From family to international law you have to be able to support your colleagues on a daily basis, often quickly over the phone because the client is waiting in front of a bank desk. Excitement, adrenalin, involvement in everything, satisfaction of professional curiosity, all are aspects which no other industry could award you with to the same extent. Especially when you taste success. Banks are far more than just money – they are people, businesses, jobs, economic growth, new ideas – they are the heart of the economy. Therefore, it was a no-brainer: I pick the banking industry.

**CEELM: According to the Association of Serbian Banks, its main objective is to “build a position for and strengthen the reputation of the Serbian banking sector both locally and abroad.” How does that translate in terms of your legal function?**

P.C.: My role is that of Coordinator of the Legal Committee of the Association of Serbian banks, which includes involvement in all areas in which banks are participating, both commercially and statutorily. That entails pure legal advice on both “general” and “particular” levels.

“General” means for us the aspects where we identify problems and suggest possible ways of overcoming them and initiate and participate in various initiatives in drafting new laws, thus adding our input towards the improvement of legislation at a national level. The “particular” level entails supporting banks in specific situations, which could range from usage of promissory notes to implementation of bilateral treaties Serbia has with other countries about something in focus (real estate, trade, arbitration awards, etc.).

At the same time, as in-house lawyer I am in charge for all legal documents the Association signs, as with any other legal entity.

**CEELM: To what extent is the Association involved, and what is your direct involvement, in banking regulatory matters in Serbia?**

P.C.: We are not regulators, but we are directly involved in terms of expressing professional opinions when banking, or regulations that target the banking business, are on the agenda to be changed or introduced. Also, as I said, we are appreciated as an initiator of change in some of the relevant regulations.

As an example, recently Serbia changed its Mortgage Law, enabling the facilitation of already prescribed out of court foreclosure procedures. The new legislation is aimed at overcoming some deadlocks hidden in the previous wording of the Law, and we are very proud of the fact that the wording of the new Law passed by both the Government and the Parliament of Serbia relied on our solutions for those deadlocks.

My personal involvements are (a) organizing the banking legal community around open discussion of the regulatory framework; (b) drafting legal opinions regarding that

framework with comments and suggestions; (c) participating in Government Working Group(s) for drafting legal frameworks for the valuation of real estate property, and participating in public debates on a new Law on Enforcement and Collateralization; and (d) supporting banks in the process of harmonizing their legal documents with newly introduced laws such as the Law on Protection of Customers of Financial Services, the Law on Payment Services, the Banking Law, the Law on Insurance of Deposits, and many others.

**CEELM: In your view, what is the biggest challenge for banks in Serbia in terms of legislation and, if you could implement one regulatory challenge, what would it be?**

P.C.: Banking business in Serbia is generally all about two issues: collection of non-performing loans (NPLs) and accession to the EU.

At the moment the country is investing enormous efforts in pre-accession negotiations with the EU. We expect opening of the first chapters of the accession agreement soon. One of the most important chapters of that

agreement for us is the one dedicated to financial services. With regard to it we are in good shape, let's say, but we, as the banking sector, are pointing at the Enforcement Law as the one which has to be improved in terms of efficient collection of receivables. This law makes the above two issues into one and is closely linked to the legal certainty of undertaken business which, as a value in and of itself, has to be polished and further nurtured in the country.

The new law is in public debate, and we are facing clashes between two approaches to this law: a pragmatic one – related to supporting efficiency in enforcement of commercial deals – and another I would say more academic one, suitable for wealthier times in Serbia or to wealthier countries nowadays. But despite that clash – or maybe thanks to it – all involved experts are doing their best to deliver a good Law.

**CEELM: As part of your role, are there any situations that warrant the use of external counsel? If yes, how do you pick the firm(s) you will work with?**

P.C.: Yes, yes of course! We engage external lawyers for two main reasons: one is litigation

and another one is presenting their experience before the banking legal environment.

We have intensive cooperation on a daily basis with external lawyers, therefore picking lawyers for something specific is maybe easier for us than for somebody else. Usually we go through a procurement procedure in which reliability is of greater importance than price for services.

I will say, as a new trend, we, the general legal market, are working on developing and implementing IT applications which enable better reporting, exchanging of documents, and information. As a result, lawyers with improved software infrastructure and with readiness to accommodate to new demands of this kind are at some advantage.

**CEELM: On the lighter side, what is your favorite way to decompress after a long day at the office?**

P.C.: Wow, several things, first and above all I'd say spending time with my family – my wife, daughter, and son – then when time allows: friends, photography, wine, books, and traveling.

Radu Cotarcea

karanovic/nikolic

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## Inside Out: SBB's Acquisition of EUNet

### The Deal

On April 30, 2015, the CEE Legal Matters website reported that Karanovic & Nikolic and Vukovic & Partners had advised on Serbia Broadband's acquisition of EUNet. EUNet continued to operate independently after the acquisition, but promised to "offer improved service and an integrated IT-Communication solution to customers." The two companies announced plans to unite services and offer an integrated platform for cloud hosting, Internet, landline telephone service, and customer service.

### The Players:

- Mirjana Rosic, CEO Of EUNet
- Rastko Petakovic, Partner, Karanovic & Nikolic (K&N): External Counsel for Serbia Broadband (SBB)
- Srdjan Gligo, Partner, Vukovic & Partners ("Vukovic"): External Counsel for EUNet

**CEELM: How did you become involved in the deal?**

**Rastko Petakovic (K&N):** Karanovic

& Nikolic has been working with Serbia Broadband for several years, covering deals in different jurisdictions and from various legal areas (corporate, competition etc.). Through our professional approach and fruitful and successful cooperation in previous deals, Serbia Broadband developed a close relationship with Karanovic & Nikolic, recognizing that we have the necessary capacity, knowledge, and experience to realize this important deal for it.

**Srdjan Gligo (Vukovic):** We have provided legal services to EUNet since our law firm was established and this long-term business engagement provides a good foundation for mutual trust. I have led many previous projects of EUNet, in which they were satisfied.

**Mirjana Rosic (EUNet):** EUNet has a long term professional relationship with Vukovic and Partners, since they provide us legal services considering every legal matter in our business affairs. So we were confident that Vukovic and Partners would represent us competently.

**CEELM: When you were retained, what was the scope of your assignment? What, exactly, were you asked to**

**do?**

**Rastko Petakovic (K&N):** Our assignment began with drafting a Memorandum of Understanding which was concluded between the parties to the deal. The MoU covered key terms of the upcoming transaction. Following the signing of the MoU, we analyzed documentation of the target company and prepared a legal due diligence report, covering all legal areas relevant to the transaction, such as, inter alia, corporate, banking and finance, competition, real estate, IP/IT, insurance, and disputes. Once the legal due diligence report was prepared and reviewed by the client, the next step was to engage in the negotiations process with the sell side and their legal counsel. The negotiations mostly concerned the transaction documents and payment mechanism. Karanovic & Nikolic drafted all transaction documents, the most important of which was the Share Purchase Agreement (including representation and warranties and Transfer Deed). Finally, following the conclusion of the SPA and Transfer Deed, Karanovic & Nikolic was engaged in the transaction closing, i.e., the registration of Serbia Broadband as the new majority shareholder of EUNet with the Serbian Business Registers Agency.

**Srdjan Gligo (Vukovic):** The scope of our assignment was to counsel the client during the negotiations, to analyze the proposal of the other side, to offer suggestions for changes of the proposal, to determine which documents EUnet should prepare and disclose under the terms set by SBB (and coordinate the preparation of the documentation by EUnet's employees). To be honest, our counterparts at K&N had much more difficult task, as is usual for the attorneys that advise the buyer.



Mirjana Rosic,  
CEO, EUnet

**Mirjana Rosic (EUnet):** As I mentioned before, cooperation between EUnet and Vukovic and Partners has been ongoing for years now and we have worked with both Dejan Vukovic and Srdjan Gligo previously and on different issues, as they take care of all legal matters of our company.

We – and the Certus Consulting company – were responsible for the technical and financial parts of the process, while Vukovic and Partners were responsible for legal matters and considerations.

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

**Rastko Petakovic (K&N):** The following Karanovic & Nikolic lawyers were engaged in the deal, covering the following areas: Rastko Petakovic, Partner: I led the transaction from its very beginning and was engaged in drafting of the MoU, preparing the legal due diligence report, negotiating with the seller's side, and the closing of the transaction; Bojana Miljanovic, Senior

Associate, worked on a legal due diligence report covering competition-related issues and material agreements; Katarina Guduric, Senior Associate, worked on a legal due diligence report covering banking and finance issues; Mirko Kovac, Senior Associate, worked on a legal due diligence report covering employment and health and safety at work issues; Marko Matovic, Associate, worked on a legal due diligence report covering environmental and dispute resolution related issues; Srdjan Dabetic, Associate, was engaged in the preparation of the MoU, the drafting of a legal due diligence report covering corporate and insurance issues, negotiations with the seller's side, drafting transaction documents, and closing of the transaction (i.e., the registration of Serbia Broadband as the new majority shareholder of EUnet with the Business Registers Agency); Veljko Smiljanic, Associate, worked on a legal due diligence report covering competition and regulatory issues as well as material agreements; and Milan Radonjic, Associate, worked on a legal due diligence report covering real estate issues.

**Srdjan Gligo (Vukovic):** The members of our team that worked most closely on this deal were: Dejan Vukovic, Predrag Miladinovic, and me.

**CEELM: What does the final deal look like, and how did your team help it get there?**

**Rastko Petakovic (K&N):** Our work on the deal started with internal meetings on how to set the most convenient structure for the transaction, taking into consideration the client's plans and expectations, the time period in which the deal should be closed, and other important details. Once the team prepared the transaction structure and presented it to the client for final approval, the full legal work began. The team, which was made up of several Senior Associates and Associates experienced in different legal areas, was internally led by me, and in general it was very well organized, with a clear division of working tasks and responsibilities and a time frame and detailed step plan for closing each phase of the transaction. During the whole process, each team member was focused on the specific tasks determined in the step plan, starting from the MoU, through the due diligence phase and, finally, in the negotiations process and transaction closing. Thanks to a disciplined and professional

approach to the working tasks and dedicated performance within the set time frames, including effective internal communication and mutual assistance amongst the lawyers, we managed to successfully complete all phases of the deal, despite each of them being demanding and sometimes rather complicated. We feel professional satisfaction as we managed to add value to the final product of Karanovic & Nikolic's team – the closing of the EUnet transaction – by combining the experience of different lawyers, from different practice areas, into one well-organized group of lawyers who were able to fulfill the expectations of our client and help them to realize their business goals as they had been presented to Karanovic & Nikolic at the beginning of the process.

**Srdjan Gligo (Vukovic):** The deal between the sides and therefore the agreement is a bit complicated and slightly unusual, specially with the fact that Ms. Rosic continues to lead EUnet for the new owner. Negotiations were not easy, so good cooperation was crucial for successful conclusion of the deal. Both sides showed willingness to find common ground and to compromise on different aspects, and I think the final agreement is a fine solution – and that it protects the interests of both sides of the agreement.

**Mirjana Rosic (EUnet):** Having in mind the importance of the entire process and that this is the biggest IT transaction in Serbia in the last three years – possibly in the region, too – we expected certain difficulties. It was necessary to find an adequate balance between interests and protection of both parties, but we found common ground. So, the process wasn't simple, but it wasn't as difficult as these deals can be.

**CEELM: Were your client's pre-deal expectations met, or was the final form of the deal different than initially anticipated in some way?**

**Rastko Petakovic (K&N):** At the early stage of the transaction the team was presented with Serbia Broadband's expectations, on the basis of which Karanovic & Nikolic proposed an adequate structure for the transaction, payment mechanism, indemnities, etc. We are happy to say that Serbia Broadband's pre-deal expectations were fully met, to the satisfaction of both Serbia Broadband and Karanovic & Nikolic.

**Srdjan Gligo (Vukovic):** I think that EUNet is happy with the final agreement. They find it satisfactory, considering it is a result of good professional communication and engagement of all people involved.

**Mirjana Rosic (EUNet):** The previous owners of EUNet are content with the agreement, even though it is much more complex and extensive than was previously expected. We find this deal satisfactory for both parties, as it is the result of great professional cooperation and willingness to compromise.

**CEELM: How would you describe the working relationship with your client?**

**Rastko Petakovic (K&N):** Karanovic &



Rastko Petakovic,  
Partner, Karanovic & Nikolic

Nikolic has an extensive and close relationship with Serbia Broadband, as it has worked for them for several years. We have been involved in major transactions which the group to which Serbia Broadband belongs has undertaken in the Balkans in previous years. We are ecstatic that we have the opportunity to work for one of the most recognized and successful companies in the cable telecommunication market. Our professional satisfaction as a law practice particularly arises from the fact that the large number of deals which are very important to Serbia Broadband were closed to the benefit of Serbia Broadband with the help of Karanovic & Nikolic's team.

**Srdjan Gligo (Vukovic):** After years of working together with EUNet, we are now a team, but we still try to find a way to make our cooperation even more efficient.

Even though we sometimes have different opinions on some matters, mutual trust that we built over the years and good and open communication helps us to solve every issue that we face together.

**Mirjana Rosic (EUNet)** (speaking about her relationship with Vukovic): All persons working on this process showed great responsibility and professionalism during the entire process and all in all the legal departments did a great job.

**CEELM: How would you describe the working relationship with your counterparts at the firm on the other side of the table?**

**Rastko Petakovic (K&N):** The sell-side advisors were very professional, carrying out good quality and argumentative negotiations which helped us to close the deal to the benefit of both of our clients.

**Srdjan Gligo (Vukovic):** Our working relationship with Karanovic & Nikolic on this deal was really good. Our colleagues from K&N showed competence, professionalism, and responsibility through the entire process.

**CEELM: How long did the process take?**

**Rastko Petakovic (K&N):** The entire process lasted around 8 months (October 2014 – May 2015)

**Srdjan Gligo (Vukovic):** The entire process (starting from the signing of the NDA) lasted one year.

**CEELM: Looking back, how would you describe the deal and your team's work on it?**

**Rastko Petakovic (K&N):** The deal itself was very interesting and challenging and was one of the team's top priorities, primarily having in mind its importance to Serbia Broadband. Our focus was to structure the transaction in a way which fully met our client's plans and expectations. Now that the deal has been closed, we can say that we are very happy and satisfied with the contributions of each of the Karanovic & Nikolic team members. Moreover, the combined work and experience of our legal team, led by myself and including both senior and junior lawyers, once again proved to be a great combination of experience and enthusiasm, which resulted in a positive outcome and successful closing of the transaction.

of working with EUNet, this became more than a client-attorney relationship – we became friends with the previous owners of EUNet. Because of that it was personally important for Dejan Vukovic and me that they get the best possible deal and I think that we did a good job.

**Srdjan Gligo (Vukovic):** Over many years



Srdjan Gligo,  
Partner, Vukovic & Partners

**CEELM: Finally, do you believe the deal had any special significance?**

**Srdjan Gligo (Vukovic):** From a legal perspective the deal was very complicated and thus very interesting – for reasons I unfortunately cannot disclose due to confidentiality terms. From the market perspective, the deal is interesting and significant because SBB is a giant in the market in Serbia (best known for providing TV and Internet via cable connection), while EUNet is the company that practically introduced the Internet in Serbia, and thus it is one of the oldest and best known brands in IT in Serbia, known for providing more “traditional” ISP services (ADSL and before that dial-up) and also for hosting and cloud services. It is part of a process lasting for maybe a decade in Serbia where ISP companies in the country are merging – bigger companies are buying smaller companies, broadening their size and also the scope of their services.

# Expat on the Market: Mark Harrison of Harrison Solicitors



*Mark Harrison is Founder and Principal of Harrison, which describes itself as “the only English Law Firm in Serbia and Montenegro.” Harrison himself has over 25 years’ experience in the Balkans, and he was the first English Solicitor and the first European lawyer to become a Member of the Serbian Bar Association. He is also the Honorary Legal Adviser to both the British Ambassador to Serbia and the British Ambassador to Montenegro and co-founder of the Serbian-British Business Club.*

**CEELM: Why did you decide to focus on Serbia as you have?**

M.H.: Pure fate! One chance meeting completely changed my life. It was never my goal to work abroad. In 1984 I was working late one night at Linklaters in the City. They had seconded a lawyer from Beogradska Banka, a client of theirs, so he could learn about various financial instruments. I was drafting a bond issue late one night, saw this Serbian lawyer also working late, and invited him out for a beer. The next day I went with a group of (then) Yugoslavs to watch Hajduk Split play Tottenham Hotspur at football. The lawyer introduced me to most of the leading Yugoslavs working in London – mainly heads of the London-based subsidiaries of Belgrade companies – and by the late 1980’s I reckon I was acting for at least 2 out of every 3 major Yugoslav companies in London. I was then visiting Belgrade many times and was a founding member of the British Yugoslav Law Association. When I joined Eversheds in early 1991 and created their Central & Eastern Europe Practice, I convinced the firm to open an office in Belgrade as a centre for Yugoslavia. Unfortunately the disintegration of the country started in June that year which cancelled all my plans.

In 1997, I decided to form the first international law firm in Yugoslavia, resigned my partnership with Eversheds, and set up on my own in an office in Belgrade above a charity called “Bread of Life.” The rest, as they say, is history!

**CEELM: Do you find local/domestic clients enthusiastic to work with a foreign lawyer, or do Serbian companies**

**tend to gravitate to Serbian lawyers?**

M.H.: At the very beginning it was very difficult to convince domestic clients to work with a foreign lawyer, not in the least because I was the first one there. They also found it difficult to understand the importance and duty of confidentiality, so competitors in business were very reluctant to instruct me. I would say Serbian companies – as in Serbian-owned – are much more likely to work with domestic lawyers. They have probably been with them from the start, as sole practitioners/friends and just stick with them.

**CEELM: There are obviously many differences between the English and the Serbian legal markets. What idiosyncrasies or unique elements involved with the practice of law in Serbia stand out the most?**

M.H.: One of the challenges Serbia faces in starting the EU accession process is the rule of law. As a former Commercial Litigation Partner at Eversheds I still find the Serbian Court system incredibly frustrating. A lawyer needs certainty to advise his client, and there are too many variables and possibilities in going to court in Serbia. I still cannot ever recall advising a client to take his case to Court! And the appeal process in Serbia just goes on and on and on.

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

M.H.: I think you bring best practices from your jurisdiction. Serbian lawyers are very bright and keen to learn and likewise to

embrace new ideas and concepts, including the importance of IT in the running of a firm. Management skills are learnt over time and as most Serbian lawyers were used to working as sole practitioners, I think an expat lawyer can bring a lot of ideas on running larger law firms. As we are the only English law firm in Serbia (and Montenegro) we are also subject to independent regulatory control of the SRA and that brings many responsibilities with it, such as strict “Know your Client” rules, anti-money laundering, confidentiality, and conflicts of interest. Additionally we have Professional Indemnity Insurance through London, and there are many areas of running a firm which have to be complied which are not required under Serbian Insurance, which Serbian law firms have to take out.

I think clients, obviously more the foreign clients, like the idea of an English law firm and the aspects mentioned above which go with it. I think they feel more “at home” with an expat lawyer. They speak the same language and have experienced how their UK-based lawyers work and like to see us behave in the same way. It makes them feel more comfortable, just like going to one of the Big 4 accountants.

**CEELM: How have things changed over the years on the legal front generally?**

M.H.: When I first arrived in Serbia I received a letter from the Serbian Bar Association within 14 days requesting I leave as I was persona non grata! Competition from foreign lawyers was not welcome! We were established before Kosovo and it was only after Milosevic was removed, in around 2001, that other foreign law firms appeared on the scene. There was still fierce resistance to them from local lawyers. Although the Serbian Bar recently regulated matters, and allowed me and others to join the Serbian Bar, it is still not as open to competition as the EU will require in due course.

The legal scene has now settled in that there are probably five or six main players, and I cannot see any new foreign law firm setting up a new office here, only by way of a take-over of an established Serbian law firm, but then they would have to cover all

other ex-Yugoslav countries as well.

Although we are having another good year, the overall legal market is presently tough and I get many CV's flying across my desk. There is low-balling on fees by other law firms, but that is just a recipe for disaster in due course. Certainly local law firms have become more savvy about marketing and gaining clients so there is a bit of a cut-throat atmosphere in Belgrade itself on the big jobs, but my years in Leeds many years ago have put me in good stead for all the games that are played!

**CEELM: What do you like about Belgrade and which one place in Belgrade should visitors make sure not to miss?**

M.H.: Belgrade is a great place to live. A very good quality of life. The proof is in the pudding: this is my 18th year. Serbs are very friendly people, it is the party capital of Europe, is a very safe city, has a fantastic climate, and has not been "Westernized" or "sanitized" like other CEE capitals. Throw in the Montenegro coastline – only 35 minutes flying time away – plus its central location geographically, and you can see why

expats love it.

Frans restaurant is the one place a visitor must go to – one of the top five, but you must go and try and guess what it originally was before it became a restaurant, and then make sure a female companion visits the ladies' washrooms. Champagne on tap plus a rather unique feature (so I am told!).

*David Stuckey*



# Next Issue's Market Spotlights

Romania

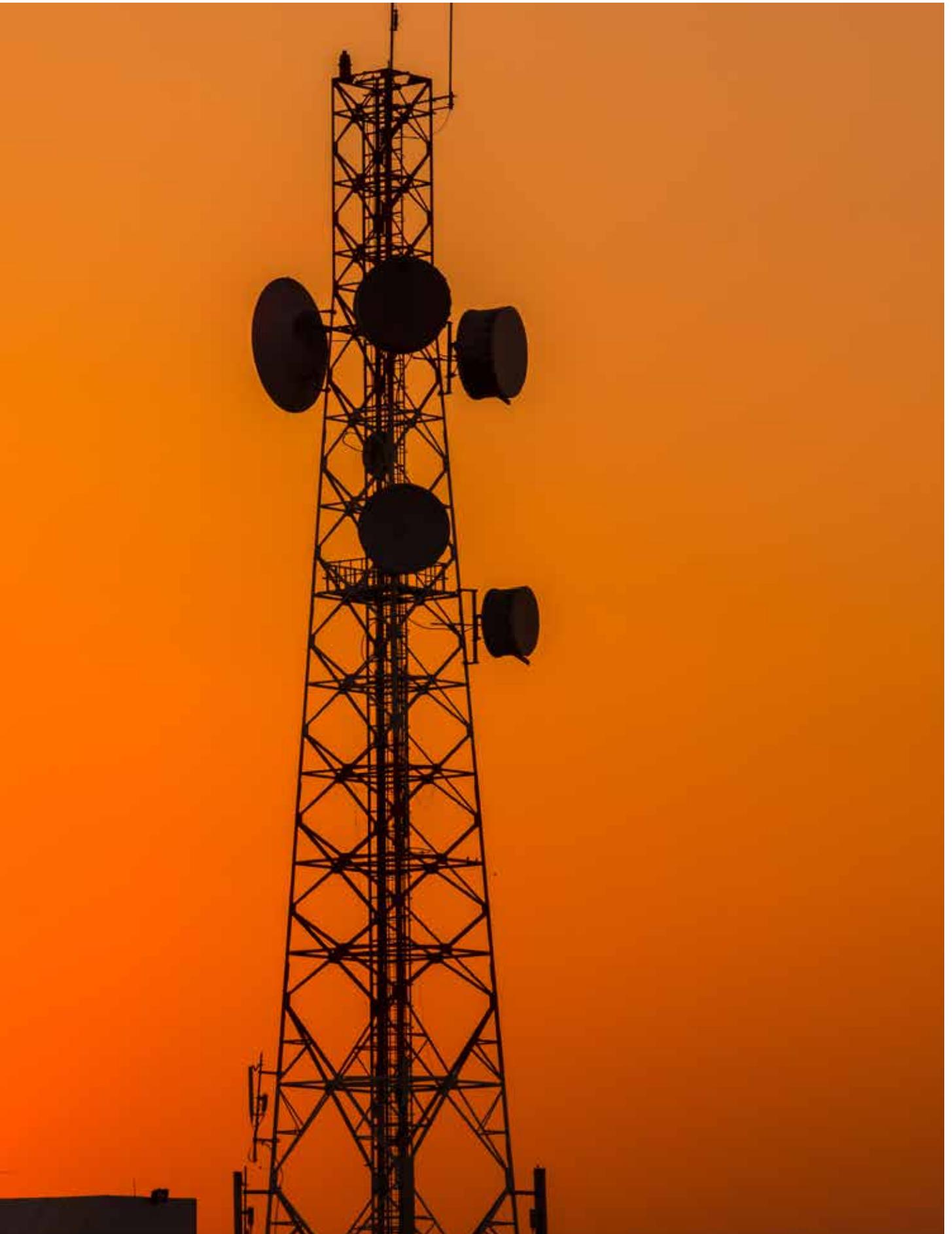
Greece

# Experts Review: TMT

The articles of the Experts Review feature, this issue, focus on the subject of Telecommunications, Media, and Technology (TMT). This month, the articles are presented in the order of male-to-female ratio by country, at birth. Thus, Albania, which reports (at birth) 1.118 boys for every girl, is first, while Bosnia & Herzegovina, with 1.074 boys born for every girl, is second. Turkey, which – out of the countries included in this issue of Experts Review – is the most balanced, reports 1.05 boys born for every girl.

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### Albania

#### Legal Background for TMT Products and Services Outsourcing in Albania



Albania has seen a boom of call center services outsourcing in recent years by a number of multinational companies. Foreign companies, mostly from Italy, have benefited from several advantages of outsourcing call center services in Albania, including attractive tax rates, low labor costs, flexible employment conditions,

and highly qualified employees with advanced language skills in several foreign languages.

Moreover, Albania offers a favorable legal environment for foreign companies to outsource TMT products and services, from the perspectives of data protection, intellectual property, and trade secrets protection. EU privacy legislation requires that personal data can be transferred only to third countries providing “adequate protection.” Albania is a member of the Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data, and additional protocols and the Albanian law on Data Protection are fully consistent with EU legislation.

However, in order to be covered from legal risks, foreign companies should ensure that their Albanian contractors comply with such legislation. For instance, during the period between March and July 2015, following a mutual cooperation agreement entered into with the Italian Privacy Authority in February of this year, the Albanian Data Protection Authority (DPA) investigated several call centers in Albania and fined thirty of them due to non-compliance with Albanian data protection legislation. Out of all non-compliant call centers, only one had notified the DPA that it would be processing personal data before starting to do so. Most of them were not aware of the law or the legal requirement.

In compliance with EU legislation, the Albanian Personal Data Protection Law applies to personal data processing by controllers located in Albania, as well as controllers that are not located in Albania but who exercise their activity through the use of equipment situated in Albania. In such cases, the controller must appoint a representative located in Albania.

The provisions of the law with respect to controllers apply to their representatives as well. In order to ensure legal compliance and minimize privacy risks, foreign companies should consider the following requirements: (1) their local contractors have duly notified their activity to the Albanian DPA; (2) they have implemented adequate technical and organizational measures to ensure the security and confidentiality of the data, such as: clearly

defined functions among the organizational units and restricted access to personal data only for the purpose of fulfilling their duties, confidentiality declarations signed by employees, internal privacy policies and procedures, restricted access to the environment where the data is collected and kept, and rules for the return and/or permanent destruction of the data as per defined retention periods; and (3) a signed data processing agreement, in case the outsourcing of products and services includes the processing of personal data.

In addition, the applicable data protection legislation requires that direct marketing through phone calls, e-mails, or other communication means may be performed only upon prior consent from the data owners, which must be documented and evidenced.

An additional guarantee for foreign companies outsourcing in Albania is the legislation in force on the protection of intellectual property, privileged information, and trade secrets. Intellectual property legislation provides a comprehensive framework for the protection and enforcement of IP rights, including patents/utility models, industrial design, trademarks, and geographical indication, as well as copyright and related rights. According to the Albanian Labor Code, employees have a confidentiality obligation regarding production or trade secrets of which they have been made aware during their employment. Moreover, the Law on Commercial Companies defines trade secrets and provides for liability of company management for damage caused due to disclosure of trade secrets. On the same note, infringement of IP rights, trade secrets, and privileged information constitutes a criminal offence, punishable under the Albanian Criminal Code. Nevertheless, it is highly recommended that the above matters be clearly and carefully stipulated in the contractual terms of the agreement with the local company.

The contract terms may be enforced either by Albanian courts or in foreign jurisdictions. The enforcement of a foreign court’s judgment in Albania may be sought after it has been recognized by the Court of Appeal. While examining the request for recognition of a foreign court’s judgment, the Court of Appeal does not review the merits of the case but checks only compliance with certain procedural principles, such as the competency of the court that has issued the judgment, the due notification of the defendant, whether a different judgment between the same parties with the same object and reason has already been issued by the Albanian courts, whether a lawsuit on the same matter was filed before the Albanian courts prior to the foreign court’s judgment becoming final, and so on.

Currently, outsourcing of TMT products and services is regarded as a growth driver for foreign investment and increase of employment in Albania. That said, in order to better protect their interests and maintain a high quality of service, foreign companies must seek and obtain a deeper knowledge of the Albanian legal system before selecting their Albanian contractor.

*Ekflodia Leskaj, Partner, Drakopoulos*

## Bosnia & Herzegovina

### Privatization of BH Telecom in the Spotlight Again



Bosnia and Herzegovina has not fallen behind the trend of liberalization of the telecommunications market. The Federation of Bosnia and Herzegovina – the largest of the two entities making up Bosnia and Herzegovina – owns a majority of shares in two telecom operators: BH Telecom, in which it

has a 90% share, and HT Eronet, in which it has a 50.1% share. BH Telecom is the leading telecommunications service provider in the Federation of Bosnia and Herzegovina, and the possibility of its privatization has been a popular subject of conversation for years. While some claim that such a privatization would not result in anything positive, others believe that it is a necessary step for the operator to achieve the highest levels of profitability and efficiency.



In recent days, this issue has moved back into the spotlight, as the Government of the Federation of Bosnia and Herzegovina – in its 17th session, held on July 27, 2015 – adopted the Reform Agenda for Bosnia and Herzegovina for the period 2015-2018, establishing plans for reforms and envisaging a number of measures and

projects aimed at economic recovery and sustainable economic growth. This document was adopted with the ultimate goal of fulfilling the conditions to apply for EU membership. The section of the Reform Agenda related to the business climate and to ensuring competitiveness provides for development of preliminary plans for BH Telecom’s partial privatization. As a result of the Agenda’s adoption, the public learned that BH Telecom might be privatized and began to speculate about who the potential buyer would be, which political parties would benefit from the privatization, and where the money from the sale would end up.

The issue of the privatization of BH Telecom is complex, and there are many arguments both for and against it. On the one hand, those who oppose BH Telecom’s privatization emphasize that its profits greatly contribute to the budget of the Federation of Bosnia and Herzegovina. Many also complain that the work of the operator is non-transparent and that it is controlled by certain political structures. It is further pointed out that users are in the most part dissatisfied with the quality of service, that a state operator should provide more favorable conditions than private operators (although this isn’t accurate), and, most importantly, that its profits have decreased in recent years.

Proponents of privatization claim that the sale of BH Telecom

would result in the introduction of new technologies, improvement of the infrastructure network and service quality, and, ultimately, higher profits. Of course, the state would also benefit greatly from a successful private telecommunications service provider.

BH Telecom’s representatives have repeatedly insisted that the company is not falling behind world standards and modern technologies, and that the decrease in profits can be attributed to the increased use of a number of applications that allow users to communicate via Wi-Fi networks, such as Viber, WhatsApp, Skype, etc., which at the same time offer a very good quality. However, this is a challenge which all mobile operators are faced with.

The mere fact that the issue of privatization of BH Telecom is mentioned in the Reform Agenda indicates that it is one of the major strategic issues of importance to the economic growth and stability of the Federation of Bosnia and Herzegovina, reflecting the importance and size of this company. As the Reform Agenda envisages the partial privatization of the company, the Government of the Federation of Bosnia and Herzegovina may have found a middle-ground solution. Partial privatization would provide an influx of fresh capital and the introduction of new technological, marketing, logistics, and organizational solutions, while at the same time keeping the company partially state-owned.

However, open questions in the Reform Agenda include what percentage of the company will be privatized and a timetable specifying when concrete steps will be taken towards privatization, since the Agenda declares only that by 2018 the preliminary plans have to be developed in order to prepare for BH Telecom’s partial privatization.

The media is already speculating about who the potential buyers of BH Telecom’s shares would be, though such speculations may be premature. We expect that it will take some time before we know what the conclusion to the continuing story of BH Telecom’s privatization will be.

*Emina Saracevic, Managing Partner, and Saida Porovic, Associate, SGL - Saracevic & Gazibegovic Lawyers*

## Serbia

### Software Copyright Infringement in Serbia



Software developers face a great many obstacles when seeking to protect their copyrights in Serbia. According to public records, only 40.22% of taxpayers controlled by the Serbian Tax Administration in 2014 used legal software. The grim statistics come primarily from a lack of public awareness, inefficient sanctions, and understaffed state authorities.

However, one major cause for concern is that the lion's share of unlicensed software use lies not with private citizens, but within corporate structures.



A copyright holder who detects infringement of its software is not completely without resort, however; there are several lines of defense which the copyright holder can explore, including – most prominently – the initiation of administrative, civil, and criminal proceedings against infringers.

With recent reports of intensifying copyright protection in Serbia, these deserve a closer look.

Although it took quite a few years for the framework established by the Serbian Law on Special Measures for Protection of Intellectual Property to gain momentum, its framework gives active authority to the Tax Administration's Software Infringement Supervision Department to perform software legality inspections on the premises of corporate entities, either in the line of duty or at the specific request of a copyright holder. Because one of the key objectives of this mechanism is to raise awareness, the Tax Administration in practice gives the software infringer the opportunity to buy a license during the inspection and thereby to avoid commercial offense charges. Notably, this is only possible when it is the Tax Administration (and not the copyright holder) that instigates the inspection.

The effects of these legality inspections have slowly grown over the years. To take 2014 as an example, 72.12% of software infringers have bought software licenses during an inspection, whereas 23.86% entered the process of acquiring the license post-control. Only 1.88% were charged for criminal offenses.

Certainly, before undertaking any action, a copyright holder may choose to offer a suspected infringer the chance to purchase the relevant software license. Given that the aforementioned opportunity for the infringer to avoid commercial offense charges by buying the software license during an inspection may be denied by the Tax Administration when such inspection is instigated by the copyright holder, this gives an initial offer to buy the software considerable weight.

The issue of unlicensed software use should not, however, be seen solely from the perspective of the software developer. For a company oftentimes unaware of the type, versions, updates, and legality of each program used in every piece of hardware on its premises, this issue can naturally be problematic. Lack of diligence in this respect risks not only the administrative sanctions, costs, and expenses which may arise in relation to the performed inspections, but also those of potential civil and criminal liability.

The diligence required becomes even more burdensome where companies hire independent contractors who use their own devices for the company's benefit, or where the company's employees use personal computers for work-related purposes. In these situations the issue of liability for unlicensed use of

software on company premises is not as clear-cut. Additionally, this poses technical difficulties during any software legality inspections, as the inspections are limited to the property of the business entity, and inspectors cannot seize personal computers which are considered private property, even when these are located on business premises.

The civil liability angle has many degrees, given the broad definition of the Serbian Copyright Act, which states that any action in the sphere of exclusive copyright may qualify as copyright infringement. Most notably, a software copyright holder may, therefore, instigate civil litigation proceedings against an infringer and demand compensation for damages, using findings of previous inspections as critical evidence. Consequentially, the infringer may be ordered to pay an amount equal to a triple license fee for the infringing period. As this period may in practice span several years, this sanction may be quite severe. The copyright holder may also request that the court decision declaring that the infringer committed copyright infringement be publicized in the media, which can carry significant reputational risks as well.

Criminal liability chiefly revolves around the two criminal acts prescribed by the Serbian Criminal Code: unauthorized use of copyright-protected work (Article 199 of the Criminal Code), and software damaging (Article 298 of the Criminal Code), both of which may be sanctioned by up to 5 years imprisonment. For the corporate entity, however, the sanction of prohibition of further business activities due to criminal liability established under the Law on Criminal Liability of Legal Entities may be the most damaging.

In conclusion, Serbian law unquestionably has the tools to tackle copyright violation, even though these tools may need further sharpening in order to provide copyright holders with a swifter avenue for redress. A much greater goal, however, appears to be that of proper prevention – raising awareness and promoting due care of the need to observe and respect copyrights, for the benefit not only of the copyright holders, but also of Serbian corporate culture as a whole.

*Miroslav Stojanovic, Partner, and Andjelka Todorovic, Associate, Wolf Theiss*

## Greece

### A Change of Scenery in the Greek Media Industry – The Ambitious Plan of the Government to Restore the Sector's Integrity



Following six months of slow-track negotiations between Greece and its international creditors, an agreement between the parties on a new bailout program has now reached the finish line. In witness of the agreement, Greece's government submitted at the negotiating table a list of overhauls and policy commitments

to be implemented in consultation with the EC, ECB, and IMF, including, inter alia, major reforms in the current broadcast licensing procedure.



In an attempt to speed up and secure the direct applicability of the new regulatory framework in the media industry, the Minister of State announced the submission of a bill on broadcast licenses and the introduction of an international public tender procedure for the acquisition of television licenses in return for a fee for the acquisition and use of the relevant frequencies; the bill is currently placed under public consultation until late August.

The Greek government actually proposes to topple a well-established 25-year practice in the sector and restore legality in the operation of TV channels, which have been broadcasting since their launch, back in the 90s, under the regime of “provisional licenses” and within a poor legislative framework and licensing process. With respect to requests for tenders (RFTs), although a law enacted in 2007 explicitly provided for the acquisition of television licenses through tenders, all tenders offered over the last eight years for national and regional broadcasts as well as terrestrial pay-tv services have either been frozen or were never implemented, confirming the quasi-legal state of operation in the Greek media industry.

The new regulatory framework sets stricter evaluation criteria and higher standards on the licensing procedure and the operation of digital television channels, providing for a transparent two-stage procurement and tendering process (shortlisting and RFT). The supervisory body of tendering will be the Greek National Council for Radio and Television (NCRTV), an independent administrative authority that supervises and regulates the radio and television market. Potential bidders must comply with minimum capital requirements, origin of wealth, tax record, and shareholding structure standards, and they must ensure integrity on the technical and program content side.

In addition to regulating the licensing process, the Greek government eyes to restructure, through the enactment of the bill, the activities of the Hellenic Telecommunications and Post Commission (the national regulatory authority for the telecommunications and postal services market), ensuring its transparent and smooth operation and tackling long-standing monopoly policies in the Greek digital frequency management sector. To this end, the new legislative framework provides for the establishment of a subsidiary of ERT S.A. (the Hellenic Broadcasting Corporation public broadcaster), which will operate as a service telecommunications provider, securing a high-quality national network infrastructure, full digital coverage, and equal and fair network access terms within Greece. The presence of a new network provider will break up the current monopoly of DIGEA, which is, at the moment, the only carrier of Greek digital channels and sole participant in tenders for the acquisition

of licenses with respect to terrestrial digital broadcasts.

Although the Greek Government states that the new licensing scenery will boost full-time employment and secure low unemployment rates in the media market, television station owners have reacted to the implementation of the new regulations, arguing that the number of licenses to be issued and granted under the new regime will be reduced and current television stations will need to undergo the competition process anew, instead of being assessed through the implementation of a point system for existing television stations. In this respect, they threaten not to participate in the new licensing process, claiming that it imposes unreasonable financial demands against their business interests, leading the government to consider revoking their operating licenses.

The extent to which the government’s bill on broadcast licensing and tendering will end up as an antitrust policy safeguarding consolidation and stability in the sector or will, instead, serve unannounced plans of the government to ultimately gain complete control of the television landscape will be seen in the days following its enactment. Until then, it remains a bone of contention, triggering endless debates between the State and television owners and major shareholders.

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

## Bulgaria

### The Incumbent Bulgarian Telecommunication Operator Acquires Two Digital Terrestrial Television Multiplexes



The Bulgarian Telecommunication Company EAD (“BTC”) successfully closed the acquisition of two digital terrestrial television platforms (“DDT multiplexes”) in Bulgaria in July 2015. The transaction marks yet another attempt by local telecommunication operators, including BTC, to consolidate their activities over

the past two years on various Bulgarian markets. This trend appears to be largely driven by the increasing digitalization of telecom offerings to end-consumers and the corresponding need for access to infrastructure and sufficient bandwidth.

BTC is the largest Bulgarian telecommunications operator in terms of income. For 2014, it reported revenue of USD 454 million (EUR 400 million) and net profit of USD 14.6 million (EUR 13 million). BTC offers customers fixed-line and mobile telephony, as well as television and Internet services. In the last year, BTC was the only telecom on the Bulgarian market that managed to increase its client base in mobile services.

In 2014, BTC entered into an agreement for the purchase of

NURTS Bulgaria EAD and its subsidiary NURTS Digital EAD, which operate the two DDT multiplexes and broadcast the programs of Bulgarian public television and local commercial television channels. In addition, the targeted companies own infrastructure (base stations, etc.) that other telecommunication operators use to install their transmission devices (so-called “co-location”). Some of this infrastructure is located in far-flung places, in national parks, or on protected territories, and it can therefore be difficult and costly to replicate.



Details around the deal and its financing structure have not been made public. However, corporate and merger filings suggest that this was a share transaction for 100% of the capital of NURTS Bulgaria EAD, as a result of which BTC also acquired indirect sole control over NURTS Digital EAD. The value of the deal

is unclear at this point, though the price tag of NURTS Bulgaria EAD in a preceding acquisition was reportedly USD 108.9 million (EUR 100 million).

The transaction was subject to regulatory clearances in Bulgaria. The merger review took approximately nine months and went through initial and then in-depth screening for competition concerns. The Bulgarian competition watchdog extended its initial review into an in-depth review because of concerns about possible foreclosure of rival telecom companies from access to essential infrastructure for colocation. Those concerns were dismissed on the grounds that local telecom regulations oblige operators of such infrastructure to provide access to competitors. The merger clearance was rendered in early June 2015. Corporate filings indicate that the transaction was closed at the end of June or early July.

The acquisition comes at an interesting time for both BTC and the targets. BTC itself will likely be up for sale soon. VTB Capital, a subsidiary of the Russian VTB Bank, is expected to launch a sale of 100% of the shares in BTC’s sole shareholder, the Luxembourg-based InterV Investment Sarl, by the end of this year.

On the other hand, it is unclear for how long NURTS Bulgaria EAD and NURTS Digital EAD will retain their licenses for operating the multiplexes. In April 2015, the Court of Justice of the European Union found that the Bulgarian State breached European rules for electronic communications when staging the tenders for the licenses and, ultimately, awarding them to NURTS Bulgaria EAD and NURTS Digital EAD. The court was most concerned with the way competition on the Bulgarian markets for electronic communication networks and services was (or, rather, was not) ensured. The local legislation in force at the time of the tenders allowed for only two multiplexes to operate in Bulgaria, which stifled competition. In addition, the legislation also excluded television content suppliers that did not broadcast in Bulgaria from participation in the auctions. This obviously ran contrary to the European Union’s free movement

rules.

The court ruling prescribes no specific measures that the Bulgarian state must take in order to remedy the situation. However, senior state officials have already publicly admitted that a withdrawal of the licenses of NURTS Bulgaria EAD and NURTS Digital EAD is likely. If this happens, new tenders for the rights to operate the multiplexes would have to be opened, and foreign candidates would presumably be admitted to participate in them.

*Diana Dimova, Partner, and Dessislava Fessenko, Counsel, Kinstellar*

## Lithuania

### TMT Developments in Lithuania



When it comes to Technology, Media, and Telecommunications (TMT), Lithuania is proud of its record of having one of the fastest Internet connections in the world, the best fiber-optic internet network penetration in Europe, and the fastest public Wi-Fi in the world, as well as for producing large numbers of skilled IT specialists. So it is no surprise that a number of foreign investors – including Western Union, Barclays, CSC, Intermedix, and many others – have found Lithuania to be an attractive place to establish hubs for regional or global IT service centers. And this trend is expected to continue going forward.

As for traditional TMT companies, the last few years have seen a small but continuing reduction in the revenues of mobile operators mainly due to the high penetration of the market and the resulting intense competition on price. However, increasing sales of smartphones have resulted in higher demand for data, and, as a result, the opportunity for mobile operators to increase turnover. As a result, all mobile operators report revenue increases as high as 5 to 15% for consecutive quarters when compared to the same quarters last year, a very positive sign for this market.

The healthy financial results may eventually lead to the long-awaited-and-discussed exit from the market of the Mid Europa Partners fund with the sale of Bite UAB, one of the three leading mobile operators. This may be one of the largest market transactions in Lithuania.

Meanwhile, the payTV and Internet market has already experienced a major shift, starting in the beginning of 2015 with the sale of Cgates, the second largest service provider, by Advanced Broadband, SEB Venture Capital, and the SEB pension fund to Motis Shipping Lithuania Limited, the Starman group company which is owned by the East Capital fund. Prior to the

sale, Cgates had acquired several regional payTV and Internet service providers. Such market consolidation is starting to look like a trend, particularly as another larger player – Imit – is also shopping around, so further market consolidation is expected in the future.



As far as regulatory matters are concerned, the most important was probably the May 21, 2015, amendments adopted by the Lithuanian Parliament to the Law on Provision of Information to the Public (hereinafter “the Law”). The purpose of these amendments is to introduce more effective legal tools

to counter disinformation, incitement of hatred, and war propaganda – issues which have become significant in Lithuania’s media sector during the last few years. The problems started when several Russian TV channels broadcast programs which were deemed to have incited war and hatred by Lithuanian media experts. As a consequence, the Lithuanian media watchdog temporarily suspended the broadcasts of Russian TV channels on four separate occasions over the last two years. The last suspension was instituted in April and lasted for three months. It was directed at RTR Planeta, the Russian-language channel retransmitted in Lithuania via cable and satellite. As the broadcaster of this channel is registered within the European Union, this was the first time that a European watchdog had used the suspension procedure established in the Audiovisual Media Services Directive 2010/13/EU. The decision was approved by the European Commission.

The President of the Republic of Lithuania expressed great concern about the increased amount of disinformation being broadcast to Lithuanian viewers and put forward proposals to amend the Law which were supported by the Parliament. The new rules allow the Lithuanian media watchdog to take faster and more effective measures against media companies which broadcast war propaganda. In addition, significant fines of up to 3% of annual turnover may also be imposed on such companies. The definition of rebroadcasting was expanded to include all forms of rebroadcasting, and rebroadcasters themselves will now be obliged to follow the Lithuanian media authority’s decisions more closely, because failure to follow will result in significant fines. The amendments also established that media companies which publish war propaganda or calls to change Lithuania’s constitutional order will not be eligible for state funding for one year.

While these initiatives at first were met with certain criticism over potential restriction of free speech and freedom to disseminate information, they are now seen as essential measures in the current geopolitical environment, particularly when the audience size of Russian TV broadcasts that include propaganda is approximately 400,000 Lithuanian residents, or about 15 percent of the country’s population.

All these changes to the Law will come into effect on October

1, 2015.

*Gediminas Lisauskas, Partner, and Dariusz Miniotas, Senior Associate, Tark Grunte Sutkiene*

## Poland

### Amendment to the Polish Act on the Protection of Personal Data



On January 1, 2015, the amendments to the Polish Act on the Protection of Personal Data (the “PPD”) came into force. The main aim of the new law was to relieve companies of some regulatory obligations concerning, among other things, the processing of personal data. However, when reading the new law one can get the impression that, at least with respect to some of the new regulations, the intended business benefits were not achieved in practice.

#### Obligatory Data Protection Audits

One of the most significant changes introduced in the PPD concerns obligatory internal data protection audits. Audits must be performed on a regular basis and are aimed at verifying the compliance of personal data processing with the provisions of the PPD. This obligation applies to data controllers who have appointed a data protection officer (the “DPO”). Please note that at the same time the recent changes to the PPD removed the mandatory requirement to appoint a DPO.

The detailed rules concerning auditing obligations are set out in separate executory provisions to the PPD, which became effective on May 30, 2015. Pursuant to these provisions, the DPO must carry out internal audits in a scheduled or unscheduled manner. In addition, the DPO is obliged to perform similar audits at the request of the Polish Data Protection Authority (the “GIODO”). The latest rules, however, do not exclude the possibility of an independent inspection carried out by the GIO-DO itself.

Scheduled audits are to be carried out in accordance with a previously prepared audits plan, which specifies the date of an audit and the subject matter thereof, as well as the scope of activities undertaken during the audit. Unscheduled audits must be performed without delay after the DPO receives information of a personal data breach or there is a reasonable suspicion of such a breach.

Once the audit is complete, the DPO must prepare a report, covering among other things the actions planned or taken to satisfy the requirements of the PPD. Reports on audits carried out at the request of the GIO-DO must be provided to the GIO-DO.

### Limiting the Obligation to Register Personal Data Filing Systems



The PPD stipulates that the appointment of the DPO by a data controller is voluntary. However, it comes with some benefits. The PPD stipulates that data controllers who appoint a DPO and notify the GIODO of such an appointment are exempted from the obligation to register their personal data filing systems. The

GIODO keeps a register of DPOs for that purpose. However, the PPD stipulates that the DPO is obliged to maintain a register of personal data filing systems processed by a data controller, which in practice may turn out to be quite a demanding requirement. The PPD requires that the register of personal data filing systems kept by the DPO should be publicly available. In the case of keeping registers in electronic form, such a register should be accessible either via the website of the data controller or through the use of a computer located in the premises of the data controller or in printed form. In the case of keeping the register in paper form the DPO should permit any interested person to review the contents of the register at the office of the data controller.

### Facilitation of Data Transfers Outside the EEA

The last significant change to the PPD relates to data transfers. Before January 1, 2015, the prior consent of the GIODO to the transfer of personal data outside the EEA was required in a vast array of circumstances. Now, the GIODO's consent is not necessary if the company adopts model clauses approved by the European Commission or the Binding Corporate Rules (the "BCR"). However, the BCR can only be applied after they have been prior approved by the GIODO. As part of the BCR approval, the GIODO may conduct consultations with the data protection authorities of those EEA countries where the companies belonging to the relevant corporate group are based. These consultations are only optional, however, and even if the BCR were previously approved in one particular EEA country the GIODO is not bound by this ruling. Thus, the new Polish regulations concerning the approval of the BCR cannot be considered as fully adopting the mutual recognition principle that should apply to the BCR.

### Comment

Several months into the new law, we already see some doubts and concerns. First of all, the PPD does not indicate the date when the first internal data protection audit should be made. Secondly, the PPD lacks provisions that clearly explain whether data controllers who have not appointed a DPO must also carry out internal data protection audits in accordance with detailed executory provisions to the PPD. Finally, in practice the new law formalizes the obligations of the DPO and indirectly also data controllers who have appointed such a person, while the

intended purpose of the new law was different. Summing up, the new law can hardly be considered as facilitating the conduct of business.

*Ewa Kurowska-Tober, Head of the TMT/IP Department, and  
Lukasz Czynienik, Associate, Linklaters*

## Romania

### Romanian Data Protection Authority intensifies inspections to protect personal data



Much to the benefit of individual privacy rights, the last couple of years have seen a strengthening of the Romanian Data Protection Authority's (RDPA) role in ensuring protection of personal data.

This year the RDPA has intensified its inspections to ensure that technologies implemented by employers comply with the Romanian Data Protection Law (Law No. 677/2001), with particular emphasis on ensuring that employers' use of video surveillance complies with the RDPA's 2012 decision on the processing of personal data by video means (Decision No. 52/2012).

In April of this year, the RDPA issued a landmark decision declaring that an electronic system that both video monitored employees and scanned employees' fingerprints when they entered and left the employer's premises (implemented to monitor working hours) violated the Romanian Data Protection Law. Further, the RDPA held that video monitoring employee activities at work was a violation of the RDPA's 2012 video data decision, as the employer failed to ensure adequate protection of the employees' right to privacy because it did not demonstrate that the video was a necessary and a proportionate intrusion.

Additionally, the RDPA has issued a number of high fines this year, ranging from RON 8,000 (approx. EUR 1,800) to RON 11,000 (approx. EUR 2,500), for companies that failed to obtain RDPA authorization before implementing video systems to monitor the activity of their employees and/or customers. In its reasoning, which was upheld by Romanian courts, the RDPA stated that the implementation of video systems to monitor the activity of employees and/or customers fails to meet both the test of necessity and the test of proportionality, as video cameras installed in offices or customer areas process personal data on a scale larger than necessary. According to the RDPA this intrusion is not proportionate with the intrusion on the employees' and customers' rights to privacy.

Along this same line of Romanian authorities becoming more involved in protecting personal data, the new Romanian Criminal Code contains two new criminal offenses related to personal

data protection: violation of private life (the unauthorized audio or video recording of an individual), and disclosure of a professional secret (the unauthorized disclosure of information related to another person's private life by a professional).

### History of the RDPA

Romania's modern data protection law is fairly recent and can be traced back to 2001, when, as part of its accession to the EU, Romania ratified the EU's Personal Data Directive and transposed it into Law No. 677/2001 – the Romanian Data Protection Law. It was under this law that, in 2002, the Romanian Data Protection Authority was established to oversee compliance with the data protection law in the processing and transferring of personal data.

In a nutshell, the cornerstone of the Romanian Data Protection Law is the principle of safeguarding the private life of individuals – requiring that all processing of personal data must be based on the data owner's prior and explicit informed consent and subject to a proportional, specific, and limited scope of processing.

After a new RDPA chairman was appointed in 2013, the RDPA commenced a full-scale offensive to ensure compliance with the Romanian Data Protection Law. Shortly thereafter the RDPA issued two notable decisions.

In the first decision, the RDPA issued its biggest fine to date, amounting to RON 20,000 (approx. EUR 4,500), levied upon a notary office which had failed to protect the personal data of a wide spectrum of individuals, including customers, employees, and collaborators, when it published the personal data on the Internet without ensuring its confidentiality. In addition to the fine, the RDPA asked the notary office to enact a plan aimed at securing, in the future, any personal data of customers, employees, or collaborators, against any unauthorized disclosure or processing. Along this line, in 2015, the RDPA organized a training session with the Romanian Notaries Union, aimed at improving notaries' knowledge regarding the lawful processing of personal data.

In the other notable decision, the RDPA fined the Bucharest Sector 1 Prosecution Office RON 5,000 (approx. EUR 1,100) for the failure of its spokesperson to protect the personal data of a victim of a sexual offense, when the spokesperson revealed in a press conference the victim's full name without that person's consent.

Clearly data protection in Romania has come a long way over the last 15 years with the role of the RDPA becoming more and more valuable – a development which in the end will benefit all individuals whose personal data is processed under Romanian Data Protection Law.

*Marius Petroiu, Senior Associate,  
CMS*

## Ukraine

### IT Industry In Ukraine



Ukraine has been one of the leading providers of software development and IT outsourcing services in Central and Eastern Europe for the last several years.

Despite the general recession in the Ukrainian economy and a sharp decline in other industries, the IT industry continues to demonstrate steady growth. If the legislative changes to deregulate the industry and create a more favorable tax regime are adopted, IT stands a chance of becoming the most promising industry in Ukraine.

#### Current Industry Support Program

On April 8, 2015, the Ukrainian Government adopted a long-awaited 2015 action plan to support the country's IT industry. Among other things, the action plan provides for the development of bills to: (1) include definitions of "software," "supply of software," and "online service" in the Tax Code of Ukraine; (2) simplify the regulatory procedures for provision of IT services to non-residents; and (3) improve the provisions for allocation of intellectual property rights in computer programs and data bases created by Ukrainian employees and contractors.

It is important for the Ukrainian IT industry that these and other legislative changes are adopted.

#### Amending the Tax Code for VAT Exemption purposes

Back in 2012, the Parliament of Ukraine adopted some important tax incentives for the IT industry. Such incentives included: (1) a reduction of the corporate profit tax rate from 21% to 5% for IT companies that meet eligibility criteria and have registered with the tax authorities under a special procedure; and (2) the exemption of software supply from Ukrainian VAT.

The first incentive was abolished as of January 1, 2015 (though IT market players continue to lobby for its renewal), but the latter remains valid until January 1, 2023. The major issue with the VAT exemption is that the tax authorities and tax payers sometimes have different understandings of what qualifies as "software" and as "supply of software." The Tax Code of Ukraine is not totally clear about these matters, and the clarifications issued by the tax authorities have been of little help. It is expected that the changes to the Tax Code of Ukraine (i.e., to define the relevant terms in the code) will set the record straight.

#### Simplifying the Provision of IT Services to Non-Residents

Until recently, in order to be able to receive payments for IT

services provided to foreign clients, a Ukrainian IT freelancer needed to present its servicing bank with a service agreement with the foreign client and a document signed by the client and the freelancer confirming that the services have been provided. This requirement was burdensome and impeded the provision of IT services, in particular those provided via the Internet.

On July 7, 2015, the National Bank of Ukraine clarified that an offer made by a Ukrainian freelancer together with an invoice (payment under which is an acceptance of such offer) would be sufficient for the banks to transfer funds.

### Allocating Economic Intellectual Property Rights



Currently, if an employment agreement with a Ukrainian IT developer (or a service agreement with a Ukrainian independent contractor) does not clearly provide for an assignment of the intellectual property rights in a computer program or a database created under the agreement, there may be an issue with determining the owner of such rights. This is due to discrepancies in the Ukrainian intellectual property laws. The Civil Code of Ukraine provides that the economic intellectual property rights jointly belong to both parties, while the Copyright and Related Rights Law provides that they belong to the employer only.

It is expected that the laws will be amended to provide for the automatic transfer of economic intellectual property rights to employers or customers, unless otherwise agreed with employees or independent contractors. Such legislative change will be in line with provisions of the EU-Ukraine Association Agreement signed in March 2014.

### Resolving the Key Issue of the IT Industry

We expect that these legislative changes will have a positive impact on the Ukrainian IT industry – but they will not resolve the key issue facing the industry.

Due to rather high payroll tax rates, the majority of IT companies operating in Ukraine are hiring individual IT developers not as employees but as independent contractors. This is because the tax treatment of the independent contractor structure is financially much more favorable for both the companies and the independent contractors and makes the Ukrainian IT industry more competitive worldwide. At the same time, this structure gives rise to the risk that the Ukrainian authorities may reclassify these relations as employment relations, and therefore impose large fines and demand payment of additional taxes and social contributions.

This issue may only be resolved if payroll tax rates are decreased to a level where the independent contractor structure does not offer any material benefits for IT market players.

*Dmytro Fedoruk, Counsel, and Iryna Yelisyyeva, Lawyer,  
Clifford Chance*

## Czech Republic

### Cyber Barbarians at the Gate: Do We Have Effective Tools to Fight Cyber Crime?



The Czech Government has long been aware of the threats of cyber attacks that financial institutions, corporations, and commerce are facing. It has answered the call for action to fight cyber crime, and the Czech Republic has thus become one of the few countries to have cyber security laws in place. This article discusses the legal framework laid down by the Cyber Security Act (Act No. 181/2014 Coll., or “the Act”), effective since January 1, 2015, and discusses its potential to help fight cyber crime until the pan-European cyber security rules, currently still in proposal phase, are enacted.

#### Who is Concerned?

The Act sets out obligations only to individuals, legal entities, or public authorities in the field of cyber security which either provide communication services, operate communication networks, or administer important networks, information systems, or communication systems. End-users and content transmitted using electronic communications networks and services fall outside of the scope of the Act.

To meet the objectives laid down by the Act, two Computer Emergency Response Teams (CERT) were established – the governmental CERT and the national CERT. While the former is a part of the Czech National Security Authority (CNSA) and thus a state institution, the latter is operated by a private entity on the basis of a public-law contract with the CNSA. The role of both CERTs is to share important information and provide a coordinated response to Internet security incidents.

#### Obligations Under the Act

The scope of obligations under the Act varies depending on the services provided, the importance and systemic character of the information infrastructure, and the character of the service provider.

Providers of electronic communication services, operators of electronic communication networks, and entities operating important networks generally have only notification and general precautionary obligations, such as providing contact details to the national CERT or adopting reactive measures with regards to the cybernetic risks in a “state of cyber emergency” (to be declared by the Director of the CNSA). In addition, entities operating important networks are also obliged to report cyber security incidents to the national CERT and to detect cyber security events.

Administrators of critical information infrastructures, infor-

mation systems, communication systems, or important information systems have a broader range of obligations, including providing contact details to the CNSA, adopting reactive and proactive security measures, detecting cyber security events, and reporting cyber security incidents to the CNSA.



What obligations under the Act apply depends on whether or not a particular entity operates a “critical information infrastructure.” This term is only vaguely defined by the Act (and to some extent in secondary legislation). In addition to public entities, which by their nature operate critical information infrastructure, certain private entities such as power plants, hospitals, airports, and financial institutions would also be considered to operate critical information infrastructure.

Whether an entity is a critical information infrastructure operator depends on the criteria (e.g., quantitative thresholds) laid down by secondary legislation. The determination of the specific objects of critical information infrastructure is carried out by public authorities according to their particular competence (e.g. the Ministry of Industry and Trade, the Ministry of Health, or the CNSA).

### Implementation and Penalties

Businesses are advised to carefully analyze whether the regulation applies to them and to conduct their affairs accordingly. Should they fail to ensure compliance with their obligations or fail to fulfill the reactive measures, the NSA and the Ministry of the Interior, which carry out surveillance and monitoring, may impose a penalty of up to CZK 100,000 (approximately EUR 3,700) for each separate violation.

The imminent danger of penalties amounts to a sufficient impetus for businesses to put their operations in line with the legislation. It has been observed that while large businesses falling into the second category of obliged entities are generally well prepared for the implementation of the Act, small businesses may find themselves in need of external consultancy for the complicated process of implementation.

### Conclusion

Understanding whether and to what extent the Act applies is key in determining how to ensure compliance. To whom the Act applies has been one of the most discussed topics so far, as the Act has only been interpreted in limited instances. It is recommended that entities seek technological as well as legal advice in determining the applicability of the Act.

Even though somewhat opaque in its applicability, the Act is no doubt a good way forward in fighting cyber crime. Whether the Act will provide for an effective response to cyber attacks is yet to be seen.

*Jan Kotous, Counsel, and Katerina Kulhankova, Associate, Wolf Theiss*

## Hungary

### ISO 27018 Cloud Standard Brings a Welcome Degree of Uniformity to the Industry



Cloud computing is key to stimulating growth and creating jobs in Europe, but it requires a single cloud market, clear policies, and cloud standards. Currently, obstacles stemming from diverging national sales law rules result in a conflicting set of rules for contracting parties. In September 2012, the European Commission adopted a strategy for “Unleashing the Potential of Cloud Computing in Europe.” One main aim of this cloud computing strategy is to develop model contract terms that would regulate issues such as data preservation after termination of the contract, data disclosure and integrity, data location and transfer, ownership of the data, direct and indirect liability, change of service by cloud service providers (CSPs), and subcontracting. According to the Commission, identifying and disseminating best practices in respect of model contract terms will accelerate the take-up of cloud computing by increasing the trust of prospective consumers.

#### The First International Cloud Privacy Standard

On July 30, 2014, the International Organization for Standardization (ISO) adopted ISO/IEC 27018 – a voluntary international standard customized for cloud services, governing the processing of personal data by CSPs. It is expected that by providing a uniform and widely accepted standard of practice, ISO 27018 can help CSPs comply with Europe’s rigorous privacy standards and implement state-of-the-art controls for protection of personal data stored in the cloud.

The standard was developed in consultation with contributors from 14 countries and five international organizations and builds on the well-established ISO 27001, a comprehensive international security standard for implementing and maintaining an information management system. Until the adoption of ISO/IEC 27018, there was no international standard defining a set of controls and best practices deemed appropriate by industry and regulators for the processing of personal data in the cloud.

#### What Does the New Standard Mean for Cloud Services?

ISO 27018 is “advertising-free.” CSPs complying with ISO 27018 cannot use customer data for such purposes as advertising or marketing without the customer’s express consent. Moreover, the CSP must not require consent to advertising as a condition of the use of the cloud service. As a best practice under ISO 27018, the CSP should establish a retention period after which customer data will be permanently returned or

deleted and removed from all services. ISO 27018 also guides CSPs to disclose the identities of any sub-processor they engage who processes personal data. And, if anything changes, the CSP should inform customers promptly to give them an opportunity to object and terminate their agreement. Customers can be confident that an ISO/IEC 27018-compliant CSP will reject any requests for the disclosure of customers' personal data that are not legally binding. And if it needs to comply with a legally binding disclosure request (e.g. in relation to criminal investigations), the CSP must always notify the customer, unless prohibited from doing so by law. ISO 27018-compliant CSPs must specify how quickly they will notify customers of an unauthorized disclosure of personal data and how they will help customers fulfill their notification obligations. ISO 27018 also requires CSPs to record the type, timing, and consequences of any security incidents, the person to whom the incident was reported, the steps taken to resolve the incident, and so on – creating a record that will in turn assist customers in meeting their reporting obligations. In order to be certain of ISO 27018 compliance, CSPs must go through an assessment process and, to remain compliant, must undergo yearly third-party reviews.

### Practical Aspects of a CSP's Adherence to ISO/IEC 27018 Controls



By following ISO 27001 and the code of practice embodied in 27018, a CSP can ensure that its privacy policies and procedures are robust and in line with the highest standards. The ISO/IEC 27018 standard incorporates the input of multiple regional regulators and the use of cloud services that comply with it demonstrates support for the requirements

of many local data protection authorities. The standard brings a welcome degree of uniformity to the industry, and adds needed protections to improve data security and compliance in an increasingly cloud-based information environment. This is particularly important for government customers, or those in industries with greater regulatory requirements, who are often subject to stricter obligations to protect information in their care.

### Using Cloud Computing Technologies in Hungary

In the recent years, several big companies in Hungary have been using cloud computing technologies, in particular for their e-mail systems. For example, at the end of 2012, MKB Bank (at that time, a Hungarian subsidiary of Bayerische Landesbank) launched a pioneer pilot project, focusing on outsourcing and cost mitigation. The Microsoft Office 365 service package was chosen. The banking and insurance sector must comply with more rigorous privacy and data security requirements, and therefore the bank's cloud-based solution – used by more than 3,000 members of its staff – had to be completely risk-free. Ensuring compliance required lengthy legal discussions, but the

final contract turned out to be satisfactory for all participants. MKB Bank's pilot project can be seen as a real pioneer, and its success may provide a green light for the further application of cloud computing and an endorsement of a possible common platform for law and data security in the Hungarian banking world.

*Dora Petranyi, Partner, and Marton Domokos, Senior Associate, CMS*

## Croatia

### Incentives for Investments in Audio-visual Work Production in Croatia



Croatia introduced fiscal incentives for investing in audio-visual production work in 2012. Following Croatia's accession to the European Union ("EU") on July 1, 2013, this already-existing fiscal incentives program was reviewed by the European Commission ("EC") under procedures specified by the Treaty on the

Functioning of the European Union ("TFEU"). According to the TFEU, any aid granted by a Member State which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

The EC then examined the fiscal incentives program's compatibility with the internal market, and in particular the general purpose principle, which includes the assurance of respecting the principles of non-discrimination on the grounds of citizenship, free movement of goods, free movement of workers, freedom of establishment, freedom of services, and free movement of capital.

The EC carried out an examination of the incentives' compatibility with the Communication on Cinematography and concluded that the incentives program did constitute state aid under the terms of the TFEU and is compatible with the internal market. In accordance with the Communication on Cinematography, Croatia was required to ensure that incentives focused on products were in line with the national criteria and culture, and also to establish an effective control mechanism for granting aid.

According to the same EC decision, the incentives program can be used in Croatia until December 31, 2019.

### Some of the Terms for Receiving Incentives

Croatia has adjusted its laws and regulations relating to these incentives to the EC-approved program measures and has assigned the means, terms, time limits, criteria, and other terms

for receiving these incentives.

*Qualification Test*

Incentives can be granted only to projects that reach an assigned number of points through a qualification test. The test determines the cultural value of the work, contribution of the human potential of the Republic of Croatia and of other states of the European Economic Area (the “EEA”), and the utilization of Croatian production potential.

Soap-operas, situational comedies (“sitcoms”), and productions that promote violence, racism, and similar anti-social tendencies are expressly excluded from the right to these incentives.

Aid is not permitted for special production activities, except for writing screenplays, production development, content distribution, or advertising.

The qualification test also considers the location of the shooting and the employment of staff (such as actors and other employees engaged in the production phase), including citizens of other EEA states.

*Financial Terms*

Since this type of aid is non-refundable, the criterion for receiving aid is attached to the cost of production in Croatia, which can be no less than HRK 2 million (approximately EUR 261,000) for feature films, HRK 300,000 (approximately EUR 39,000) for a documentary, HRK 500,000 (approximately EUR 65,000) for an animated movie, HRK 1 million (approximately EUR 130,000) for a television movie, and HRK 750,000 (approximately EUR 98,000) per episode of a television series.

The intensity of the aid amounts to 20% of the justified production cost of each audio-visual work incurred in Croatia but cannot exceed HRK 4 million (approximately 520,000 EUR), except in exceptional cases assigned by law.

*Aid Beneficiaries*

An aid beneficiary can be any entrepreneur registered for audio-visual production in the Republic of Croatia, except those in bankruptcy or liquidation or with financial difficulties. Aid cannot be given to an entrepreneur who has failed to meet the legal requirements imposed by the Croatian government.

**The Importance of Audio-Visual Industry Incentives for Croatia**

According to data presented by the Croatian Audio-Visual Centre (the “HAVC”), the Croatian audio-visual industry is comprised of 358 companies employing approximately 1,000 workers, and it constitutes about 0.8% of the state budget.

According to research by The Institute of Public Finance, the Croatian audio-visual sector is efficient and profitable in terms of European and world standards, but it is also insolvent and in debt. The estimated direct added value of the audio-visual business is relatively small in terms of total Croatian GDP (around

0.1%), but there is a favorable growth trend of the industry.

In the 3 years since the HAVC began administering the incentive system for investments in audio-visual production, local production revenues have increased from EUR 3.2 to EUR 10.8 million.

In the last 3 years, Croatia has managed to collaborate with the producers of the popular “Game of Thrones” television series, which was shot in several locations in Croatia, as well as with producers of television series such as “Borgia”, “Christmas in the Sun”, “Jonathan Strange & Mr. Norrell”, and “Dig.”

These types of measures are an incentive for film tourism and are useful for national PR, as they directly stimulate economic development and profitability not just for the film business but for all related industry branches such as tourism, production, and transport.

*Aleksandra Raach,  
Attorney at Law/odvjetnik in cooperation with Karanovic & Nikolic.*

**Austria**

**Transfer of Personal Data in the Context of Safe Harbor**



**Introduction**

Many cloud providers are based in countries that are not members of the European Economic Area (EEA) and have lower privacy standards. An Austrian organization using services offered by cloud providers is responsible for its decision to process personal data and acts as the controller, so Austrian data protection law applies.

This paper describes the implications of cloud computing that need to be considered in light of the Austrian Data Protection Act (DSG), the decision practice of the Austrian Data Protection Authority, and the latest developments around Safe Harbor.

**Safe Harbor**

Pursuant to the DSG, which was enacted in 2000, the transfer of personal data to service providers between EEA member states requires no permission. The transfer of data to service providers in countries outside the EEA requires permission from the DSB unless there are exemption regulations or the service provider is a U.S. organization that holds Safe Harbor certification.

Safe Harbor is a decision of the European Commission (EC) allowing for a self-certification of US companies to comply with the EU Directive 95/46/EC on the protection of personal data. Safe Harbor should prevent accidental information disclosure

or loss.

The Safe Harbor principle of Onward Transfer as laid out in Commission decision 2000/520/EC permits transfer of data to other organizations that follow adequate data protection principles and the use of subcontractors as well. The transfer of personal data to subcontractors that are based outside the EEA and hold no Safe Harbor certification is only permissible if the Safe-Harbor-certified main service provider contractually obliges its subcontractors to comply with the Safe Harbor principles.

### *Safe Harbor against the Backdrop of Recent Developments*



Although Safe Harbor is currently in force, the EC said in a recent statement that it reserved the right to change or even suspend that framework. A suspension of Safe Harbor would remove the legal basis from many data transfers. This scenario is particularly sensitive in view of the latest revelations about the NSA's clandestine PRISM surveillance

program. Privacy authorities, especially in Germany, are calling for a stricter examination of Safe Harbor compliance, because it cannot be verified whether the Onward Transfer of data to third-country organizations, over which the Federal Trade Commission (FTC) has no jurisdiction, complies with the principles. Moreover, these authorities argue that the U.S. government's right to access this data undermines the Safe Harbor principles.

Thus, the reference for a preliminary ruling exercised by the High Court of Ireland before the European Court of Justice (ECJ) in July 2014 poses a threat to the existence of the Safe Harbor framework. The ECJ is requested to decide, with regard to the Charter of Fundamental Rights, whether privacy authorities must in any case recognize the Safe Harbor Framework or whether they would be entitled and perhaps even obligated "in light of actual developments" to launch their own investigations into the permissibility of data transfers and disclosures. A ruling is yet to be made.

### *1.2. The Position of the Austrian Data Protection Authority (DSB)*

The DSB has so far avoided taking a stand on the permissibility of data transfers as per Safe Harbor which suggests that it currently feels no need to take action, as long as the Safe Harbor Framework is in force and data is only transferred to organizations over which the FTC has jurisdiction. In the opinion of DSB officials, passing the data on to subcontractors in the cloud but outside the jurisdiction of the FTC would require permission. However, giving permission to all cloud subcontractors is impossible because it is unclear which data are transmitted to which subcontractors. Besides, the DSB takes a very long time to process requests. Therefore Austrian organizations try to additionally commit Safe-Harbor-certified cloud providers to the

EC's standard contractual clauses (SCCs).

This creates the contractual basis for an Onward Transfer outside Safe Harbor, because the SCCs also provide for an Onward Transfer, which differs in that subcontractors arguably do not have to be subject to the jurisdiction of the FTC.

Some DSB officials consider this a practical approach. If the request concerns a case involving a cloud provider based and certified in the U.S., the DSB, for a lack of jurisdiction, would have to reject the request for an authorization of the SCCs. But the advantage is that, unlike the use of SCCs in Austria, which is subject to approval, this solution would at least provide some justification for starting data applications without awaiting approval. This would only constitute a regulatory infringement for failing to obtain the appropriate approval.

### **Conclusion**

If data is to be transferred to U.S. cloud providers, it is highly recommended that organizations additionally stipulate the SCCs, which permit an Onward Transfer even if the subcontractor is not subject to FTC jurisdiction. As a precaution, organizations may file a request for the approval of the use of SCCs and may start the data applications with the justification that the DSB does not even have the authority to approve Safe Harbor cases.

*Johannes Juranek, Partner, and Johannes Scharf, Associate, CMS*

## Latvia

### TMT Developments in Latvia



Development of technologies is a never-ceasing process, and in line with the increased possibilities offered by technologies our daily life is irreversibly changing, though sometimes seemingly slowly and imperceptibly. The technology development processes in Latvia have not remained intact, and there have been several changes introduced in the area of

TMT which influence everyday life in Latvia.

### **Electronic Signatures**

Although the possibility to sign documents using a safe electronic signature has existed in Latvia for almost 10 years, many in the country have been slow to adopt this convenient and efficient tool. The situation may change rapidly in the near future, as there has been a strong push for change. Latvia has adopted material amendments to the procedure of registration of mortgages and commercial pledges by providing for wider use of electronic signatures during the procedure of registration

and cancellation of pledges, while banks have been instructed to sign all documents related to the cancellation of mortgages electronically. Previously, the law required signatures on the documents to be submitted for registration, amendment, and cancellation of mortgages and commercial pledges to be certified by notary, and the accompanying expenses were completely assumed by borrowers. Owing to these changes, the expenses related to registration and cancellation of pledges and the time borrowers have to spend preparing and submitting the necessary documents have decreased considerably.



Another positive change is the introduction of a new format of electronic signature developed in accordance with the regulatory requirements of the European Union, which provides for signature and verification of electronic documents by the electronic identification cards of all three Baltic States (i.e., Estonia, Latvia, Lithuania). Those changes are

essential, since there is a significant number of companies in Latvia with officials or owners from Estonia and Lithuania. As a result, in the past, obtaining signatures of ordinary corporate documents frequently caused incommensurably high costs, since the official or owner of the company had to come to Latvia in order to provide them. This change will facilitate economic cooperation and strengthen ties among the three Baltic States.

### LMT and Lattelecom – Will There Be a Merger?

The potential merger of Lattelecom and LMT has become one of the most significant and discussed issues in the area of telecommunications in Latvia. Lattelecom is one of the largest information and communications technology companies in the country, offering the widest range of fixed telephony communications, Internet, and television operator services. LMT, in its turn, is the first and one of the largest mobile communications operators in Latvia. The largest shareholders of both companies are, either directly or indirectly, the State of Latvia and the Swedish company TeliaSonera. Rumors of the potential merger of these companies have been common for several years, but they have become stronger now, since both the representatives of TeliaSonera and the representatives of the government of Latvia have engaged in discussions of the topic and have expressed their opinions. Although none of the leading political parties of Latvia has yet expressed its explicit support to any of the potential merger scenarios, several representatives of the government have confirmed their readiness to engage in further discussions and assessment.

The company that would result from this merger would actually have no equivalent competitors in Latvia, considering the range of offered services. On the one hand, a merger would provide material efficiency benefits for both companies, and, at least in the short-term, might allow customers to receive a full range of services from one company for a potentially lower price. On

the other hand, there is a risk that in the long-term the merger would have the adverse effect of decreasing competition in the telecommunications market. The Competition Council will, inter alia, have to assess those factors when deciding whether and on what conditions to permit a merger of those companies, should it come to pass. We assume that this issue will remain topical for a long time, and a fast solution may not be likely due to the complexity of the transaction.

Only by looking back into the past and lingering in our memories are we able, sometimes, to understand the scope of change we have actually experienced, and to objectively assess its significance. The previous changes and trends allow for the hope that the ongoing development in the area of TMT in Latvia is aimed at expanding the options offered to inhabitants and improvement of the quality of their lives.

*Linda Strause, Partner, and Raivis Znotins, Associate,  
Tark Grunte Sutkiene*

## Turkey

### Turkish Regulations Struggle to Keep Up With Internet Use



Turkey is among the most active countries in the area of Technology, Media, and Telecommunication (TMT). According to several studies, Turkey's online audience is one of the world's largest and most engaged, with one of the highest webpage consumption rates per day. Similarly, social media usage is prevalent in Turkey, which is said to be among the top ten countries in terms of the number of Facebook users. According to at least one report, as of the last quarter of 2014, 52% of the Turkish population were active social media users.

Online applications are also popular in Turkey. For example, in the banking sector, according to a survey published in 2015 by ING Group NV, Turkey is the only country in Europe where more than half the population say they have used mobile banking services, compared to a European average of one-third. Application development and usage have picked up significantly, creating room and opportunities for start-ups, entrepreneurs, and investors.

Naturally, the Government is trying to catch up with the high-speed pace of change in the Turkish TMT market. Recently, new laws have introduced changes in the e-payment services, telecommunications, e-commerce, and Internet sectors. Eliciting the most chatter in the TMT field, though, are the recent changes made to Law No. 5651, commonly known as the Internet Law, and the enactment of the long-awaited e-Commerce Law.

Since February 2014, amendments to the Internet Law have increased government control and supervision of the Internet, burdening content, hosting, and most of all, Internet service providers (“ISPs”) with stringent compliance obligations.



Some ISPs have claimed they are not able to comply with the onerous new rules as their operations may not have the scale to justify the investment required. Also, the information flow between ISPs and the regulatory authorities may be interrupted, causing miscommunication or delays in compliance. These arguments, however, do not always serve

as valid justifications for noncompliance; sector players must comply without regard to the size of their operations or problems they face.

An important change in the Internet Law has been the introduction of a mechanism for individuals to directly demand access-blocking orders from administrative bodies as an alternative to the courts. One of the grounds that individuals may use to obtain a blocking order is that the content infringes on their privacy. Although applying directly to the regulators instead of the courts may be easier for individuals, critics argue that this eliminates – at least at the initial stages – the judiciary’s supervision of privacy claims, potentially leading to restriction of free speech by a governmental organization, rather than by the Parliament or courts.

This new mechanism may, however, serve as an equivalent to the EU’s so-called “right to be forgotten.” Even though Turkey astonishingly has no data protection law or court precedent recognizing the “right to be forgotten,” the Internet Law now lays grounds for its exercise, allowing individuals to have information, videos, or photographs of themselves deleted from Internet records so they cannot be found online.

Again, Turkey has no umbrella data protection law addressing privacy concerns on a parliamentary level. Still, the recent enactment of the E-Commerce Law is an important step forward, not only for online shopping and marketing but also in terms of data protection legislation.

The long-awaited E-Commerce Law, which entered into force on May 1, 2015, regulates direct marketing and e-commerce activities, parallel to its EU counterpart. Among many other new rules, the E-Commerce Law regulates the use of individuals’ personal information in direct marketing. Now, commercial messages for direct marketing, including emails and phone calls, can be sent to a consumer only if the consumer has given prior approval.

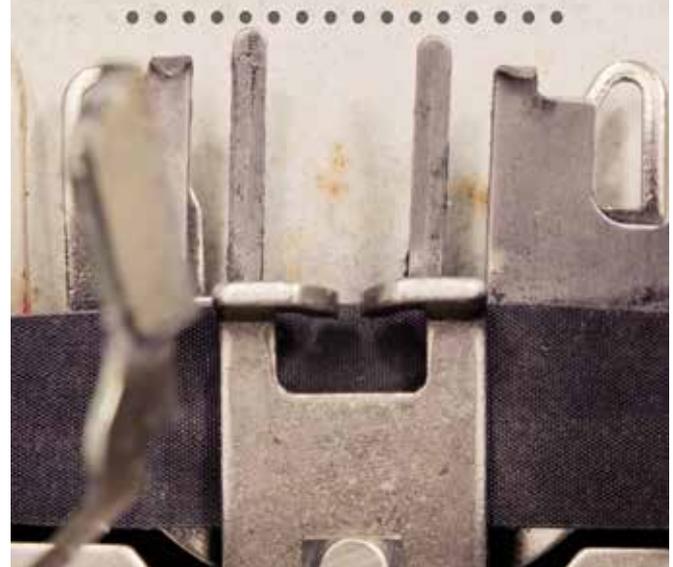
The E-Commerce Law also prohibits companies and intermediaries from transferring personal data to third parties without consumer consent, or using data for purposes other than what it

was primarily collected for. Companies are now required to protect their customers’ personal data and take security measures to prevent data breaches. Although introduction of these rules is a significant development, the absence of an umbrella data protection law still leaves substantial legal gaps.

Technology attracts not only entrepreneurs and the general public but also regulators seeking to govern all interested parties’ rights and obligations, and to ensure that legislative activity keeps up with the unprecedented pace of the Turkish peoples’ ever-growing appetite for technology. In addition to the Internet Law and the E-Commerce Law, there are new rules and laws in the areas of e-payment services, telecommunications, and media. While not always considered a step forward, Turkey’s legislative activities in the TMT market are nevertheless important, and both established companies and entrepreneurs should keep a vigilant eye on them.

*Dan Matthews, Partner, Baker & McKenzie,  
and Hakki Can Yildiz, Senior Associate,  
Esin Attorney Partnership, a member firm of Baker & McKenzie*

## Helpful Tips



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



# Next Issue's Experts Review

## Infrastructure/PPP

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