



CEE

LEGAL MATTERS

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

Guest Editorial by Iulia Berea of Arcliffe ■ Across The Wire: Deals and Cases ■ On The Move: New Homes and Friends

The Buzz ■ Inquiry Into IP: Three CEE Boutiques ■ Face-to-Face: Pal Jalsovszky and Ildiko Kollar

Flugger Marches On: Interview with General Counsel Torben Schwaner Dehlholm ■ The Kuria Agrees: Facebook's Service is "Free and Always Will Be"

Turkey Guest Editorial by Tarik Guleryuz of Guleryuz & Partners ■ Nazali: Expanding Horizons ■ Market Snapshot: Turkey

Greece Guest Editorial by John Kyriakides of Kyriakides Georgopoulos ■ Checking In with Greece ■ Experts Review: Labor in CEE

1 Getting things done

2 Prepared to stand out

3 Building long-term relations

4 Serving as a gateway

5 Going where eagles dare

PENTERIS

Keeping you ahead of the market

EDITORIAL: THE LAWYER IN THE FAMILY

By Radu Neag

Full disclosure: I'm a law school dropout. I quite enjoyed studying History in high school and my favorite extracurricular was competitive debating. When the time came to pick a college major, I thought that law school would be a good fit. It wasn't.

Mostly because of how it was taught – there was a lot of rote learning, codes and definitions were the main focus, and surprisingly little analysis was required – I only completed the first two years. While I did enjoy Roman Law courses, moot court competitions, and the couple of open-book exams we sat for, I found the rest of it dreadfully boring. When one of my professors, for the hundredth time, answered a question with “because the legislature, in its wisdom, decided it should be so,” I said enough was enough. I switched my major to sociology (they answer every question with “it's complicated”) and never looked back.

Fast forward a good fifteen years and I'm negotiating contracts and striking deals with my soon-to-be three-year-old son. A couple of months back, his mother and I decided it was time to renew our efforts towards potty training. So, we struck a deal: If he agrees to stop wearing diapers, we'd put that money towards a shiny new garbage truck (garbage collection, the recycling bins, the rules for what goes where, and the trucks themselves are a big deal with toddlers).

He had a couple of very specific requests. Not just any truck would do, it had to have the working internal mechanism for moving and compacting the trash – so a garbage compactor truck – and multiple separate color-coded bins had to be included. “Yes, sure, whatever,” we said, “he's a two-year-old, what does he know?” We were ready to tick the whole thing off our list.

So, on my way back from a recent trip to our HQ in Budapest, I brought him the garbage compactor truck, with all bells and whistles, as instructed. He was over the moon and, as per

our agreement, switched to wearing underwear on the same day.

Trouble is – as he so eloquently put it – that's all he agreed to do in exchange for the truck: give up diapers. He did not agree to go potty, use the toilet, or even tell us when he needed to go. We revisited the negotiations every day for the next couple of weeks, and he was adamant: “Not wearing diapers, got my garbage truck, deal closed, and happy about it.” He could not be sweet-talked, bribed, or pressured into amending the contract after the fact.

That left my wife and I (two intelligent adults, we like to think) outsmarted by a two-year-old. We should have read the fine print – the devil really is in the details when toddlers are involved.

In hindsight, we should have seen it coming – he's headstrong, rule-oriented, and focused (as far as toddlers go). It took me about two months, a year ago, to move a lamp from one room to another (every couple of days I'd try to move it and he'd move it back to “where it belongs”).

We took to calling him the lawyer in the family. So, paternal pride aside, I have a couple of questions:

Would he make a good lawyer? Or is it just that I would have made a terrible one?

Do lawyers also get outplayed when striking deals with their two-year-olds? I would honestly feel better if that were the case. ■



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

GUEST EDITORIAL: HOW IT ALL STARTED

By Iulia Berea, Partner, Arcliffe



More than 15 years ago, when I graduated from law school in Romania, there were few opportunities for a young lawyer. You could either be an apprentice for a senior lawyer, your ‘master’ as they were called, trying to ‘steal know-how’ from anywhere you could, or, for the luckier ones, you could be employed by one of the only two business consulting law firms that were on the market – a national one and the only international law firm – Linklaters. I was one of the lucky ones. I passed my bar exam and started working as a junior lawyer in the latter. And

thus, my journey as a CEE lawyer began.

The legal climate in CEE was vastly different at the time. First, there were just a few international firms in the region, such as Linklaters, White & Case, CMS, *etc.*, so getting a job as a young lawyer in one of these firms was ‘a big deal.’ For me, this was the best school I could have possibly asked for. I still remember that I was a newbie in the office when I was assigned to draft the Regulatory Chapter for a privatization project for a large bank, even though I had never heard of such things before in law school.

I started the project without knowing what I was getting into, but that’s what made things interesting in this field: I was always supposed to search, discover, and learn new things. Maybe it’s difficult to imagine nowadays, but there was no easy way to Google everything at the time. We all had to go to the library and take out each Official Journal, internal records, or files, and search by hand for any relevant piece of legislation or precedent. Still, I was always excited to check off points on my to-do lists, I was continuously learning, and I always got new challenges to overcome. And there was no better schooling than being involved in cross-countries projects.

Those were times when young graduates had many chances to make a difference in their lives. All international law firms

wanted to teach them business law at high standards, to shape them instead of choosing already experienced lawyers. It was a ‘challenging’ time for everyone, as laws were changing a lot, the European Union was expanding a lot, new treaties were signed, and the whole world was moving quickly towards the Europeanization of legislation. And then the magic happened: Romania joined the EU and the borders opened not only for traveling but also for working anywhere in Europe. It was great for a young lawyer like me to be given the opportunity to travel to Linklaters offices in Europe and learn from lawyers with lots of experience and a different perspective. What I learned from my CEE experience is that a broad vision and the capacity to discover things where others see nothing is what makes a good lawyer. It is the capacity to see a project from different jurisdictions’ perspectives and integrate them into one outcome suitable for the client. The legal marketplace was in its early stages back then, but it was a good beginning with big cross-border transactions and privatizations.

Today, the region has evolved a lot – many of those trained by the top legal firms ended up with their own firms and a reputable client base, so now the legal market consists of many well-known mid-sized law firms built from scratch in the past years. There is now healthy competition and there are more opportunities on the market. Many CEE lawyers’ networks have been established, opening the chance to work on an integrated basis on multijurisdictional projects. And there are no borders from here.

When I think about the roots of today’s CEE legal field, I feel I have lived through a unique time with professionals from all over Europe, who imported and adapted concepts from different law systems to national legal systems. These were people who made a real difference in today’s legal field and who helped us all become who we are today.

The new generation of young lawyers, building their way up into the CEE legal market, has many opportunities nowadays and chances to work up a name in this field, within a well-developed and diverse private practice or in-house market, having great mentors trained by top multinational law firms. ■

TABLE OF CONTENTS

PRELIMINARY MATTERS

- 3 Editorial: The Lawyer in the Family
- 4 Guest Editorial: How It All Started

ACROSS THE WIRE

- 6 Across The Wire: Deals and Cases
- 14 On The Move: New Homes and Friends

LEGAL MATTERS

- 20 The Buzz
- 36 Inquiry Into IP: Three CEE Boutiques
- 42 Face-to-Face: Pal Jalsovszky and Ildiko Kollar
- 44 Flugger Marches On: Interview with General Counsel Torben Schwaner Dehlholm
- 46 The Kuria Agrees: Facebook's Service is "Free and Always Will Be"

MARKET SPOTLIGHT: TURKEY

- 51 Guest Editorial: Impressions From the New Kid on the Block
- 52 Nazali: Expanding Horizons
- 56 Market Snapshot: Turkey
 - 56 The Turkish Agricultural Sector and the Impact of ESG Awareness and Regulation in 2021
 - 57 Merger Control Trends in Turkey
 - 58 Data Protection – An Overview of 2021 and What To Expect in 2022
 - 59 Crowdfunding in Turkey in Light of Current Regulations

MARKET SPOTLIGHT: GREECE

- 61 Guest Editorial: A Brief Insight Into the Greek Legal Market
- 62 Checking In with Greece

EXPERTS REVIEW

- 68 Labor in CEE

ACROSS THE WIRE: DEALS AND CASES

Date Covered	Firms Involved	Deal/Litigation	Value	Country
16-Nov	Bird & Bird; Freshfields; Schoenherr	Schoenherr advised European Rail Rent on its partnership with new co-shareholder Antin Infrastructure Partners. Bird & Bird advised ERR in Germany, while Freshfields Bruckhaus Deringer advised Antin on the deal.	N/A	Austria
19-Nov	BPV Huegel; KPMG Legal; Orrick Herrington & Sutcliffe	BPV Huegel advised Microsoft venture fund M12 and Point72 Ventures on their USD 20 million investment into Blackshark.ai. KPMG Law advised Blackshark. Orrick, Herrington & Sutcliffe reportedly advised M12 as well.	USD 20 million	Austria
25-Nov	Herbst Kinsky	Herbst Kinsky advised PhagoMed Biopharma's shareholders on the sale of the company to BioNTech.	N/A	Austria
30-Nov	Schoenherr	Schoenherr advised the Liechtenstein Group as lead investor in a EUR 40 million financing round for Tesvolt.	EUR 40 million	Austria
8-Dec	Binder Groesswang; Schoenherr; Squire Patton Boggs	Schoenherr advised Sanofi on the acquisition of Origimm Biotechnology. Binder Groesswang advised Origimm founder, co-shareholder, and managing director Sanja Selak. Reportedly, Squire Patton Boggs' Frankfurt office also advised the sellers.	N/A	Austria
16-Nov	Cerha Hempel; Egorov Puginsky Afanasiev & Partners; Maric & Co.; Noerr; Radovanovic Stojanovic & Partners; Tos & Partners; Zuric i Partneri	Radovanovic Stojanovic & Partners and Cerha Hempel advised AIK Banka, Gorenjska Banka, and Agri Europe Cyprus on their acquisition of Sberbank Europe's shares in six CEE banks. Noerr advised the buyers on Hungarian law, while Maric & Co, Zuric and Partners, Tos & Partners, and Egorov Puginsky Afanasiev & Partners reportedly advised the buyers on Bosnian, Croatian, Slovenian, and Russian matters, respectively.	N/A	Austria; Bosnia and Herzegovina; Croatia; Hungary; Russia; Serbia; Slovenia
23-Nov	AKK; Herbert Smith Freehills; Kapolyi; Python; Vukmir & Associates; White & Case; Wolf Theiss	Vukmir & Associates and Kapolyi, working together with Herbert Smith Freehills' Paris office, advised Engie on the spin-off and sale of its construction and services business to Bouygues. White & Case's Paris office advised the Engie board of directors. Reportedly, Wolf Theiss, AKK, and Python Avocats also advised Engie in Austria, the Czech Republic, and Switzerland, respectively.	N/A	Austria; Croatia; Czech Republic; Hungary
6-Dec	Schoenherr	Schoenherr advised Slate Asset Management on the acquisition of a portfolio of real estate assets in Austria and Slovakia for approximately EUR 90 million.	EUR 90 million	Austria; Slovakia
18-Nov	Boyanov & Co	Boyanov & Co advised the European Investment Bank on increasing the financing of Oliva AD.	N/A	Bulgaria
25-Nov	Eisenberger & Herzog; Kinstellar; Wolf Theiss	Kinstellar and Eisenberger + Herzog advised Belgian KBC Group subsidiary KBC Bank on its EUR 1 billion acquisition of Raiffeisen Bank International's Bulgarian subsidiary Raiffeisenbank. Wolf Theiss advised the seller.	EUR 1 billion	Bulgaria
22-Nov	Kovacevic Prpic Simeunovic; Savoric & Partners	Savoric & Partners advised Agrofert on the acquisition of Agronom in Croatia. Kovacevic Prpic Simeunovic advised Agronom on the deal.	N/A	Croatia
1-Dec	Divjak Topic Bahtijarevic & Krka; Macesic & Partners	Divjak, Topic, Bahtijarevic & Krka advised M7 Central European Real Estate Fund I on its sale of the Mani Business Center to the Raiffeisen Pension Insurance Company. Macesic & Partners advised Raiffeisen.	N/A	Croatia
10-Dec	Savoric & Partners	Savoric & Partners advised the consortium of APM Terminals and Enna Logic on the 50-year concession agreement for the development and operation of the Zagreb Deep Sea container terminal with the Rijeka Port Authority.	N/A	Croatia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
18-Nov	Hartmann, Jelinek, Frana and Partners; Havel & Partners	Havel & Partners advised Ptacek-Sprava on the acquisition of 100% shares in Prostorage and Retail Park Car CB from Czech investment group DRFG. Hartmann, Jelinek, Frana and Partners reportedly advised the sellers on the deal.	N/A	Czech Republic
18-Nov	Havel & Partners; PRK Partners	Havel & Partners advised Ptacek-Sprava on the acquisition of all shares in Industrial Park Harfa. PRK Partners advised the unidentified Czech sellers.	N/A	Czech Republic
18-Nov	Kocian Solc Balastik	Kocian Solc Balastik advised the Arete investment and real estate group on the closing of its ARETE Invest CEE II sub-fund.	N/A	Czech Republic
19-Nov	DLA Piper; Jones Day	DLA Piper advised BAE Systems on its acquisition of Bohemia Interactive Simulations from the Riverside Company. Jones Day advised Riverside on the deal.	N/A	Czech Republic
19-Nov	Havel & Partners	Havel & Partners advised Czech mobile device accessories manufacturer and distributor Fixed.zone on its initial public offering of shares on the Prague Stock Exchange's Start Market.	N/A	Czech Republic
23-Nov	Clifford Chance; Kocian Solc Balastik	Clifford Chance advised Komerční Banka on financing J&T Agriculture and Ecology Holding's acquisition of agricultural holding Farma Neznasovy (formerly Cesky Real). Kocian Solc Balastik advised J&T on the acquisition and financing transactions.	N/A	Czech Republic
24-Nov	Clifford Chance; Dentons	Clifford Chance advised J&T Banka on providing real estate financing to Crestyl Commercial Investment. Dentons reportedly advised Crestyl on the deal.	N/A	Czech Republic
25-Nov	Glatzova & Co	Glatzova & Co advised Czech apparel and fashion company Kara Trutnov on the approval of the reorganization plan within its insolvency proceedings.	N/A	Czech Republic
26-Nov	Kocian Solc Balastik	Kocian Solc Balastik advised the AI Startup Incubator fund on investing in AssetFlow.	N/A	Czech Republic
1-Dec	Allen & Overy; Debevoise	Allen & Overy advised sole global coordinator Wood & Company Financial Services on a CZK 366 million block trade disposal of Ceska Zbrojovka Group shares by Colt shareholders. Debevoise & Plimpton reportedly advised TXPATCH8445 Holdings, which represented Colt's shareholders in the transaction.	CZK 366 million	Czech Republic
6-Dec	Havel & Partners; Noerr	Havel & Partners advised Genesis Private Equity Fund III on the sale of Quinta-Analytica to BBA Capital Partners subsidiary LVA Holding. Noerr advised the buyer.	N/A	Czech Republic
6-Dec	PwC Legal	PwC Legal advised Spanish railway company Renfe on the acquisition of a stake in Czech carrier Leo Express.	N/A	Czech Republic
10-Dec	Allen & Overy; Clifford Chance	Clifford Chance advised the CPI Property Group on the EUR 300 million subscription of new ordinary shares representing approximately 5.5% of CPIPG's share capital by Apollo Global Management affiliate managed funds. Allen & Overy reportedly advised Apollo.	EUR 300 million	Czech Republic
13-Dec	Havel & Partners; Noerr	Noerr advised Magna Group company Magna Automotive Europe on the acquisition of Czech company Klein Automotive. Havel & Partners advised the sellers.	N/A	Czech Republic
14-Dec	Havel & Partners	Havel & Partners advised investment group Czechoslovak Capital Partners on its acquisition of the Tusarova 41 rental property in Prague.	N/A	Czech Republic
15-Dec	Baker McKenzie; Kocian Solc Balastik	Kocian Solc Balastik advised Aramark on the acquisition of the catering division of the Czech branch of French company Sodexo. Baker McKenzie advised the seller.	N/A	Czech Republic
18-Nov	Deloitte Legal	Deloitte Legal advised PortfoLion Capital Partners on financing the merger of Hungarian W.UP and the Czech-based Banking Software Company, forming a new company called Finshape.	N/A	Czech Republic; Hungary

Date Covered	Firms Involved	Deal/Litigation	Value	Country
22-Nov	Cravath Swaine & Moore; Dentons; Eversheds Sutherland; Kirkland & Ellis; Paul Weiss; Venable	Dentons, working alongside Kirkland & Ellis, advised KKR and Global Infrastructure Partners on the acquisition of CyrusOne. Reportedly, Paul, Weiss, Rifkind, Wharton & Garrison also advised GIP, while Cravath, Swaine & Moore, Venable, and Eversheds Sutherland advised CyrusOne.	USD 15 billion	Czech Republic; Romania
17-Nov	Pwc Legal	PwC Legal successfully represented Estonian writer Sass Henno in court in a dispute initiated by Marti and Karin Kuusik relating to a Henno-authored article published by Eesti Ekspress.	N/A	Estonia
22-Nov	Ellex	Ellex advised real estate development company Hepsor on the initial public offering of its shares to new investors and listing on the Baltic Main List of the Nasdaq Tallinn stock exchange.	N/A	Estonia
26-Nov	Myerson Solicitors; Walless	Walless advised UK healthcare company Everything Genetic on its EUR 500,000 investment into and strategic partnership agreement with Estonian health technology company Antegenes. Myerson Solicitors reportedly advised Everything Genetic on English law.	EUR 500,000	Estonia
30-Nov	Ellex; Trinit	Trinit advised Krakul Holding on the sale of its Krakul subsidiary to Bercman Technologies. Ellex advised the buyer.	N/A	Estonia
6-Dec	Pohla & Hallmagi	Pohla & Hallmagi advised on reorganizing the ownership structure of the Aparaditehas property in Tartu, including the buyout of financial investor and majority shareholder Lohmus Holdings by a group of investors.	N/A	Estonia
19-Nov	Arzinger; Cobalt; Suci	Cobalt advised IBM in Estonia, Latvia, and Lithuania on the reorganization and separation of its managed infrastructure services business into Kyndryl. Suci advised IBM in Romania. Arzinger advised IBM in Ukraine.	N/A	Estonia; Latvia; Lithuania; Romania; Ukraine
16-Nov	Allen & Overy; Bernitsas; Clifford Chance	Bernitsas Law, working with Allen & Overy, advised Piraeus Bank on its inaugural EUR 500 million issuance of green senior preferred bonds and their listing on the Luxembourg Stock Exchange Euro MTF market. Clifford Chance reportedly advised the managers of the transaction.	EUR 500 million	Greece
17-Nov	A.Papapanagiotou & Partners; Bernitsas	Bernitsas Law advised Imker Capital Partners on its acquisition of a 42.4% stake in Softone Technologies and related shareholders' agreement. A.Papapanagiotou & Partners reportedly advised the sellers.	N/A	Greece
17-Nov	Souridakis Tsibris	Souridakis Tsibris advised the Elikonos 2 SCA Sicar private equity fund on its EUR 1.1 million investment in Ojoo Limited.	EUR 1.1 million	Greece
23-Nov	Moratis Passas	Moratis Passas advised the Piraeus Bank Group as well as the arrangers on the Sunrise II securitization transaction, involving a retail and corporate NPE portfolio of EUR 2.7 billion gross book value.	N/A	Greece
6-Dec	Allen & Overy; Karatzas & Partners; Moratis Passas	Moratis Passas advised the DoValue Group in relation to the Mexico securitization transaction originated by Eurobank. Allen & Overy and Karatzas & Partners advised Eurobank on the deal.	N/A	Greece
7-Dec	Moratis Passas	Moratis Passas advised Davidson Kempner on the Project Cosmos securitization transaction on EUR 3.4 billion gross book value primarily non-performing loans of Alpha Bank S.A.	N/A	Greece
9-Dec	Floropoulou & Partners; Moratis Passas	Moratis Passas and Floropoulou & Partners advised Davidson Kempner on the Project Pivot transaction, which includes the purchase of approximately EUR 400 million gross book value non-performing loans from Piraeus Bank.	EUR 400 million	Greece
16-Nov	Jalsovszky; Kinstellar	Kinstellar advised US-based X-Chem on its acquisition of Hungary's Comlnnex. Jalsovszky advised the sellers.	N/A	Hungary
18-Nov	DLA Piper	DLA Piper advised Erste Bank on a EUR 60 million loan to Futureal for the realization and operation of the second phase of Budapest One for a period of more than 10 years.	EUR 60 million	Hungary

Date Covered	Firms Involved	Deal/Litigation	Value	Country
19-Nov	HP Legal Hajdu & Partners; Schoenherr	Schoenherr advised S-Immo on its acquisition of the BudaPart Gate office building from Market Asset Management. HP Legal Hajdu & Partners advised the seller.	N/A	Hungary
7-Dec	Lakatos, Koves & Partners	Lakatos, Koves and Partners successfully represented Facebook Ireland before the Hungarian Kuria.	N/A	Hungary
10-Dec	Allen & Overy; Satori, Lutter and Partners	Allen & Overy advised Eurowag on its acquisition of WebEye Telematics. Satori, Lutter and Partners advised the seller.	N/A	Hungary
10-Dec	Filip & Company; Freshfields; Oppenheim; Szecskay	Filip & Company and Szecskay advised Romania's Digi on the EUR 625 million sale of Digi Tavkozlesi Szolgaltato in Hungary and subsidiaries Invitel, I TV, and Digi Infrastructure to 4iG. Reportedly, Freshfields Bruckhaus Deringer advised Digi as well, with Oppenheim advising 4iG on the deal.	EUR 625 million	Hungary; Romania
30-Nov	Andrejic & Partners	Andrejic & Partners assisted Israel-based attorney Lior Dagan as the insolvency trustee appointed to Michael David Greenfield in the takeover process of EGFE Hungary.	N/A	Hungary; Serbia
16-Nov	TGS Baltic	TGS Baltic advised Squalio Group's shareholders on the sale of their shares to information technology solutions and services provider Softline.	N/A	Latvia
19-Nov	TGS Baltic	TGS Baltic, working with Vinge in Sweden, advised Swedish private equity company Helix Kapital on the Latvian law-related aspects of its investment into international sports media agency Spring Media.	N/A	Latvia
6-Dec	Allen & Overy; Cobalt; Sorainen	Sorainen advised joint lead managers Citigroup, Luminor Bank, Nordea, and UniCredit on Citadele Bank's EUR 200 million note issuance. Cobalt and, reportedly, Allen & Overy advised Citadele.	EUR 200 million	Latvia
13-Dec	TGS Baltic	TGS Baltic assisted the Akropolis Group with obtaining merger clearance from the Latvian Competition Council for its acquisition of SIA Delta Property.	N/A	Latvia; Lithuania
17-Nov	TGS Baltic	TGS Baltic successfully represented Siauli Bankas in a dispute with the Bank of Lithuania regarding a sanction the central bank imposed for violations of legal acts regulating the prevention of money laundering and terrorist financing.	N/A	Lithuania
18-Nov	Sorainen	Sorainen advised Baltic Mill on its EUR 3 million issuance of two-year bonds. The bond issuance was organized by Siauli Bankas.	EUR 3 million	Lithuania
24-Nov	Walless	Walless advised the Vilnius City Municipality Administration on a case concerning the legality of the termination of the Lazdynai swimming pool construction contract.	N/A	Lithuania
26-Nov	Fort	Fort Legal advised Eften Capital on its EUR 10 million investment in the construction of two nine-story multi-apartment buildings in Kaunas, together with the Etapas Group.	EUR 10 million	Lithuania
10-Dec	Primus	Primus advised the Lithuanian Business Angels Fund on leading the EUR 1 million seed funding round of Vilnius-based open data platform Okredo.	EUR 1 million	Lithuania
14-Dec	Sorainen	Sorainen advised INVL Asset Management's Baltic Forests Fund I on the sale of its 1,300-hectare forest portfolio in Lithuania to the Latvian Forest Company.	N/A	Lithuania
16-Nov	Andersen; BerryLaw; Lewis Silkin	Andersen in Poland, working with Berrylaw in France and Lewis Silkin in the UK, advised Delpharm on the acquisition of a Poznan-based drug manufacturing plant from GSK.	N/A	Poland
17-Nov	DLA Piper; White & Case	DLA Piper advised the shareholders of Edison Energia on its sale to Polenergia. White & Case advised the buyer.	N/A	Poland
18-Nov	Dentons; Hogan Lovells	Dentons advised Tar Heel Capital Pathfinder, MCI Capital, and DRCP – the shareholders of RemoteMyApp – on the sale of the company to Intel. Hogan Lovells advised Intel on the deal.	N/A	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
18-Nov	DLA Piper; Greenberg Traurig	Greenberg Traurig advised Hansainvest Real Assets on the acquisition of a Polish logistics portfolio from Panattoni. DLA Piper advised Panattoni on the deal.	N/A	Poland
18-Nov	Drania and Partners; WKB Wiercinski Kwiecinski Baehr	Wiercinski Kwiecinski Baehr and Drania and Partners successfully represented the Gdansk Airport before the Supreme Court.	N/A	Poland
19-Nov	DLA Piper	DLA Piper advised Polish leasing company European Leasing Fund on the securitization of a PLN 2.2 billion leasing receivables portfolio.	PLN 2.2 billion	Poland
19-Nov	Rymarz Zdort; Skadden, Arps, Slate, Meagher & Flom	Rymarz Zdort advised the Maspex Group on its acquisition of CEDC International from the Roust Corporation. Skadden, Arps, Slate, Meagher & Flom advised Roust on the deal.	N/A	Poland
19-Nov	White & Case	White & Case advised mBank on the PLN 1 billion bond issuance by Dino Polska, under a bond issuance program.	PLN 1 billion	Poland
22-Nov	Rymarz Zdort	Rymarz Zdort advised European Logistics Investment on the purchase of land and the construction of a logistics center in Blonie, near Warsaw.	N/A	Poland
24-Nov	DLA Piper; Rymarz Zdort	Rymarz Zdort advised Polski Bank Komorek Macierzystych on a voluntary public offering to exchange shares in PBKM for shares in Vita 34, following their business combination agreement in May 2021. DLA Piper advised Vita 34 on the deal.	N/A	Poland
25-Nov	WKB Wiercinski Kwiecinski Baehr	Wiercinski Kwiecinski Baehr advised KGAL company EW Rywald in the contractor selection process for the Rywald wind farm project in Poland.	N/A	Poland
26-Nov	Gessel	Gessel advised Anwim on its acquisition of a 90% stake in Dutch enterprise The Fuel Company Holding.	N/A	Poland
26-Nov	SMM Legal	SMM Legal advised Grupa Lotos on the spin-off of its Gdansk refinery to its subsidiary Lotos Asfalt.	PLN 4.8 billion	Poland
29-Nov	Crido Legal; Domanski Zakrzewski Palinka; Kondracki Celej; Think Legal	Kondracki Celej advised Market One Capital, Profounders Capital, and Speedinvest, while Domanski Zakrzewski Palinka advised Infravia Capital Partners and Crido Legal advised PortfoLion, on their respective investments in Packhelp's PLN 190 million series B funding round. Think Legal advised Packhelp.	PLN 190 million	Poland
29-Nov	Gorzelnik Nentwig Ziebinski; Rymarz Zdort	Gorzelnik Nentwig Ziebinski advised Poland's Investment Promotion Agency on the sale of a Polish 130-megawatt utility-scale photovoltaic portfolio. Rymarz Zdort advised the undisclosed buyer.	N/A	Poland
30-Nov	Gessel	Gessel advised the Avallon fund on its sale of a majority stake in MPS International.	N/A	Poland
1-Dec	Gide Loyrette Nouel; Greenberg Traurig	Greenberg Traurig advised CA Immo on the sale of the Wspolna 47-49 office building in Warsaw to Yareal Polska. Gide Loyrette Nouel advised the buyer.	N/A	Poland
2-Dec	Eversheds Sutherland	Eversheds Sutherland successfully represented the Polish State Treasury before the European Union's Court of Justice in proceedings related to the PLN 1.38 billion in state aid received by Autostrada Wielkopolska.	PLN 1.38 billion	Poland
6-Dec	Taylor Wessing	Taylor Wessing advised the MLP Group on its EUR 20 million public offering of bonds and their introduction to trading on the Catalyst alternative market in Poland.	EUR 20 million	Poland
7-Dec	Rymarz Zdort	Rymarz Zdort advised Aion Bank on the acquisition of a part of Allegro Pay's consumer debt portfolio.	N/A	Poland
10-Dec	SSW Pragmatic Solutions	SSW Pragmatic Solutions successfully represented Erbud before the Warsaw Court of Appeal in a PLN 100 million compensation dispute against Bank Millennium.	PLN 100 million	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
13-Dec	Allen & Overy	Allen & Overy advised Santander Bank Polska on a EUR 750 million issuance of senior preferred notes under its EUR 5 billion EMTN program arranged by Banco Santander.	EUR 750 million	Poland
14-Dec	Act Legal (BSWW); Oles & Rodzynkiewicz	Act BSWW advised FM Solutions SPV on the acquisition of shares in FM Solutions from investment fund Giovanni FIZ.	N/A	Poland
15-Dec	Act Legal (BSWW)	Act BSWW advised CVI on a debt financing transaction over Affiliate Gdynia's PLN 38 million bond issuance.	PLN 38 million	Poland
15-Dec	Linklaters	Linklaters advised Swedish real estate private equity company Niam on the sale of the Axis and Kapelanka 42 A office buildings in Krakow to French real estate investment company Corum.	N/A	Poland
16-Nov	Bohalteanu & Asociatii; MPR Partners	MPR Partners advised Aegean Airlines on the acquisition of a majority stake in Romanian operator Animawings from the Memento Group. Bohalteanu & Asociatii advised the seller.	N/A	Romania
16-Nov	Dentons; Filip & Company	Dentons advised Erste Group Bank, Raiffeisen Bank Romania, and Banca Comerciala Romana on the RON 750 million facility agreement with Societatea Energetica Electrica. Filip & Company advised Electrica on the deal.	RON 750 million	Romania
17-Nov	Kinstellar; Roedl & Partner	Kinstellar advised Danish agricultural investment company FirstFarms on its DKK 20 million sale of land in Western Romania. Roedl & Partner reportedly advised the buyer.	DKK 20 million	Romania
18-Nov	EY Legal (Bancila, Diaconu si Asociatii); Popovici Nitu Stoica & Asociatii	EY associated firm Bancila, Diaconu si Asociatii advised BlackPeak Capital on its investment in Verdino Green Foods. Popovici Nitu Stoica & Asociatii advised Verdino on the deal.	N/A	Romania
18-Nov	RTPR	Radu Taracila Padurari Retevoescu advised both sides of the transaction on Morphosis Capital's investment in Cronos Med Group.	N/A	Romania
23-Nov	Schoenherr	Schoenherr advised Romanian FMCG distributor Aquila on the successful completion of its initial public offering and sale of 66.6 million new shares, for a total sum of approximately EUR 74 million.	EUR 74 million	Romania
24-Nov	KPMG Legal	KPMG Legal Toncescu si Asociatii advised the Affinity Shipping Group on its acquisition of Seaway International.	N/A	Romania
25-Nov	RTPR; Wolf Theiss	Wolf Theiss advised Arobs Transilvania Software on its acquisition of Berg Software. Radu Taracila Padurari Retevoescu advised Berg's shareholders on the transaction.	N/A	Romania
1-Dec	Vlasceanu, Nyerges & Partners	Vlasceanu, Nyerges and Partners advised Econergy on its acquisition of an 87-megawatt photovoltaic development project located in Parau, Brasov County, Romania.	N/A	Romania
7-Dec	Popescu & Asociatii	Popescu & Asociatii successfully represented Sinaia Local Council and the company providing land and cable transport in Sinaia resort, Sinaia Urban Transport, within judicial procedures initiated as a result of the reorganization of the company's management activity during 2017.	N/A	Romania
7-Dec	Popovici Nitu Stoica & Asociatii	Popovici Nitu Stoica & Asociatii advised David Neacsu on the sale of the Himalaya store to Stral Big.	N/A	Romania
9-Dec	Popovici Nitu Stoica & Asociatii	Popovici Nitu Stoica & Asociatii successfully assisted PlantExtrakt in registering and defending its IP rights over the Nasirus trademark.	N/A	Romania
13-Dec	Ashurst; BPV Grigorescu Stefanica; Jones Day	BPV Grigorescu Stefanica, working alongside lead counsel Jones Day, advised US-based insurance and financial services group Massachusetts Mutual Life Insurance Company on its investment in the UK-headquartered Low Carbon Group. Ashurst reportedly advised the Low Carbon Group.	N/A	Romania
19-Nov	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners provided legal support to Germany's HTS Tentiq on contractual and currency control issues in Russia.	N/A	Russia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
24-Nov	DLA Piper	DLA Piper advised Russian personal styling company Capsula on its Series A investment round.	N/A	Russia
29-Nov	Baker Mckenzie; DLA Piper	DLA Piper advised Russian network solutions provider Brain4Net's major shareholder Typhoon Digital Development on the sale of a majority stake in the company to global cybersecurity and digital privacy company Kaspersky. Baker McKenzie advised Kaspersky.	N/A	Russia
13-Dec	DLA Piper	DLA Piper advised Russian online freelancing marketplace YouDo on a USD 5 million investment round from Russian online recruitment platform HeadHunter.	USD 5 million	Russia
14-Dec	DLA Piper	DLA Piper advised Russian financial services company Sber on its acquisition of FuelUp.	N/A	Russia
19-Nov	Andrejic & Partners	Andrejic & Partners advised the Embassy of Brazil in Serbia on its lease agreement with Dipos for the embassy's headquarters.	N/A	Serbia
22-Nov	CMS; Karanovic & Partners	Karanovic & Partners advised Elicio Ali VE on the refinancing of its Alibunar Wind Farm from UniCredit Bank Serbia. CMS advised UniCredit on the EUR 53 million financing deal.	EUR 53 million	Serbia
30-Nov	Radovanovic Stojanovic & Partners	Radovanovic Stojanovic & Partners advised the Soravia Group on the sale of the New Mill office building located in Belgrade, Serbia.	N/A	Serbia
1-Dec	Karanovic & Partners; Corrs Chambers Westgarth	Karanovic & Partners, working with Corrs Chambers Westgarth, advised Volt Resources Limited on its acquisition of the entire issued share capital of Asena Investments Beograd-Stari Grad.	N/A	Serbia
9-Dec	Bojovic Draskovic Popovic & Partners	Bojovic Draskovic Popovic & Partners advised Titan European Holdings on the sale of Titan Machinery Novi Sad to Agromarket Kragujevac.	N/A	Serbia
13-Dec	Harrisons	Harrisons advised the EBRD on a RSD 2.3 billion loan to OTP Bank Serbia Novi Sad.	RSD 2.3 billion	Serbia
15-Dec	Harrisons	Harrisons advised the EBRD on an EUR 8 million loan to the city of Novi Sad for the purchase of up to ten electric buses and the accompanying charging infrastructure.	EUR 8 million	Serbia
18-Nov	Allen & Overy; Avance Attorneys; BDK Advokati; Roschier; Skadden, Arps, Slate, Meagher & Flom; Wilson Sonsini Goodrich & Rosati	BDK Advokati, working with lead counsel Allen & Overy in London, advised DoorDash on the acquisition of Finnish food-delivery company Wolt Enterprises for EUR 7 billion. Wilson Sonsini Goodrich & Rosati and Avance Attorneys also advised the buyer. Skadden, Arps, Slate, Meagher & Flom and Roschier advised Wolt on the deal.	EUR 7 billion	Serbia; Czech Republic
30-Nov	Dentons	Dentons provided pro bono representation to blogger Jan Bencik in a defamation dispute regarding an article in the Zem a Vek magazine.	N/A	Slovakia
14-Dec	Cytowski & Partners; Royer Cooper Cohen Braunfeld	Cytowski & Partners advised Slovak healthcare startup Surglogs on its USD 10.5 million series A with Open Ocean. Royer Cooper Cohen Braunfeld reportedly advised Open Ocean on the deal.	USD 10.5 million	Slovakia
17-Nov	Akol Law Firm; Dentons (BASEAK)	Akol advised the founding shareholders of Ekol Ofset on the sale of a 75.01% controlling stake in the company to Romvan. Dentons' Turkish affiliate Balcioglu Selcuk Ardiyok Keki advised Romvan.	N/A	Turkey
24-Nov	Ilker & Colak; Juris Law Firm; Tevetoglu; White & Case (GKC Partners)	GKC Partners advised Zynga subsidiary Rollic Games on its acquisition of Turkish mobile game studios Creasaur Entertainment, Zerosum Games, and Forgerhero. Ilker & Colak advised Forgerhero on the deal. Tevetoglu and the Juris Law Firm reportedly advised Zerosum and Creasaur, respectively.	N/A	Turkey
1-Dec	BTS & Partners	BTS & Partners advised venture fund Revo Capital on its investment in e-commerce platform Ikas.	N/A	Turkey

Date Covered	Firms Involved	Deal/Litigation	Value	Country
2-Dec	Paksoy	Paksoy advised Turkish industrial textile company Isbir Sentetik Dokuma Sanayi on its TRY 368 million initial public offering and listing on Borsa Istanbul.	TRY 368 million	Turkey
6-Dec	BTS & Partners	BTS & Partners advised 500 Global Istanbul on its USD 1 million pre-seed investment in Datapad.	USD 1 million	Turkey
7-Dec	Paksoy	Paksoy advised Agence Francaise de Developpement on a EUR 125 million credit facility agreement with Izmir Metropolitan Municipality for the financing of the Izmir Buca Metro project.	EUR 125 million	Turkey
13-Dec	Bagzibagli Erdem & Sahin	Bagzibagli Erdem & Sahin advised Up Capital Management and UAE-based investor group Hawk Invest on an equity investment into CET Composite & Epoxy Technologies.	N/A	Turkey
18-Nov	Baker Mckenzie	Baker McKenzie advised EP Ukraine on the structuring, negotiating, and entry into two production sharing agreements with the Ukrainian government in relation to the Okhtyrka and Hrunivska blocks.	N/A	Ukraine
18-Nov	Baker Mckenzie; Sayenko Kharenko	Baker McKenzie advised First Ukrainian International Bank on the conditional purchase agreement for Idea Bank in Ukraine from its sole owner, the Polish financial group Getin Holding. Sayenko Kharenko advised Getin Holding on the deal.	N/A	Ukraine
19-Nov	CMS	CMS Kyiv successfully represented Fresenius Medical Care Ukraine in a commercial dispute against a public healthcare provider before the Ukrainian Supreme Court.	N/A	Ukraine
24-Nov	Avellum; CMS; Linklaters; Sayenko Kharenko; White & Case	Avellum, working with White & Case, advised Ukrenergo on its debut USD 825 million issuance of sustainability-linked eurobonds. Sayenko Kharenko, working with Linklaters, advised the managers BNP Paribas, Deutsche Bank, Goldman Sachs International, and Ukreximbank. CMS advised the EBRD on its USD 75 million investment in Ukrenergo bonds.	USD 825 million	Ukraine
24-Nov	Sayenko Kharenko	Sayenko Kharenko advised the EBRD on providing a EUR 25 million equivalent loan to ProCredit Bank in Ukraine.	EUR 25 million	Ukraine
26-Nov	Ilyashev & Partners	Ilyashev & Partners advised Ukraine's Antonov state enterprise on its five-year contract with NATO and the EU, within the framework of the Strategic Airlift International Solution program.	N/A	Ukraine
29-Nov	Arzinger	Arzinger successfully represented Ceetrus Ukraine in a UAH 53 million VAT refund dispute before three court instances.	UAH 53 million	Ukraine
1-Dec	CMS	CMS acted as legal partner on the Next-UA capital markets consulting project, launched jointly by the Ukrainian government, USAID, the EBRD, and the American Chamber of Commerce in Ukraine.	N/A	Ukraine
10-Dec	Asters	Asters represented DMV Group company Obriy before the Ukrainian Antimonopoly Committee on merger clearance for the privatization of state-owned company Radyvyliv Grain Processing Plant.	USD 5.5 million	Ukraine
10-Dec	Baker Mckenzie	Baker McKenzie advised the State Property Fund of Ukraine on the successful privatization of the integral property complex of State Enterprise Electronmash, sold at auction for UAH 970 million.	UAH 970 million	Ukraine



Deals and Cases:

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

Did We Miss Something?

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

ON THE MOVE: NEW HOMES AND FRIENDS

Poland: Agata Jurek-Zbrojska, Malgorzata Madej-Balcerowska, and Dominik Rafalko Join CMS with Team from Greenberg Traurig

By Radu Cotarcea (November 17, 2021)

Agata Jurek-Zbrojska, Malgorzata Madej-Balcerowska, and Dominik Rafalko have joined CMS's Poland office as Partners along with a seven-person team from Greenberg Traurig. Jurek-Zbrojska will head the Real Estate and Construction practice.

Before joining CMS, Jurek-Zbrojska was a Partner at Greenberg Traurig and has worked with Hogan Lovells, Garrigues, and Salans (now Dentons).

Before joining CMS, Madej-Balcerowska was a Local Partner with Greenberg Traurig and has also spent time with Hogan Lovells and Chadbourne & Parke.

Before joining CMS, Rafalko too was a Local Partner with Greenberg Traurig and has spent time before that with Salans (Dentons).

"I am pleased to be able to work every day with lawyers from CMS's team whom to date I met at numerous projects and whom I highly respect," says Jurek-Zbrojska. "The real estate market is currently undergoing development and changes that are creating new business opportunities for investors. We are seeing huge interest in transactions in the logistics segment of the market, increased activity in the office and commercial real estate sector, as well as significant and dynamic change in the residential investment sector."

"Our goal is to create a team that will be the first-choice advisor in the real estate market in Poland," adds Managing Partner Andrzej Posniak. "Our investment in further growing our real estate team is also a great opportunity for the firm as a

whole due to the business synergies across our practices. I am convinced that the co-operation between the combined team and across the firm will enable us to successfully achieve our ambitious goals."

Along with three new Partners, the following lawyers will be joining the CMS real estate and construction practice over the next months: Anna Wisniewska as Counsel, Zuzanna Bafia as Senior Associate, and Michal Gruza, Aleksander Klys, Magdalena Piotrowska-Gwiazdowska, Marta Trebacka, and Joanna Ostapiuk as Associates. ■

Belarus: SBH Law Offices Opens Office in Cyprus

By Andrija Djonovic (November 18, 2021)

Belarusian firm SBH Law Offices has opened a new office in Cyprus. The firm now offers its services in Belarus, Ukraine, and Cyprus.

According to SBH, "the new Cyprus office will focus on company incorporation in Cyprus, registration of investment funds, legal support of M&A transactions, venture and other investment transactions, ongoing corporate consulting matters, and relocation and migration matters."

The SBH Cyprus office will be headed by Evgeniya Starosotnikova, who also leads the firm's Banking and Finance direction. According to SBH, she focuses on "structuring multi-jurisdictional businesses, investments, including legal due diligence, development and implementation of plans to eliminate and minimize the identified risks, ... [as well as] advising on the day-to-day activities of IT companies, including contract work, tax, and labor issues."

"We are optimistic about opportunities in Cyprus," SBH Law Offices Partner Alexander Bondar commented. ■



Poland: Drzewiecki Tomaszek & Partners Joins Forces with Gujski Zdebiak

By Andrija Djonovic (November 22, 2021)

Drzewiecki Tomaszek & Partners has joined forces with the labor-law specialized firm of Gujski Zdebiak. Waldemar Gujski and Dawid Zdebiak have become Partners at DT and will manage the firm's Labor and Social Security Law practice.

Gujski is a graduate of the Faculty of Law and Administration, University of Warsaw. According to Drzewiecki Tomaszek & Partners, he "specializes in issues related to the application of labor law, both at the consulting stage and in court proceedings. His practice focuses on providing litigation advice to Polish and foreign companies, Polish executives, and leading personalities of the media, business, culture, and politics on employment matters."

Zdebiak, too, is a graduate of the Faculty of Law and Administration, University of Warsaw. According to the firm, he "specializes in the legal aspects of providing work, whether under employment relationship or a civil-law contracts, including the managerial contracts, mandate contracts, and contracts for specific work. As a result, he advises not only with the issues of labor law and civil law, including contract law, but also on commercial and inheritance law. His practice focuses on advising and providing legal assistance to board members, managers, employees, as well as employers and trade unions, and – in civil and commercial matters – to individuals and business entities."

Before joining forces with DT, Zdebiak had been a part of Gujski Zdebiak for over 13 years.

According to Drzewiecki Tomaszek & Partners, "through this combination, we strengthen our labor law practice and extend our capabilities to provide comprehensive legal advice to both employers and employees on employment-related matters. [Gujski Zdebiak's] extensive knowledge and experience will help us respond to the most difficult challenges in the sphere of contentious employment mandates, including the legal consequences resulting from the Polish Deal (Polski Lad)." ■

Czech Republic: Jan Holasek Joins HKDW Legal To Form HKDW Holasek

By Andrija Djonovic (December 06, 2021)

Jan Holasek, a Czech Senator and founder of Havel, Holasek & Partners – now Havel & Partners – has joined forces with HKDW Legal to form a new law firm under the name HKDW Holasek.



According to the newly formed firm, its headquarters will be in Prague and its work will focus on "Czech clients as well as international legal markets, including Germany, Austria, Scandinavia, Great Britain, US, and Asia."

HKDW Holasek has four equity partners – Jan Hrazdira, Jaromir Kaluzik, Lukas Nyvlt, and Jan Holasek – in addition to a team of over 20 lawyers. According to the firm, plans are to cater to "all areas of law with a particular focus on litigation and arbitration, insolvency and restructuring, mergers and acquisitions, real estate, construction and development, criminal law, corporate and commercial as well as legal counseling in the insurance and banking sectors."

Hrazdira and Kaluzik co-founded HKDW Legal in 2000.

Nyvlt joined HKDW Legal in 2017. Earlier in his career, he spent 13 years with Glatzova & Co and over six and a half years with NH Partners.

Holasek holds a Master's degree in Law from Charles University as well as an LL.M. from NYU. He is a founding partner of what is now Havel & Partners, a firm with which he spent 16 years of his career. In addition to that, he spent four years with Kocian Solc Balastik. In 2020, he was elected as an independent senator of the Parliament of the Czech Republic

“We want to focus primarily on local and international profile cases and on providing legal services at the level of large international law firms,” says Holasek. “Our goal is to always deliver the highest possible level of legal expertise while maintaining a personal client approach and a team atmosphere within the company.”

“We want to forge long-term relationships with our clients and provide them with top legal support benefiting from a perfect understanding of their business needs and requirements,” adds Hrazdira, Founding Partner of HKDW Legal. “I also take great pride in the fact that my partners and I take an active part in legal counsel and solving of legal issues our clients encounter.” ■

Bulgaria: Karushkov Legal Solutions Opens its Doors in Sofia

By Andrija Djonovic (December 07, 2021)

Former Kambourov & Partners Founder and Partner Mitko Karushkov opened a new law firm in Sofia – Karushkov Legal Solutions.

Karushkov Legal Solutions will primarily, according to Karushkov, focus on providing legal advice to “new-age tech, media, telco, and financial companies.” The firm will also cover M&A, Corporate, Regulatory & Compliance, Media, Communications, and Technology and Gaming.

Karushkov has been with Kambourov & Partners for over 21 years. Prior to that, he was a Founder and Partner of Vachev & Karushkov Law, between 1996 and 1998, and was an In-House Counsel with Glavbolgarstroy Holding, between 1999 and 2000. ■

Poland: Maciej Jodkowski Joins Greenberg Traurig with Team

By Andrija Djonovic (December 08, 2021)

Former Dentons Real Estate Partner Maciej Jodkowski has joined Greenberg Traurig’s Warsaw office as Partner. His three-person team comprising Senior Associates Karol Lewandowski and Karolina Tulwin, as well as Alicja



Kwiatkowska, followed.

Before joining Greenberg Traurig, Jodkowski spent almost four years with Linklaters, a year with PwC Legal, and almost 11 years with Dentons.

“We are pleased that, once again, a team of highly regarded real estate experts has chosen Greenberg Traurig as its new home,” said Greenberg Traurig Executive Chairman Richard Rosenbaum. “This firm is committed to our European presence and growth strategy as only a collaborative firm, unified throughout the world, can truly be.

“I am certain that the addition of Maciej and his team to our real estate practice is timed perfectly to meet the expectations of our demanding and continuously growing client portfolio,” added Greenberg Traurig Managing Partner Jolanta Nowakowska-Zimoch. “Maciej is highly appreciated by clients and recognized by the market. His arrival will definitely further empower our top-tier real estate team.” ■

Turkey: OkatLaw Opens Doors

By Radu Cotarcea (December 10, 2021)



Former Pekin & Pekin Senior Partner Yalcin Ozge Okat has established OkatLaw in Istanbul.

Okat had been with Pekin & Pekin since January 2012. Before that, he worked for one year as a Counsel with the Baker McKenzie affiliated firm Esin Attorney Partnership. Earlier still, he worked for 13 years for the Capital Markets Board of Turkey.

According to Okat, the firm will focus on capital markets, cryptocurrencies, fintech, derivatives, corporate, and banking/finance. Anlam Altay and Hakan Kizilelma, as external consultants, will advise on dispute resolution matters, while tax consultancy will be provided by Murat Bati. ■

Poland: Zbigniew Korba, Lukasz Szymanski, and Team Join Taylor Wessing

By Andrija Djonovic (December 15, 2021)

Former Deloitte Legal Partners Zbigniew Korba and Lukasz Szymanski have joined Taylor Wessing. Korba will lead the Banking and Finance practice while Szymanski will be taking over the Insurance practice in Warsaw. Along with the two Partners, eight more lawyers are set to join Taylor Wessing by February 2022.

According to Taylor Wessing, both Korba and Szymanski “are renowned Banking & Finance experts in Poland and beyond. For over 20 years [Korba] has specialized in advising clients mainly from the financial and real estate sectors. He has represented financial institutions, multinational corporations, and many domestic and foreign investors in both transactional matters and regulatory issues.” Korba has spent over nine years with Deloitte Legal, almost three years with PwC Legal, and more than 12 years with Salans (now Dentons).”

According to the firm, Szymanski “specializes in providing legal advice to the financial services industry, focusing on regulatory (mainly banking and insurance law) and reorganization but has also been active in structured finance. As a Partner in the Banking & finance team, [he] will focus on financial services regulatory.” Before joining Taylor Wessing, Szymanski spent more than five years with Deloitte Legal, over a year with Wardynski & Partners, over three years with K&L Gates, and over four years at the Polish Financial Supervision Authority.

“Taylor Wessing is known as a law firm serving some of the most innovative players in the market,” commented Korba. “I am glad that in such a rapidly changing world I join a firm with ambitious plans of growth and I am eager to actively support its strategy.”

“I am delighted to welcome Zbigniew and the entire team to Taylor Wessing,” said Taylor Wessing Poland Managing Partner Ewelina Stobiecka. “This development is a response to our clients’ needs and an expression of Taylor Wessing’s consistent growth strategy in Poland.” ■

PARTNER APPOINTMENTS

Date	Name	Practice(s)	Firm	Country
6-Dec	Zeljko Vlacic	TMT/IP; Insolvency/Restructuring	Sajic	Bosnia and Herzegovina
6-Dec	Antoniya Markova	Infrastructure/PPP/Public Procurement	Gugushev & Partners	Bulgaria
6-Dec	Daniela Petkova	Corporate/M&A; Tax	Gugushev & Partners	Bulgaria
6-Dec	Yoanna Ivanova	TMT/IP	Gugushev & Partners	Bulgaria
6-Dec	Kostadinka Deleva	Energy/Natural Resources	Gugushev & Partners	Bulgaria
6-Dec	Marianna Galusova	Corporate/M&A	White & Case	Czech Republic
1-Dec	Klen Laus	Litigation/Disputes	Triniti	Estonia
6-Dec	Jakub Gubanski	Corporate/M&A	White & Case	Poland
6-Dec	Aleksandra Oziemska	Litigation/Disputes	White & Case	Poland
6-Dec	Bartosz Smardzewski	Capital Markets	White & Case	Poland
6-Dec	Pawel Zagorski	Banking/Finance	White & Case	Poland
2-Dec	Ana Lukovic	Real Estate	Karanovic & Partners	Serbia
15-Dec	Marek Holka	Competition	Cechova & Partners	Slovakia
17-Nov	Gulsah Gokce	Corporate/M&A	Ozbek Attorney Partnership	Turkey
6-Dec	Gokce Uluc	Banking/Finance	White & Case	Turkey
13-Dec	Elif Demiroz	Litigation/Disputes	Cakmak	Turkey
13-Dec	Gulsen Engin	Corporate/M&A	Cakmak	Turkey
15-Dec	Eda Duru	Corporate/M&A	ELIG Gurkaynak	Turkey
15-Dec	Onur Ozgumus	Competition	ELIG Gurkaynak	Turkey

IN-HOUSE MOVES AND APPOINTMENTS

Date	Name	Moving From	Company/Firm	Country
30-Nov	Andras Nemeth	Paks II. Nuclear Power Plant	Audax Renewables Hungary	Hungary
26-Nov	Maciej Kalinowski	Sun Investment Group	Spectris Energy	Poland
6-Dec	Sylwia Stepniewska-Idzior	Pfeifer & Langen Poland	SMM Legal	Poland
30-Nov	Sergey Dmitriev	Norilsk Nickel	Volga-Dnepr Group	Russia
9-Dec	Branko Gabric	Air Serbia	BDK Advokati	Serbia
1-Dec	Ilke Ozun Deniz	Edenred Turkiye	KPMG Turkiye	Turkey

PARTNER MOVES

Date	Name	Practice(s)	Moving From	Moving To	Country
7-Dec	Mitko Karushkov	TMT/IP; Banking/Finance	Kambourov & Partners	Karushkov Legal solutions	Bulgaria
17-Nov	Martin Peckl	Corporate/M&A; Real Estate	Vejmelka & Wunsch	Havel & Partners	Czech Republic
23-Nov	Pavel Bogusky	Insolvency/Restructuring	Clifford Chance	Dentons	Czech Republic
6-Dec	Jan Hrazdira	Litigation/Disputes	HKDW Legal	HKDW Holasek	Czech Republic
6-Dec	Jaromir Kaluzik	Corporate/M&A	HKDW Legal	HKDW Holasek	Czech Republic
6-Dec	Lukas Nyvit	Litigation/Disputes; Energy/Natural Resources	HKDW Legal	HKDW Holasek	Czech Republic
6-Dec	Jan Holasek	Real Estate	Real Estate Investment Projects	HKDW Holasek	Czech Republic
8-Dec	Marius Matiukas	Capital Markets	Wint	Adon Legal	Lithuania
17-Nov	Agata Jurek-Zbrojska	Real Estate	Greenberg Traurig	CMS	Poland
17-Nov	Malgorzata Madej-Balcerowska	Real Estate	Greenberg Traurig	CMS	Poland
17-Nov	Dominik Rafalko	Real Estate	Greenberg Traurig	CMS	Poland
22-Nov	Waldemar Gujski	Labor	Gujski Zdebiak	Drzewiecki Tomaszek & Partners	Poland
22-Nov	Dawid Zdebiak	Labor	Gujski Zdebiak	Drzewiecki Tomaszek & Partners	Poland
23-Nov	Wojciech Kapica	Banking/Finance; Capital Markets	SMM Legal	Lawarton law office	Poland
8-Dec	Maciej Jodkowski	Real Estate	Dentons	Greenberg Traurig	Poland
15-Dec	Zbigniew Korba	Banking/Finance	Deloitte Legal	Taylor Wessing	Poland
15-Dec	Lukasz Szymanski	Banking/Finance	Deloitte Legal	Taylor Wessing	Poland
24-Nov	Alexandra Karachurina	Corporate/M&A	Linklaters	Balayan Group	Russia
24-Nov	Maria Borodina	Corporate/M&A	Freshfields	Balayan Group	Russia
24-Nov	Vyacheslav Yugai	Corporate/M&A	EPAM	Balayan Group	Russia
16-Nov	Ceyda Akbal Schwimann	Corporate/M&A; Disputes	Ipek Akbal Schwimann	Akol Law	Turkey
10-Dec	Yalcin Ozge Okat	Capital Markets	Pekin & Pekin	OkatLaw	Turkey

**On The Move:**

■ Full information available at:
www.ceelegalmatters.com
 ■ Period Covered:
 November 16, 2021 - December 15, 2021

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THE BUZZ

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

Croatia:

Interview with Martina Kalamiza of Divjak, Topic, Bahtijarevic & Krka

By Andrija Djonovic (December 06, 2021)



Political stability and predictability, shake-ups for the corporate and banking legislative frameworks, and a solid economic situation despite the pandemic – these are the current highlights in Croatia, according to Divjak, Topic, Bahtijarevic & Krka Partner Martina Kalamiza.

“The political and media discourse is dominated by all the protests against COVID-19 passes and the new restrictive measures that aim to combat the virus, as well as the implied division of citizens based on their vaccinations status,” Kalamiza begins, adding that it appears as though business activities in Croatia have been relegated to the background. “Still, we expect no major political changes that could impact the markets and the business sectors – the status quo is stable and predictable.”

Speaking about legislative changes and updates, Kalamiza says that developments in energy and the wider corporate sector are of interest. “The Ministry of Justice has recently issued a request for public input on the proposed changes to the Companies Act. These changes seek to streamline and enable a number of procedures by allowing them to be completed remotely,” Kalamiza reports. Another important change on the horizon is the “cancellation of the requirement to exe-

cute an agreement for the transfer of shares in the form of a notarized act, which will likely make cross-border M&A deals much easier,” she says.

Furthermore, Kalamiza says that “by the end of this year or the beginning of the next one, a new EU Directive by the European Parliament and Council is expected to be adopted, focusing on credit services and collateral.” This new Directive seeks to prevent the accretion of NPLs in bank books and to enable a more efficient way of NPL management. “Also, the Directive ought to contribute to the development of the secondary market for bad loans. After it’s adopted, there will be a two-year period for all EU member states during which the Directive is to be implemented in national legal frameworks.”

Additionally, Kalamiza says that “fintech and ESG compliance could also become hot topics in the near future, seeing how the National Development Strategy of Croatia for 2030 seeks to direct all national and EU financing sources towards incentivizing sustainable business and societal development.” This strategy also aims to increase battle-readiness for and resistance to crises, facilitate green and digital transitions, and balance out regional development for the next decade. “To that extent, I believe the Crypto-Assets Regulation will introduce a lot of innovations,” she says.

Finally, describing the current status of the economy, Kalamiza says “all is quiet on the western front. Even though the pandemic implied an increase in the number of bankruptcy and insolvency proceedings, as well as restructurings, this was just not the case yet.” She reports that the most active business sectors are real estate, IT, tourism, and renewable energy. “Also, it is important to underline two projects that have been completed recently: the long-awaited completion of the Pelješac bridge in the south of the country and the withdrawal of Sberbank from the CEE region that saw AIK Banka, Gorenjska Banka, and AGRI Europe Cyprus expand,” Kalamiza concludes. ■

Latvia:

Interview with Guntars Zile of Cobalt

By Teona Gelashvili (December 8, 2021)



COVID-19 remains one of the most prominent factors, directly and indirectly impacting the overall political, legal, and economic scenes in Latvia, according to Cobalt Partner Guntars Zile.

“Latvia was one of the first countries in Europe to encounter the fourth wave of the pandemic, which led to another lockdown,” Zile says. “Last week, a large part of the restrictions was lifted but, undeniably, there are considerable implications. To name a few, issues such as vaccination and restrictions impacting business stir public debate. Therefore, COVID-19 remains a continuously discussed topic,” he adds.

“One of the most acute political and legal issues is the partially mandatory vaccination rule,” he explains. “According to this rule, public sector employees, *inter alia* state and municipality officials and healthcare workers, are required to get vaccinated, and vaccination refusal is a ground for dismissal. Since the rule’s adoption, hundreds of constitutional, administrative, and civil claims have already been filed in the courts, challenging the compatibility of the regulation with human rights and the legality of dismissals on this ground.” According to Zile, due to scale, it’s a new and unique legal challenge for all jurisdictions where mandatory vaccination, in one form or another, is already in place or is being discussed. One of the most controversial topics is the potential ‘dismissal’ of Members of the European Parliament who refuse to undergo mandatory vaccination. “Elected officials enjoy special constitutional guarantees against dismissal, which adds another unique layer of complexity to such cases,” he adds.

Zile points out that initial rulings from the courts show that the mandatory vaccination rule is upheld, and it is more likely for that to be the case in the future, while only in a very few exceptional cases, due to specific circumstances, persons would be exempted from the vaccination mandate.

Zile highlights that, aside from COVID-19 measures, there are rather few updates in the political and legal sphere. Despite regular discussions regarding the potential instability of the “government and criticism of the government’s actions throughout the pandemic, so far the government remains relatively stable. One of the positive signs is Parliament passing the annual budget law for next year, which is an annual ‘test’ for the government” he adds.

Public sector employees, *inter alia* state and municipality officials and healthcare workers, are required to get vaccinated, and vaccination refusal is a ground for dismissal.

Zile points out that this year was characterized by a continuously active corporate transactions scene as well as the long-overdue revival of interest in the local stock market. “After quite a long period of silence, there are now a number of new companies going for and succeeding with local IPOs. In the last couple of months alone, two new companies – fuel retailer Virsi A and financial services provider Delphin Group – had successful IPOs,” he says.

“Of course, we have also seen exits from the stock exchange. For instance, Olainfarm, a local manufacturer of pharmaceuticals, decided to leave the stock exchange just last month. This comes as the most recent move after several other exits earlier this year. However, hardly any of those was a surprise to anyone, as these companies mostly landed on the stock exchange during their privatization process, and becoming part of the regulated market was never an organic and natural process, which is very different when compared to the new breed of companies that are embracing the opportunities offered for long-term growth prospects by entering the stock exchange,” he explains. “There were also lots of private bond placements recently, and we can hope that these positive trends will continue and expand in the following years,” Zile concludes. ■

North Macedonia:

Interview with Emilija Kelesoska Sholjakovska of Debarliev, Dameski & Kelesoska

By Andrija Djonovic (December 17, 2021)



As 2022 approaches, North Macedonia finds itself in a little bit of a political commotion, however, there are signs that the country might see light at the end of the tunnel with energy investments coming in, according to Debarliev, Dameski & Kelesoska Partner Emilija Kelesoska Sholjakovska.

“With the end of the year coming up soon, thinking back, I think that the past three months were among the most turbulent political periods for our country,” Kelesoska Sholjakovska begins. “We had local elections in October, which resulted in a significant change in the political structure of the ruling party and the opposition in terms of their municipalities seats.”

Kelesoska Sholjakovska says that the most challenging element was the Prime Minister’s resignation announcement and the “elections for the new president of the ruling party. The new president – the election for whom stands to end by January 2022 – will also be the new mandator for the new government.” She reports that the new government will have to deal with a lot. “There’s the ongoing pandemic, an energy crisis, and political turmoil in bilateral relations with Bulgaria that are precluding the start of EU accession negotiations – so there’s a lot to deal with.”

On the other hand, with the political environment being so tumultuous, there were little to no legislative updates to report on, bar two laws that are in the second phase of being passed. “The first one,” Kelesoska Sholjakovska says “is the *Law on Register Book Identification*, with the implementation of the *EU Regulation on Electronic Identification and Trust Services for Electronic Transactions in the Internal Market*, and the second one has to do with the proposed changes to VAT.”

In terms of the business climate, Kelesoska Sholjakovska reports that the pandemic impact is still high in terms of the overall economy of North Macedonia. “Industries and companies are slowly recovering, but are also struggling to maintain their production capacities, levels of business activities, productivity, competitiveness, and perception by foreign markets and investors,” she says. “However, the National Bank is assuring everybody that the Macedonian Denar is stable and that there are no significant changes to its exchange rates, which is a good signal for the forthcoming period.”

There’s the ongoing pandemic, an energy crisis, and political turmoil in bilateral relations with Bulgaria that are precluding the start of EU accession negotiations – so there’s a lot to deal with.

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Finally, Kelesoska Sholjakovska turns to major transactions of late. “The M&A market was active recently, with a few big transactions, which is a positive sign that business is moving ahead, slowly,” she says. “The government announced two major projects in the energy sector, which are designated with the status of a ‘strategic investment project.’” The first one is a German company investing in a wind park and the second one is a French investment in the construction of a solar park. “Both investments amount to approximately EUR 1 billion and, given the current energy crisis worldwide, they are certainly coming in at the right time,” Kelesoska Sholjakovska concludes. ■

Bosnia & Herzegovina:

Interview with Arela Jusufbasic-Goloman of Prebanic & Jusufbasic-Goloman

By Teona Gelashvili (December 17, 2021)



Bosnia & Herzegovina is going through the gravest political crisis since the end of the war in 1995, according to Prebanic & Jusufbasic-Goloman Partner Arela Jusufbasic-Goloman, but it is registering a stable financial sector and an increase in M&A activity.

“Political parties, analysts, and international organizations largely agree that the political situation is very tough in Bosnia & Herzegovina,” Jusufbasic-Goloman explains. “Namely, the Republic of Srpska, one of the entities of Bosnia and Herzegovina, is pushing to cut ties with the central government by adopting decisions to achieve full autonomy. Such actions are considered a violation of the 1995 Dayton Peace Accords,” she says. “Corruption remains another one of the most widespread problems at all levels of government. This problem has been acknowledged by the international community as well, however, we have not seen any results so far.”

“In addition, in Bosnia & Herzegovina, one of the most controversial issues is carrying out long-overdue reforms regarding the state electoral system,” Jusufbasic-Goloman notes. “The reform is crucial for the upcoming 2022 general elections, which will shape the democratic development of the country. However, despite the lengthy negotiations, no progress has been achieved in improving the electoral legislative framework so far. The legislation needs to be in line with the European standards, and to ensure transparency on political party financing,” she adds.

“In the meantime, the Parliamentary Assembly of Bosnia & Herzegovina was blocked for political reasons, leading to a legislative backlog, therefore, we don’t have many updates in that sphere,” Jusufbasic-Goloman explains.

According to Jusufbasic-Goloman, a political crisis, together with the COVID-19 related hurdles, has a major influence on the country’s social and economic life. “Recently, food, accommodation, transport, and electricity prices have been increasing. Many investors are currently considering how to enter the local market, taking into account the sensitive political environment,” she points out. “Accordingly, the political situation has an impact on investors. While the inflation rate is not significantly high at the moment, it might still negatively affect the future,” she says. According to her, considering these factors, there are not many sources for optimism.

“In terms of legal market activities, M&A has been increasingly active in the past few months. It includes not only large deals but also ones with a rather lower value,” Jusufbasic-Goloman notes. “Our firm participated in one of them, related to DuluxGroup’s acquisition of JUB Group in Slovenia. The value of this cross-border deal was EUR 194 million and involved many jurisdictions, including the Adriatic region, UK, Australia, and Japan.”

Political parties, analysts, and international organizations largely agree that the political situation is very tough in Bosnia & Herzegovina. Namely, the Republic of Srpska, one of the entities of Bosnia and Herzegovina, is pushing to cut ties with the central government by adopting decisions to achieve full autonomy. Such actions are considered a violation of the 1995 Dayton Peace Accords.

“At the same time, currently, the financial sector remains stable, and we also witness increased investment activities, however, next year’s election and further results of the political crisis will decide the main trends for the market and economic growth,” she concludes. ■

Estonia:

Interview with Kristi Sild of Lextal

By Teona Gelashvili (December 20, 2021)



Similarly to the rest of the world, the major factor affecting every aspect of life is COVID-19, however, despite the crisis, things are going rather well in Estonia, according to Lextal Partner Kristi Sild.

“In terms of political developments, the overall situation remains quite stable. We have not witnessed any major political shake-ups, despite the existing external threats,” Sild explains. “With regards to the pandemic, the government tried to keep the public in the loop as much as possible. The country has been quite liberal with COVID-19 restrictions and, although the number of cases is fluctuating, restrictions are being adjusted accordingly. At the moment, for instance, the schools are open, and individuals are allowed to work from offices.”

Sild highlights that vaccination-related regulations have impacted law firms’ activities as well. “The segregation of vaccinated and unvaccinated people has led to polarization and tensions internally,” she notes. “Even though vaccination is not mandatory as such, proof of vaccination is needed to enjoy many aspects of social life, such as going to the restaurants. We have a significant rise in the number of labor disputes due to the dismissal of unvaccinated persons. These cases are very interesting from a human rights perspective.”

Sild points out that “the economy is booming, as M&A and investment activities are very high and, overall, there is a lot of money on the market. Certain investors even ran into the problem of finding real estate assets that can be purchased.” According to her, “a significant factor contributing to the high level of economic activity was the release of pension funds.”

“This year has also been characterized by the unusually high level of IPOs, which are normally quite rare in Estonia,” she adds. “The process is frequently referred to as the ‘IPOdrome.’” ■

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Turkey:

Interview with Elvan Aziz of Paksoy

By Teona Gelashvili (December 21, 2021)

Turkey's toughest challenges are inflation, exchange rates, and the devaluation of the Turkish Lira, according to Paksoy Partner Elvan Aziz.

"This has affected major aspects of our political life and economy," Aziz notes. "We always had to deal with these issues, but this year they've reached a new level. Every morning we wake up curious about how the situation might have changed. The exchange rate fluctuations are evident even throughout the same day, affecting not only law firms' business, but the whole Turkish economy."

The upcoming elections are a major factor in Turkish political life, according to Aziz. "In Turkey, general elections will be held in 2023 and politicians are already preparing for them," she adds. "As in other parts of the world, elections create a certain political environment, having an effect on the whole country. Politicians are more actively undertaking economic projects, creating what can be referred to as a 'political economy'. At the same time, foreign investors usually refrain from their investment activities until the election results are public," she notes. According to her, certain events and transactions in 2022 might be postponed until the election results are finalized.

"In terms of legislative updates, we have not witnessed any major changes affecting the M&A market," Aziz notes. "Also, no additional legislative changes have been adopted recently to impose any further COVID-19-related restrictions that would adversely affect social and economic life."

According to Aziz, this year, foreign exchange fluctuations have been a driving force affecting the transactions. "For M&A deals, if the purchase price is determined in foreign currency, buyers are not willing to participate as the assets are becoming too expensive, especially if the target's revenues are mainly in Turkish Lira from the local market. On the other hand, if the purchase price is determined in Turkish Lira at the outset, sellers are disadvantaged, and they want to renegotiate the price." According to her, it eventually hinders the number of transactions, and "some of these transactions are also postponed until next year."

At the same time, this year saw an increased number of VC transactions in Turkey, Aziz says. "Turkey is still attractive in M&A due to the lower production costs in the country, especially for buyers that could create post-acquisition synergies within the region," she concludes. ■



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We always had to deal with these issues, but this year they've reached a new level. Every morning we wake up curious about how the situation might have changed. The exchange rate fluctuations are evident even throughout the same day, affecting not only law firms' business, but the whole Turkish economy.

Belarus:

Interview with Alexander Bondar of SBH Law Offices

By Radu Neag (December 21, 2021)



Substantial changes for advocates, the economic impact of sanctions, and Russian banks and investors becoming more active as a result are the three topics at the top of Belarusian lawyers’ agendas, according to SBH Law Offices Partner Alexander Bondar.

“The new regulations on advocacy were the most crucial issue of 2021,” Bondar begins. Advocates are lawyers licensed to represent clients before Belarusian courts. “While previously we worked in advocates’ bureaus, owned by the partners themselves, it’s no longer possible for advocates to join such offices,” he says. “Starting several months ago, all advocates’ bureaus were liquidated and advocates now all work within the state’s territorial Bar associations.” He does note that “several advocate bureaus have received the right to create special associations within the territorial Bar associations. But in any case, all of them are regulated by the state and no longer belong to the partner-advocates themselves.”

Overall, the market feeling is that Russian companies offer better transaction conditions, multiples, and estimations – as they are less worried about the risks.

Several new sanctions – by the EU, the US, the UK, and Switzerland – were passed, for some of Belarus’ largest state-owned companies, Bondar says. “These sanctions impacted the whole economic sphere. International banks, financial institutions, and companies are avoiding working in Belarus, or with companies in Belarus, even those not on the list.”

“The EBRD, for example, decided it will not work with the state (as of last year),” he notes, adding that “several weeks ago, it announced it will stop the private programs as well.” While it previously invested in state utility programs (for water supply and treatment plants) or the reconstruction of the M10 highway – both stopped, according to the SBH Partner – “the EBRD was also active in providing private loans and investments, to some of the largest privately-owned companies. It executed all projects that were already underway, but it has no further projects in the pipeline.” So, for those large companies – players in the production and delivery business in the country – such loans will no longer happen, he says.

“That has created a space for a growing number of Russian banks and investors to become more active, which is what we’ve seen in the last two or three months,” Bondar says. He mentions Ozon (the largest IT retailer in the region) becoming more active. “As have Russian banks – while they were also investing before, they are now replacing the loans from international financial institutions.”

And this has led to a booming market for M&A transactions, primarily by Russian companies in the IT and high-tech sectors, according to Bondar. “Mail.ru did a number of deals, while Sberbank subsidiary Sbergames is looking for companies to acquire or invest in. Softline has also started looking at local companies, after completing its London Stock Exchange IPO.”

“Overall, the market feeling is that Russian companies offer better transaction conditions, multiples, and estimations – as they are less worried about the risks,” Bondar says. While the high-tech sector was already booming, with “more than 40 transactions between January and November 2021,” according to him, “due to sanctions and being perceived as a high-risk environment, foreign companies would ask for big discounts relative to valuation for these transactions.” So, in some cases, Bondar says “Russian players, caring less about sanctions, have become the more attractive investors, being able to offer better terms.” ■

Czech Republic:

Interview with Miroslav Dudek of BPV Braun Partners

By Teona Gelashvili (December 22, 2021)

While real estate in the country is still going strong, according to BPV Braun Partners Partner Miroslav Dudek, bankruptcy disputes and the financial problems of tenants from industries hit by COVID-19 restrictions are on the rise in the Czech Republic.

Dudek says that the overall political atmosphere has calmed down recently. “The new government appointed by the president is about to start its activities, accordingly, we are curious about what to expect,” he begins. “In particular, one of the pressing issues is the huge increase of public debt. At the moment, we are wondering whether the government will stick to its promise to not raise taxes, and which measures they will use for taming the public debt.”

“One of the major legislative updates in the real estate sector would be a new Construction Act, changing the structure of the building authorities and implementing some additional tools, the purpose of which is to streamline the permitting process,” he says. In addition, Dudek highlights the legislative changes in the energy sector and the first effects of the Green Deal.

According to Dudek, there is an increased amount of money pumped back into the economy. “Investment funds, as well as private investors, have been trying to invest their money into real estate projects, as it is not convenient to simply leave money in their bank accounts,” he notes.

From an economic perspective, Dudek points out that real estate has been one of the most active areas for the law firm. “We have been quite busy recently, as there are several transactions to be finalized by the end of this year or early in January. For instance, one of our clients is considering extending its shops in the Czech Republic and intends to acquire the plots for development. Even though the number of transactions has decreased recently, we still have a significant amount of work, considering the pandemic situation.”

“In the past year, we have seen a rise in the number of bankruptcy matters and disputes,” he adds. “Many companies and landlords in the travel, hospitality, and food sector went bankrupt, with disastrous sector-wide effects. This is mainly the result of a devastating decrease in tourists in the city of Prague,” he notes. However, Dudek also points out that many landlords and tenants tend to compromise, even when the conditions are unfavorable to them. “They tend to invest in their relationships, lasting over the years and offering concessions and discounts, as well as adjustments in payment calendars, in particular as the state is willing to pay additional support. In that regard, parties are taking into account the extraordinary situation caused as a result of the pandemic,” he concludes. ■



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One of the major legislative updates in the real estate sector would be a new Construction Act, changing the structure of the building authorities and implementing some additional tools, the purpose of which is to streamline the permitting process.

Serbia:

Interview with Sasa Stojanovic of Radovanovic Stojanovic & Partners

By Andrija Djonovic (December 22, 2021)



Even though changes could be in the pipeline for Serbia given the upcoming April 2022 presidential and parliamentary elections, the central Balkan country is in a state of stability and steady advancement, according to Radovanovic Stojanovic & Partners Partner Sasa Stojanovic.

“Looking at the previous election cycle, one could expect that the current political structures will remain in place, after the April 2022 elections end,” Stojanovic says. “Overall, there is a feeling of political stability in Serbia, which reflects on investor trust as well.”

Following the initial pandemic shock of 2020, Serbia has entered a recovery phase. “The market has recovered significantly, and this year has been much better than the last one. Why, some investment assessment experts eyeball the total FDI amount for this year at USD 4 billion!” Even if that number may not be the exact one, Stojanovic feels that it reflects the general sentiment accurately.

“Also, it is quite important to note that Cluster 4 of the EU accession negotiations has opened up – which is a strong indication that this process is advancing adequately,” Stojanovic says. He believes that, should this trend continue, Serbia might know its accession date by 2025. “Reflecting this, there have been some major efforts to harmonize the domestic legislative framework with that of the EU.”

Turning to specific business and market areas that have been overperforming, Stojanovic highlights the banking, IT, and energy sectors first. “A 400-megawatt quota for wind power plants has been set and the path for investors both foreign and domestic is opening up.”

Additionally, the number of M&A transactions is, according to Stojanovic, way better than in 2020. “The banking sector has been on fire as well, especially following the latest round of consolidations.” With the recent M&A transactions in the banking sector, Stojanovic reports that the total number of banks in Serbia has dropped to 20, “and with all the expected consolidations, it should drop even further by 2023.”

Rounding out the high-performing sectors of the economy, Stojanovic highlights IT, healthcare and pharma, the food industry, and real estate.

“I expect the market to be even more stable in the new year, especially due to the mass vaccination efforts in the country,” Stojanovic says. “More market movement is expected, and the first half of 2022 should see an even higher number of M&A transactions – most so in the IT, banking, and renewable energy sectors,” he says in conclusion. ■

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The market has recovered significantly, and this year has been much better than the last one. Why, some investment assessment experts eyeball the total FDI amount for this year at USD 4 billion!



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Kosovo:

**Urim Vokshi of
Vokshi & Lata Law Firm**

By Teona Gelashvili (December 23, 2021)



From the perspective of democracy, these elections demonstrated a positive improvement in the country, especially compared to the other elections held in the region.

The recent peaceful transition of power following parliamentary and local elections in Kosovo demonstrated the country’s commitment to democratic values, according to Vokshi & Lata Law Firm Partner Urim Vokshi.

“In 2021, parliamentary and local elections were held in Kosovo,” Vokshi explains. “In both elections, the opposition parties enjoyed significant support, leading to a peaceful transition of power from one government to the other. From the perspective of democracy, these elections demonstrated a positive improvement in the country, especially compared to the other elections held in the region,” he says.

According to Vokshi, following the elections, many legislative updates are to be expected. “The new government is planning to implement various reforms,” he notes. “Among those, the most challenging one would be the vetting procedure applying to the justice system. However, at this point, despite the ongoing discussions on these laws, we still have to wait and see how they will be framed and modified into more specific proposals.”

In terms of other legislative changes, Vokshi highlights the initiative for the Law on the Commercial Court, where he has been part of the working group in Parliament. “The idea of having a Commercial Court is presented with the aim of reducing the timeframe for resolving and settling such cases in court,” he says, noting that “the Commercial Court would, ideally, have a major impact not only on local companies but, in particular, on foreign investors – as it will reduce the timeframe for resolving disputes and provide legal security for everyone.”

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Vokshi says that, overall, in terms of the economy, while COVID-19 has affected many areas of business, it has also created opportunities for companies. “The export sector has been on the rise in Kosovo,” he explains. “Interestingly enough, many companies managed to benefit from the pandemic situation. Due to shortages in the supply chain in Europe from Asian and African countries, the companies in Kosovo were able to increase exports to their markets. As

a result, for the German market alone, we witnessed a 39% increase in the export of goods. In addition, there is a rise in the number of exported goods to Asia and Africa,” he points out.

“Additionally, there are many prospective improvements to expect, as many foreign investors mainly operating in the US and Europe have decided to start their activities here to benefit from the low tax rates,” he says. “We see a rise in IT companies moving to Kosovo, due to the highly skilled workforce in the country. In addition, many BPO companies established in Kosovo provide services all over the world, including to Germany, France, the US, etc.,” Vokshi adds.

“Other sectors, such as tourism and energy are facing certain problems, similarly to the rest of the world,” Vokshi points out. “However, we also see foreign investors showing interest in the renewable energy sector, and we hope this trend will continue even after the crisis is over,” he concludes. ■

Romania:

Interview with Alexandru Birsan of Filip & Company

By Radu Cotarcea (December 27, 2021)



The Romanian market has been a “very hot one,” in recent months, and the year in general, according to Filip & Company Partner Alexandru Birsan, with entrepreneurs benefiting from easy access to funds.

“We’ve been announcing a new transaction every few days for the past weeks, and there’s still a lot more happening as we speak,” Birsan notes. While the last few months have been particularly busy, the Filip & Company Partner says the whole year was intense: “I have a sense that, in 2021, everyone was trying to catch-up for last year, addressing all they wanted to have done this year, and scrambling a bit to cram in some of the things for the next year.” Perhaps counter-intuitively, Birsan says that “the pandemic helped,” noting that “a lot of people spent time reflecting on where they are and what they want to do and we see the fruits of that exercise now, with a lot of businesses keen to develop and take their next steps. This year felt like everyone was trying to board a rocket to Mars.”

According to Birsan, the tech sector has been a huge driving force. He points to UiPath, which recently became Romania’s first unicorn, and says that, while the company is by far not the only example, it certainly is one of the most positive ones out there. “Overall, the sector has reached a certain level of maturity which created a lot of buzz in the local tech entrepreneurial class.” Specifically, he points to a lot of activity on the venture capital front, while also noting that “today’s venture capital is tomorrow’s growth capital, so I am very optimistic about the pipeline of deals.”

And the stock market in Romania has reflected that aspiration to shoot for the stars as well, according to Birsan. “The AeRO market of the stock exchange had a few transactions per year

in the past but saw dozens of IPOs this year – and overall with high valuations relative to the Romanian market.” The AeRO marketplace “that by now has grown into a place where you can easily get EUR 1 to 10 million – excellent for a mid-sized company looking to grow,” has been fueled by the same maturity: “The whole ecosystem is simply working better and better – if you have some money to invest in a company that is in its early stages, you now have a clearer exit path than you did in the past.”

On the flip side, “traditional PE has been slow this year,” Birsan notes. He explains it probably was because valuations have been ‘aggressively’ high lately: “I’ve seen valuations coming in that are quite ambitious, by traditional PE fund standards, to which the reaction on the sale side was a lackluster ‘ok’ – when a little while ago, they would have been excited about it.”

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I have a sense that, in 2021, everyone was trying to catch-up for last year, addressing all they wanted to have done this year, and scrambling a bit to cram in some of the things for the next year.

“Yes, inflation is rearing its head, and that will take a toll, but monetary conditions have been extremely loose for the past 18 months, which means there has been plenty of cheap money flying around,” Birsan says. This, in turn, “has created an environment where a lot of investments have been made, and they’ve been driving results for these companies.” As a result, “between the relatively easy access to funds and the companies’ growth, it is only normal to have a seller’s market at the moment, with high valuations.” And this can only further fuel transactions in the market, with the Filip & Company Partner explaining that some transactions might occur where entrepreneurs might not have considered a sale, but the high sale value might make them pull that trigger.

Will it continue? Birsan says that “over the past six weeks, the public markets have not been burning rocket fuel anymore.” He concludes that, based on this, “valuations will probably slow down their growth, if not flatten. It’s unlikely that they will drop, though, as there is still a lot of appetite in the market.” ■

Bulgaria:

Interview with Violetta Kunze of Djingov, Gouginski, Kyutchukov & Velichkov

By Teona Gelashvili (December 28, 2021)



The first regular government formed after three extraordinary parliamentary elections and pending reforms on the horizon are sources for moderate optimism in Bulgaria, according to Djingov, Gouginski, Kyutchukov & Velichkov Partner Violetta Kunze.

“In Bulgaria, a new government was approved this Monday (December 13, 2021),” Kunze begins. “This year, we experienced three extraordinary parliamentary elections and we now have the first regular government since March. The new parliamentary majority formed a centrist-led coalition of political parties claiming to pursue changes in Bulgarian politics.”

According to Kunze, one of the most visible and promising trends is the increased involvement of the younger generation in politics. “Issues, such as transparency, zero tolerance for corruption, green energy transition, and reforms in key sectors are more actively represented on their political agenda,” she notes. “In addition, the government in power is backed by the parliamentary majority proclaiming democratic values, rule of law, and the EU principles, and we are looking forward to seeing how it develops.”

“In the recent past, the country witnessed high levels of uncertainty due to pandemic-related instability, as well as issues such as hiking energy prices and problems in the supply chain,” Kunze says. “The appointment of the new government has led to a cautious optimism for many considering that the coalition parties are composed of groups of people focusing on reforms specific to the Bulgarian context, who are willing to turn good ideas into policy.”

As for the legislative updates, Kunze notes that different reforms can be expected in the nearest future. “For lawyers, the most important reforms are related to the judicial system, tackling corruption, reinstating the rule of law, mainstreaming compliance issues, *etc.* Bulgaria is also lagging behind in the implementation of the key EU legislation. For instance, the Bulgarian parliament has not yet managed to adopt the law implementing the whistleblowing directive,” she adds. “We expect the government to undertake the necessary political decision and the parliament to adopt the legislative framework for further enhancing the e-government and digitalization of the economy.”

This year, we experienced three extraordinary parliamentary elections and we now have the first regular government since March.

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As for the existing legislative updates, Kunze highlights that a new Law on the provision of digital content and digital services and for the sale of goods is entering into force on January 1, 2022, transposing *EU Directive 2019/770* and *EU Directive 2019/771* – part of the EU strategy to create a single digital market.

“At the same time, the government also pledges to focus on improving the business environment, attracting foreign direct investment, and increasing productivity through digitalization and institutional reforms. We are all looking forward to seeing how these trends continue,” she concludes. ■

Montenegro:

Interview with Lana Vukmirovic Mistic of Vukmirovic Mistic Law Firm

By Teona Gelashvili (December 29, 2021)

Vacant Supreme Court Justice positions, as well as the inability to appoint a Minister of Justice, are affecting the justice system and Montenegro's EU integration prospects, says Vukmirovic Mistic Managing Partner Lana Vukmirovic Mistic.

"At the moment, the judicial system is experiencing major challenges," Vukmirovic Mistic begins. "In July and August, due to amendments in the Pension Law, the judicial council decided to terminate the power of 23 judges, leaving only 6 judges in power in the Supreme Court. Such composition is not sufficient for the judicial decision-making process. Therefore, the court is unable to decide the majority of cases," she notes.

According to Vukmirovic Mistic, "since July, the position of Minister of Justice is vacant, and the Interior Minister is undertaking its duties, which in addition to the incomplete composition of the Judiciary Councils adds more complexity to the appointment process of judges." She says that this is heavily influenced by the overall political situation in the country.

"Overall, such challenges in the judicial system and the inability to appoint Minister of Justice is also influencing the prospects of the EU Accession in the coming years," she says.

With regards to legislative updates, Vukmirovic Mistic points out that the Parliament's activities have been very low. "The government does not enjoy support from a parliamentary majority. Therefore, any legislative proposals are difficult to move forward." She says that some of the crucial legislation, including tax laws, have not passed public debates before they were sent to Parliament. "Tax-related legislative updates, if adopted, should be in force from January 2022, which leaves a very short time for businesses to adjust to the new requirements."

Despite ongoing challenges, Vukmirovic Mistic notes: "The market is slowly waking up compared to last year and even though it has not reached the pre-pandemic level, we are still optimistic about the future." According to her, the market has seen several big transactions in the field of TMT, such as the sale of Delta City and 4iG's acquisition of Telenor, soon to be finalized. "Another recent transaction was the signing of the contract for construction of the Kotor-Lovcen cable car with the Leitner Consortium," she adds. ■



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Poland:

Interview with Michal Miecinski of CMS

By Radu Neag (December 30, 2021)



While real estate is turning heads, according to CMS Partner Michal Miecinski, tax hikes and high inflation might present cause for concern in Poland, heading into 2022.

“The real estate sector is still booming,” Miecinski says. Overall, there was no pandemic-related slowdown, according to him,

“but the asset classes that investors are keen to invest in did switch around a bit.”

“Logistics is king,” he says, “stimulated by the pandemic, trends on commerce, Poland’s location, and the growing number of end customers.” He explains that the uptick is most visible on the side of developers, “but everyone wants to have investments in logistics assets. The projects are getting more and more sophisticated – it’s not just warehousing – from small manufacturing to build-to-suit projects, tailored to the specific needs of end-users.

than own, from electric scooters and cars to, well, everything – might also transfer to the way people live; and, in terms of security, institutional renting might appeal more than private rentals in traditionally ownership-oriented Poland.” Finally, the apartments themselves can be suited to the client’s needs, Miecinski says, noting that “we’re not talking ready products, as all PRS transactions this year were forward sales – for projects to be built or already in progress – with instruments in place to protect the investors.”

Perhaps surprisingly, he says the office market is still quite active: “We’ve become more agile in terms of working, either from home or the office. But the office has been understood to have benefits for corporate culture, training and mentoring, and networking – and all those little accidental interactions.” Miecinski notes that the emphasis for new developments is on making them more user friendly, “with socializing spaces, lounge areas, and kitchens enabling people to meet and talk in a good atmosphere,” and more environmentally sustainable, “in terms of materials and energy consumption, something that users, tenants, and investors equally care about,” as well as updating designs. “So, offices are alive but quite different to what they were two years ago.”

On the legal side, Miecinski says the biggest change affecting all Poles from January 1, 2022, relates to taxation, with personal and corporate income taxes being increased: “Poland is big on one-man businesses, which will be affected by changes in tax regulations.” He also says the approach to health insurance contributions, “which were low, capped, and tax-deductible,” is being rethought. “From January that burden will generally fall between 4.9% and 9% of profits, which is a huge change and something people are actively worried about.”

Less money will mean lower consumption, according to Miecinski and, “with the very high inflation at 8% for the year and increasing interest rates, we might be looking at a different economic landscape down the line. Poland is not alone in this position, though, and we remain optimistic and entrepreneurial, albeit concerned.” ■

We’ve become more agile in terms of working, either from home or the office. But the office has been understood to have benefits for corporate culture, training and mentoring, and networking – and all those little accidental interactions



“The queen has to be the private rented sector,” the CMS Partner adds. “PRS is growing, and not only in Poland. While this is a somewhat new area, right now it seems to be the future, for years to come.” As to the reasons, he lists that “residential prices grew by 20-30% during the pandemic, reducing purchasing power; a change of mindset – to use rather

Albania:

Interview with Florian Hasko of Tashko Pustina

By Radu Neag (December 31, 2021)



Infrastructure, the Open Balkan initiative, and the ongoing judicial reform are the major topics in Albania, according to Tashko Pustina Partner Florian Hasko.

Infrastructure is the key sector the Government of Albania has been focusing on, Hasko says, “with the Trans-Adriatic Pipeline being the biggest project in the country.” The works in Albania have been almost completed and the entire pipeline might become operational in 2022, he explains. “It is a showcase of foreign direct investment in Albania, on a significant scale, bringing in jobs and resources as well as sector-specific know-how.”

Another interesting development to keep an eye on in 2022, according to Hasko, is the project for the construction of a new hydropower plant in Skavica, on the Drin River: “It is a key engineering project, expected to increase domestic green energy production by 20%. Valued at around USD 600 million, the Skavica HPP will be constructed by Bechtel and financed entirely by the government.”

“The third project – this time impacting tourism in the south of the country – is the PPP development of the Vlora International Airport, to be the gateway to the Albanian Riviera for foreign tourists,” Hasko says. “It will be linked to the seaside through a publicly-funded tunnel in Mount Llogora, some 20 kilometers south of Vlora, the construction of which will start soon,” he adds.

Also in the spotlight is the recent Open Balkan political initiative, a regional cooperation project between countries in

the Western Balkans – three at the moment: Albania, North Macedonia, and Serbia – “aiming to create a common market for goods, services, capital, and people,” according to Hasko. “The process picked up speed recently,” he says, “so we’re expecting more news, with quite a few meetings on specific measures scheduled for 2022.”

On the legal side, Hasko says the ongoing digitalization of public services is worth a mention, “with the Immovable Properties Registry a key component. Progress was made on that front, with a couple of services already available online, but the idea is to have full access to the whole thing through an electronic platform.”

Finally, he turns to the ongoing judicial reform, “still the biggest issue for the law community, a major concern for investors, and a headache for the government.” The Tashko Pustina Partner says that more than half of judges and prosecutors have been removed from office since 2016 “on grounds related to either corruption, professionalism, or capabilities. The challenge of vacant positions still exists, but in the first half of 2021 the Supreme and Constitutional courts have finally resumed work.”

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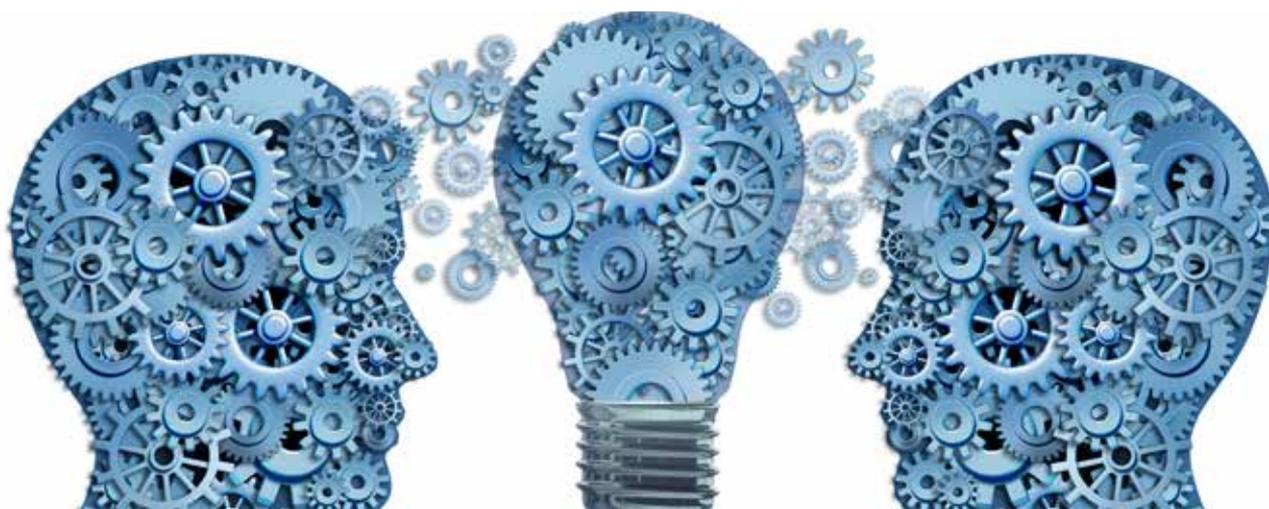
There is public support for the reform and people are optimistic about its outcome. While previously magistrate positions were frowned upon, as a career choice, a good number of my law school colleagues have now applied for and started a career as magistrates.

“It’s still slow, as appointments still need to be made,” he says. “However, there is public support for the reform and people are optimistic about its outcome. While previously magistrate positions were frowned upon, as a career choice, a good number of my law school colleagues have now applied for and started a career as magistrates,” he explains. Hasko is hopeful: “the fact that some of the lawyers who have suffered through the system have decided to make the switch – and dedicate their time and efforts to improving the judiciary – is, I feel, a sign of good things to come.” ■

INQUIRY INTO IP: THREE CEE BOUTIQUES

By **Andrija Djonovic**

Practicing IP has always been a tricky matter, given the complexity and the diversity of this area of law. We reached out to experts from several IP-focused law firms – Hungary’s **SBGK**, Serbia’s **Petosevic Group**, and Greece’s **Drakopoulos** – to learn more about their origins, specializations, structures, and operations.



Busy in the Balkans – The Petosevic Group

The Petosevic Group is among the most prominent IP-focused firms in the Balkans. The group was founded almost three decades ago by Slobodan Petosevic – who remains at the helm today. “We initially placed our focal point on the Balkans,” Petosevic says, “and have since expanded our area of operations with a focus on the East European jurisdictions emerging after the breakup of the USSR and Yugoslavia.”

Petosevic’s business, which started in 1992 in Belgium, was “rooted in a small operation from which East European IP client work was coordinated during the emergence of new markets,” Petosevic remembers. “As the new Eastern European jurisdictions evolved, it was clear that it would be difficult to provide uniform service through a network of independent providers, varying in knowledge, ability, standards, and costs. It became necessary and logical to have the majority of the workforce move to the countries in which our clients



**Slobodan Petosevic, Group
Executive Chairman and CEO,
Petosevic Group**

sought the services, so a number of local companies were established in the countries of the Balkans area.”

Starting with a few markets, Petosevic gradually expanded and eventually shifted its headquarters from Belgium to Luxembourg in 2005, consolidating the governance of the entire network. Today, the group consists of wholly-owned entities in Albania, Belarus, Bosnia & Herzegovina, Bulgaria, Croatia, Hungary, Kazakhstan, Montenegro, North Macedonia, Romania, the Russian Federation, Serbia, Slovenia, Ukraine, and Uzbekistan and affiliated offices in Armenia, Azerbaijan, the Czech Republic, Estonia, Georgia, Kosovo, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Slovakia, Tajikistan, and Turkmenistan.

Altogether, the Petosevic Group consists of more than 130 people specializing in IPR prosecution and enforcement, along with advertising law, data protection and privacy, franchise law, and media and entertainment law.

“Our offices in Belarus, Kazakhstan, Russia, Ukraine, and Uzbekistan reflect our clients’ requests for a more direct representation in former USSR countries,” Petosevic says. “In addition, we also have partner firms throughout the EU, Eastern Europe, and the Russian-speaking region and also act as a coordinating hub for IP-related services worldwide.”

Busy in Belgrade

The firm’s impressive size includes more than 50 lawyers and over 30 IP agents.

The network’s largest office is in Serbia, where 30 professionals ply their trade. “Our attorneys and IP professionals are well-respected local IP experts and are supported by a team of experienced and multilingual paralegal and administrative staff,” reports Mihajlo Zatezalo, who heads the Belgrade office and acts as Regional Manager overseeing operations in the non-EU Balkan countries of Albania, Bosnia and Herzegovina, Macedonia, and Montenegro.

“The Belgrade team includes five attorneys, five Serbian trademark and patent attorneys, four European patent attorneys, two paralegals, and seven administrative assistants,” Zatezalo continues. “Our Serbia office also hosts our firm’s other departments – marketing, HR, and IT.”

Given the diverse nature of IP work, and the fact that the Petosevic Group’s biggest office is based in a non-EU country, Zatezalo’s team operates in a dynamic environment.



Mihajlo Zatezalo, Regional Manager – Western Balkans, Petosevic Group

“Over the past couple of decades, legislation has changed several times, and even the country we live and work in today is not the same country as several years or decades ago,” he says. “The local laws are now to a large extent harmonized with EU directives in the IP field, but the legislation is still frequently amended in order to fully comply.”

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As the new Eastern European jurisdictions evolved, it was clear that it would be difficult to provide uniform service through a network of independent providers, varying in knowledge, ability, standards, and costs. It became necessary and logical to have the majority of the workforce move to the countries in which our clients sought the services, so a number of local companies were established in the countries of the Balkans area.

Zatezalo considers that, in general, IP legislation and law enforcement practices have advanced significantly in recent years. “I feel that our firm played a significant part in this,” he says, pointing to the international scope of the projects the team has undertaken and other regular activities.

Still, Zatezalo says, it’s not perfect. “Despite a strong legislative framework, improvements are generally needed in terms

of training and specialization of officials, prosecutors, judges, and court panels handling IP rights; coordination and cooperation among various institutions in charge of IP protection; and raising public awareness of IP rights.” Even with recent improvements, he says, his team often needs to “go the extra mile” in order to win a case. “Precisely for this reason, we try to always invest additional effort wherever and whenever possible.”

Keys to Success

Of course, challenges exist across the region.

“Over the last 30+ years it has become clear that the quality of IP services in Eastern Europe and the Russian-speaking region is, generally speaking, below the West European level,” Petosevic says. “Most of the local firms grew out of IPR prosecution-only based businesses, focusing on administrative, mainly patent-related procedures and the related translations. Understandably, they comparatively lack experience in IPR enforcement and providing complex legal advice to foreign IP rights holders.”

That inexperience created a market opportunity in CEE’s larger markets, which Western firms were quick to recognize and address. According to Petosevic, larger Western firms, which “are built on substantive practice and case law, have, more or less, successfully entered the largest and most lucrative markets in Eastern Europe, leaving a significant gap in the smaller countries and covering the larger regions only partially.” This, he believes, is where Petosevic steps in.

“We believe that a blend of well-established Western practices and best local practices established by local courts and practitioners is the best way to cover these gaps,” Petosevic says. “While providing IPR protection services throughout our region for major companies from Western Europe, the United States, and other developed countries, we employ individuals who have been educated and worked in the West, and who train our staff to bring Western standards to less developed and sophisticated jurisdictions.”

Changes in technology will allow his team to be of even greater service soon as well, Petosevic says, noting that the physical presence of individual lawyers is already significantly less important than it was in the past. Now, lawyers based anywhere in the world remain able to focus on a wide range of markets. “Consulting on only one jurisdiction is increasingly a thing of the past,” he says, and notes that the kind of work being done is changing as well. “There is a clear need

for more complex legal advice in this field today. In the past, the accent was on the processing of applications, whereas today the contentious arena is taking over.” As a result, he says, “our long-term goal is to prepare our professionals for what they will be required to do tomorrow.”

Looking Ahead

The Petosevic Group’s motto – “embracing change” – accurately reflects the firm’s efforts to bridge the gap between Eastern and Western European IP practices. “We strive to bring together the best of both worlds and save time and money for our clients through tailor-made solutions, at a reasonable cost,” Petosevic says.

The firm’s workload is more or less constant across all the group’s offices, Petosevic says, but he reports that, “we have experienced an increase in workload in our offices in the Russian-speaking region, especially in Russia and Ukraine, and these two offices have grown significantly over the last several years.” The firm seeks to expand its team in these markets, and expand to other geographical areas in order to provide its client base with more direct representation.

Seizing SEE – Drakopoulos

At about the same time that Petosevic was beginning its expansion through the northern Balkans, another intellectual property-focused law firm came into being in Greece. Founded in Athens in 1992 by Panagiotis Drakopoulos, with a primary focus on IP and regulatory matters, the Drakopoulos law firm has since expanded to Romania in 2005, Albania in 2007, and Cyprus in 2016.

Now, Drakopoulos Partner Michalis Kosmopoulos reports, in addition to IP, the firm’s 40 practitioners advise on corporate, M&A, banking and finance, real estate, employment, regulatory and compliance, dispute resolution, TMT, tax, and EU and competition matters. “We are a full-service law firm, advising both domestic and international clients, oftentimes with arrangements covering multiple countries in the region for the same client through a single interface,” Kosmopoulos says, “both in terms of instructing and invoicing, as clients with a multinational presence tend to see the entire SEE as a single market, despite the different jurisdictions it comprises.”

Expansion Rationale

In establishing its regional footprint, Kosmopoulos says Drakopoulos recognized that SEE “had the potential to be

on the right track in terms of growth rates and investment returns, but still had to battle against severe material headwinds, including stalled revenues, fiscal easing measures in some of its countries, and investors buckled up in view of financial turbulence.”

And the firm expanded into each new jurisdiction with a distinct rationale. Kosmopoulos describes Romania, for instance, as having a promising future and presenting a stable and low-risk business environment for multinational and global industry players, which is why it made sense for Drakopoulos to expand its operations there. “With Romania’s economy expanding significantly, most of our clients seemed to be comfortable choosing it as a basis for their business expansion into the SEE,” he says.

“The fact that SEE consisted of an impressive mixture of countries with radically different economies and levels of market development was further ratified by the presence of Albania in the same zone,” Kosmopoulos continues. He says that during the years of Drakopoulos’ presence in that Balkan country, “we were able to experience the transformation of one of the poorest nations in Europe into a state geared towards being an autonomous market-oriented economy.”

Finally, five years ago, Drakopoulos expanded into Cyprus, with an office in Larnaca opening its doors in 2016. “Cyprus has been showing steadily increasing growth rates over the last few years,” Kosmopoulos says, “and it managed to reach the end of 2016 with its economy on a solid footing.” He says that Cyprus offered a strong regulatory environment, “with enhanced compliance measures and risk management procedures” benefitting investors.

In opening the Cyprus office, Drakopoulos completed its four-pronged office placement. According to the firm’s partners, the firm’s presence in these locations, combined with a best-friends network across SEE, allowed it to provide a comprehensive engagement with a number of clients.

“In the context of all of the above, we saw the need for effective management and enforcement of intellectual property rights in a changing economic landscape,” Kosmopoulos emphasizes. “Especially in Romania, the harmonization process created a framework with which we were already familiar, while in Albania the long accession route would eventually change the IP landscape through a harmonization route.”



According to him, “we are, therefore, in a position to put in use the longstanding experience we have already accumulated in Greece.”

Network Operations

Still, it’s the firm’s original base that’s busiest. “When it comes to IP, our Athens office generates the most work,” Kosmopoulos says. The firm’s Athens office consists of five lawyers and three administrative employees, including paralegals and investigators. “Our Athens office also drives the operations in Cyprus, where two lawyers and one paralegal handle cases on the ground,” he says. The firm’s regional team is rounded out by three lawyers and a paralegal in Romania and two lawyers in Albania that focus on IP matters.

“The main challenge when we started our expansion was recruiting lawyers and supporting personnel which would be skilled and experienced, while at the same time possessing excellent command of the English language and business-oriented minds,” Kosmopoulos says. Another hurdle has been conflict checks, which Kosmopoulos describes as “endemic to law firms with a wide footprint across multiple jurisdictions.”

“Finally,” he says, “fighting corruption and achieving the rule of law remain to be accomplished for several countries in the region, which makes operating with ‘Western’ standards challenging, to say the least.”

History in Hungary – SBGK

As the first patent attorney in Hungary, Tibor Schon started offering legal advice and services in 1896. Following his father into the law, Schon's son Tibor Somlai qualified as a lawyer in 1929. Forty years later, in 1969, together with fellow patent attorneys Ferenc Biro and Andras Beliczay and lawyers Tibor Sasvari and Bela Kende, Somlai laid the foundation of what would eventually become SBGK.

“SBGK was the first private firm which combined the knowledge of attorneys at law and patent attorneys,” says current SBGK Partner Peter Lukacsi. “Since the foundation of SBGK, the world has completely changed, but our commitment to the Hungarian market and our clients remained the same. Consequently, our office is still owned exclusively by Hungarian partners and we are extremely proud that many of our clients have trusted us as a partner for decades.”

Growing and Growing

As a private law firm during socialist times – dealing with IP and owning a foreign currency account – SBGK was a rare animal. Its unique positioning allowed the firm to accept many foreign assignments, Lukacsi reports. “This was a great achievement which created trust in our foreign clients,” he says, noting that the firm negotiated the political/economic transformation of 1989 well. “After the regime change, we were able to maintain our position by working hard – and also because the international law firms that entered the Hungarian market focused on other legal areas, most notably Corporate/M&A and Finance law.”

SBGK retains its deep client base. According to Lukacsi, the firm has “many Hungarian clients – subsidiaries of multinational firms interested in our competition or IP law experience and Hungarian enterprises that have grown substantially in recent years and need IP law advice both in Hungary and globally.”

And not just IP. Lukacsi notes that “changes in the economic, political, and legal environment, client needs and expectations, and the changed market environment have also diversified SBGK's professional range during the last couple of years.” As a result, “today we represent our clients in a wide variety of complex mandates,” he says, including in “data privacy and data protection, franchise and licensing, competi-



Peter Lukacsi,
Partner,
SBGK

tion law, labor and employment law, and high-level real estate matters, as well as M&A mandates.”

In addition, he says, SBGK continues to serve foreign clients from all over the world – in particular from the EU and the USA. “Nowadays, SBGK provides services in all commercial law and IP law areas, to both domestic and international clients from more than 20 sectors, and we help companies with their day-to-day operations in corporate and commercial legal aspects as well.”

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Although SBGK has just one office worldwide, and we are a Budapest-based office, SBGK is able to offer not only professional services but also a broad network of international contacts, which includes well-known national and international firms of attorneys-at-law and patent attorneys.

The firm's growth has, according to Lukacsi, been based on offering high-quality business-focused legal services while building and maintaining long-term client relationships. “The combination of our attorneys-at-law' and patent attorneys' knowledge, as well as cross-referrals, has also been a source of growth and incoming work,” he says. “Building and main-

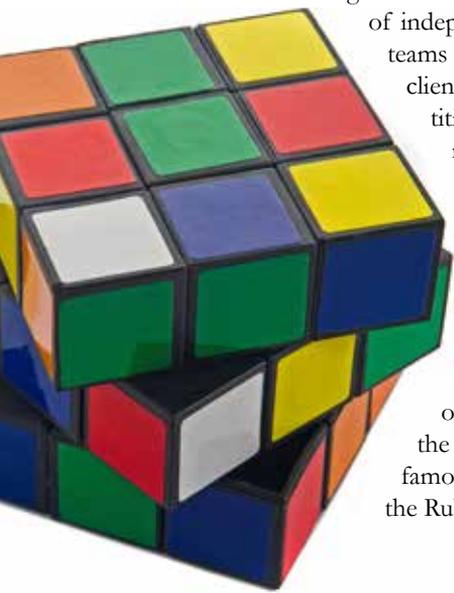
taining professional contacts worldwide and being active in domestic and international professional IP organizations have also been important factors for decades.”

International in Budapest

Unlike Petosevic’s extensive network and Drakopoulos’ regional SEE footprint, SBGK continues to consolidate and concentrate all its operations in its one Budapest office, where the firm has 21 lawyers, ten patent attorneys, and over 50 other staff members.

Lukacsi emphasizes SBGK’s international capabilities, however. “Although SBGK has just one office worldwide, and we are a Budapest-based office, SBGK is able to offer not only professional services but also a broad network of international contacts, which includes well-known national and international firms of attorneys-at-law and patent attorneys.” Thus, he says, SBGK is able to provide “global representation to well-known companies and brands” as well as to “be responsible for the global management of entire trademark and IP portfolios belonging to world-famous organizations.”

Indeed, he notes, SBGK’s attorneys and patent attorneys hold positions with various important international IP organizations. “SBGK itself is the Hungarian member of LNI, which is a network of independent law firms covering over fifty countries worldwide; the Antitrust Alliance, which brings together the knowledge and resources of independent specialized antitrust teams across the EU to provide clients with complete competition law counseling; and, most recently, we joined the Distribution Law Center.”



Among its notable mandates, Lukacsi says with a smile, the firm coordinates the “international network of lawyers responsible for the IP protection of the most famous Hungarian invention – the Rubik’s Cube.” ■

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FACE-TO-FACE: PAL JALSOVSZKY AND ILDIKO KOLLAR

By Radu Cotarcea

Jalsovszky Law Firm's Managing Partner Pal Jalsovszky interviews Prologis Legal Counsel CEE Ildiko Kollar.



Pal Jalsovszky

Jalsovszky: Ildiko, thank you for your time. You started your career at an international law firm and then you switched to become a legal counsel for Prologis. What prompted you to make this decision?

Kollar: The reason was a personal one. I had just given birth to my second child at the time, and I felt it would be difficult to balance the expectations of the law firm with my family commitments. Then, a possible solution came along. Our firm worked

for Prologis, which was starting to build its own in-house legal team. Prologis needed an in-house lawyer, and I took the opportunity.

Working in-house, I hoped to find a work-life solution with more balance than is possible when working for an international law firm. Of course, my 13 years working for Prologis have been demanding, but there is one clear advantage of being an in-house lawyer: I have just one single client.

Jalsovszky: What do you expect from an external legal adviser? How do you select the advisers that you work with?

Kollar: I expect business-minded legal advice. This means the adviser not only needs to be excellent in the legal domain

but should also understand how our business works. For this reason, we are prepared to invest time into explaining the ins and outs. At the end of the day, we are happier cooperating with a couple of select law firms with a deep knowledge of our business, than working with more advisers who are less connected to us.

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International law firms, in this sense, are a bit like buying from a well-known global brand: you know what to expect from them and, even if they do not necessarily provide the highest-quality product, you are rarely disappointed.

Nevertheless, the situation is somewhat different within the different countries in the region. As a qualified Hungarian lawyer, I am able to keep 80% of the Hungarian work in-house, only involving external advisers for large-scale real estate transactions. We also involve advisers in areas that require specific knowledge – for instance, when we set up private electricity networks in our parks, we mandated an external counsel to advise us on the legal implications. In the Czech Republic and Slovakia, we use external advisers more on a day-to-day basis, providing them with more general commercial law work in addition to transactional advisory.

Jalsovszky: Do you prefer working with international law firms or local law firms?

Kollar: I find that lawyers at international law firms still have a specific mindset that sets them apart. They understand the circumstances affecting our business, the terminology that we use, and our general daily routine. International law firms, in this sense, are a bit like buying from a well-known global

brand: you know what to expect from them and, even if they do not necessarily provide the highest-quality product, you are rarely disappointed. Also, it is easier for me in the Czech Republic and Slovakia to connect with an international law firm as my insight into the legal market is still limited in these countries.

The selection process is a bit different in Hungary, the market in which I am most at home. Here, as well as international law firms we also tend to involve smaller domestic firms in our panel. We still prefer that lawyers have had past experience with international law firms, though.

Jalsovsky: What were your biggest challenges in recent years? How did the pandemic affect your business?

Kollar: The pandemic has created a very peculiar business situation and legal environment. My first recourse for developments every morning was the Hungarian Gazette (Magyar Kozlony) which is a strange situation even for a lawyer to be in! But we needed to find ways to keep up with the fast-changing legislation.

All legal procedures have slowed down due to the pandemic, whether business decisions or administrative procedures. On the other hand, we have had the chance to optimize our use of certain applications (like e-signature and Zoom) with which we were not familiar before. In hindsight, I think the pandemic has been beneficial in forcing us to modernize our processes.

Fortunately, from the business perspective, the logistics sector was resilient to the pandemic, and companies even benefitted from increased demand. It is unsurprising that, due to low entrance barriers and the availability of cheap credit facilities, a lot of new players entered the market, meaning competition has become even stronger.

Jalsovsky: As a lawyer, what key differences do you perceive between the legal systems of the countries that you supervise?

Kollar: There are of course many differences, but I will just highlight one of them as an example. I have recently become extremely grateful for the Hungarian land registry system! In my view, our system is way ahead of the equivalent systems in the Czech Republic, Slovakia, or Romania. This is mainly due to the fact that, while the land registry system has been in continuous operation in Hungary, registering the transfer of real estate property was not obligatory in either the Czech

Republic or Slovakia from the 1960s until the early 1990s. This meant a reliable system was not created as quickly, and it is still sometimes very difficult to establish the chain of title for properties. As a consequence, these countries are still struggling with the difficulties of having an incomplete real estate cadaster.

Jalsovsky: What are your main projects and challenges for the coming years?

Kollar: As I just mentioned the land registry system: the electronic land registry procedure to be introduced in 2023 is something which I will need to explore in-depth. Although the digitalized procedure has been a success both in the ordinary courts and company courts, I still have some doubts regarding the land registry offices, where the current practice is slightly inconsistent.

I am also following the developments in environmental legislation with a certain degree of pride. Prologis has always strived to set new standards as an environmentally responsible company – it is a forerunner in sustainability and is, in many ways, years ahead of its competitors. We make extensive use of solar energy and green solutions, and we consider all the environmental aspects of a real estate transaction with a great deal of care.

Finally, legal technology solutions are of particular interest to us. One of our strategic priorities involves continuous improvement through the automatization of our processes. Although we have already made significant progress, there is still room for more comprehensive use of technology in the legal sphere.

Jalsovsky: Thank you for talking to us, Ildiko.

Kollar: Thank you. It was my pleasure. ■



FLUGGER MARCHES ON: INTERVIEW WITH GENERAL COUNSEL TORBEN SCHWANER DEHLHOLM

By Andrija Djonovic

In the past year, Danish company **Flugger** has begun a significant expansion across Europe and Russian-speaking parts of the world. We reached out to Flugger General Counsel **Torben Schwaner Dehlholm** to learn more about the company's business and expansion, as well as its M&A strategy and in-house legal dynamics.

CEELM: Please tell our readers a bit about Flugger's history and where the business is right now.

Dehlholm: Flugger was established way back in 1783, and since the 1950s it has been owned by the Schnack family, operating successfully since then. It became publicly listed and entered into trade in the 1970s, but it still remains a family-controlled business – since the spring of 2021 with Sune Schnack as the CEO. Flugger has, historically, operated mainly in the Nordic region, but it has begun expanding out into other markets, including China and Eastern Europe. Most notably, with the recent [2020] acquisition of the Eskaro Group, we expanded into Finland, Estonia, Latvia, Russia, Ukraine, and Belarus.

Today, the Flugger Group has more than 2,600 employees. Flugger has production facilities in eight jurisdictions, more than 20 companies in 13 jurisdictions, and exports to more than 50 jurisdictions worldwide. Flugger successfully offers its products via e-commerce, DIY stores, and the Flugger Decor retail chain, with more than 400 stores.

Also, Flugger is on a green journey – with the goal of overhauling our entire value chain, all the way from inventing products, through logistics lines, and up to selling the products. The idea is to comprehensively focus on an ecosystem of sustainable growth and development in every aspect of the business. This heavily impacts the tasks in our Legal & Compliance team.

CEELM: We last talked in January 2020, when Flugger expanded with Unicell in Poland, and Flugger has since acquired both the Eskaro Group and e-commerce paint supply provider Malgodt. What did these transactions bring to the table?

Dehlholm: We wanted to expand in order both to widen and

increase our presence and focus on more locations. The directions in which Flugger is heading now, when it comes to new markets, is the furthering of both European and Russian operations and a focus on continuous growth, while at the same time developing all our present sales channels and developing new markets. Following our Eskaro expansion, which gave Flugger a foothold in the Russian-speaking markets, we plan to establish a strong local presence, but also to keep expanding the local business to adjacent markets.

Now, from a legal perspective, I have to say that these expansions went off without a hitch. Not saying that each M&A transaction is not a massive task – but we had the legal foundation ready for the newly acquired companies. For the near eight years that I have been with Flugger, we have been working hard on establishing a Legal and Compliance setup, including using systems to foster a strong legal organizational foundation for the business to expand. All systems, processes, and policies we developed within our legal department are prepared to scale. An in-house legal function should always be prepared to support the goals of the business. In that regard our foremost objective is to have a strong legal and compliance set-up that never stops the business – but, to the contrary, provides a solid legal foundation on which the business can thrive. The legal and compliance function should never be solely a cost – it should be a strategic advantage of the business.

While this was a lot of work, especially given Eskaro's size, it was a quite controlled process, in which we used both our in-house lawyers and an excellent local law firm in each jurisdiction. Weronika Achramowicz, from Baker McKenzie Poland, was our highly skilled and valued legal partner, assisting with both the massive cross-border due diligence and the drafting of agreements.

What is new for the legal and compliance team post-acquisition is that, even though we had a strong legal team [to assist] with this to-an-extent organic growth, we still needed some ‘boots on the ground’ so we now have team members both in Russia and Ukraine. This brought the total size of our legal team to eight, with a continuous evaluation of whether this is sufficient.

The new jurisdictions we now cover directly are well-positioned to have a strong platform, and their quick integration into our legal processes is a good thing. Flugger and Eskaro can continue to focus on business operations knowing that a solid legal foundation is in place.

CEELM: What would you say was the most complex legal element you had to explain or translate to management?

Dehlholm: There were several interesting areas where careful threading was of the utmost importance. Besides the obvious goal of wanting to acquire a strong business, from a legal standpoint what we were most keen on pursuing was ensuring high levels of compliance, both with the regulatory framework and with our own code of conduct and social responsibility. It was my job to make sure that each new acquisition could adhere to the same requirements immediately, or as soon as possible. In addition, the new business should fit into our green strategy. Of course, there is a need to localize and zero-in these requirements to each local jurisdiction. Even with Flugger being a Denmark-listed group, room had to be made for specific local adjustments as well. There are, naturally, the bright-lines of what is legal and what is not, but different markets require different approaches in an effort to achieve this, given the various legal frameworks and historical approaches to work.

To understand fully how something is done locally, and why, we had to understand the crux of our target’s business before we began transformational work. We had to, simply put, learn new things before we could impart our lessons to others.

And, given the size of Flugger’s entire operation right now, we had our work cut out for us. The entire company did, but especially finance and legal, with global responsibility for the group.

CEELM: As the company continues growing, how has your position as GC changed? In what directions do you see it evolving? And how has this impacted your day-to-day activities?

Dehlholm: I have been with Flugger for close to eight years now. I first began as the sole lawyer in the group. We grew to

a mid-sized legal team with an ever-growing number of responsibilities and jurisdictions. Today, we cover in the range of 20 to 35 different areas of law per jurisdiction – so that simply sums it up. And now more than ever, with all the expansions and acquisitions, the legal and compliance team is doing more and more work.

Naturally, as things developed, my daily tasks changed too, and the role grew into a more strategy-oriented position. My job now is to see that all team members are performing their tasks up to par and that the business strategy of Flugger is legally sound and prudent. It has been extremely interesting and, honestly, quite challenging, exciting, and fun to be a part of this journey. Also, now, to be involved with the crafting of different go-to-market strategies as well as wider business strategies – it is a very dynamic position!

The bottom line is that, from this position, I can and must make sure that every single business decision Flugger makes is supported by and built on top of a strong foundation and that each new contractual obligation that we undertake opens more options and poses no hindrances to present and future corporate operations.

CEELM: What is Flugger’s strategy now? Where do you plan on expanding next?

Dehlholm: You could sum it up in three broad directions. First, we seek to increase our presence in the e-commerce sector and be a much stronger player in that field. To that extent precisely we recently acquired Malgodt, a primarily online-operating Danish company.

Second, our M&A strategy remains to keep growing both organically in the markets in which we already find ourselves, and to keep looking at other markets for potential openings. We wish to be quick on our feet, ready to explore any potential avenue for expansion that presents itself, and grow omnidirectionally.

Finally, the dream is, as I mentioned earlier, to tailor all our operations to our green journey overhaul. To keep going in the right direction and continue with our efforts to usher in a more sustainable development environment. ■



Torben Schwaner Dehlholm

THE KURIA AGREES: FACEBOOK'S SERVICE IS "FREE AND ALWAYS WILL BE"

By Radu Neag

On December 7, 2021, CEE Legal Matters reported that **Lakatos, Koves and Partners** had successfully represented Facebook Ireland in a dispute with the Hungarian Competition Authority before the Kuria – the Hungarian supreme court. CEELM spoke with LKT Partner and Co-Head of Competition **Eszter Ritter**, who led the team, to learn more about the case.



CEELM: To give our readers a bit of context, please tell us how the case started.

Ritter: The case was related to Facebook's social media service, including the statement "It's free and always will be," which was in use when the investigation started, back in 2016. At the time, the Hungarian Competition Authority (HCA) had started to focus on digital services and the way these monetize users' attention and personal data. Other countries' competition authorities were taking a closer look as well. To them, the problem was: while consumers pay no money for

these "zero-priced" services, service providers are making a lot of money using their data.

The trigger may have been a paper published by the French and German competition authorities in 2016, on data and competition law, looking at the relevance of users' data and how it was being used. This was just a few days after the adoption of the GDPR. Both generated a volcanic eruption type of reaction.

All of a sudden, everyone was talking about personal data



Eszter Ritter,
Partner and Co-Head of Competition,
Lakatos, Kovacs and Partners

usage and consent, and the related economic impact. The debate was oftentimes framed as US-based GAFAM (Google, Apple, Facebook, Amazon, and Microsoft) taking advantage of European users' data. And the HCA asked itself: are Hungarian consumers being treated fairly during this process?

CEELM: At which point of the proceedings did you get involved?

Ritter: When the HCA notified Facebook of the decision to launch an investigation, in 2016, that's when we came in. So, we were involved in the proceedings right from the start.

CEELM: What exactly was your mandate?

Ritter: When deciding to launch such investigations, the HCA must explain what the subject matter of the investigation is – including the alleged violations of the law. They then follow that up with a factfinding process, requesting and analyzing information from the company itself and other sources. So, from the start, our mandate covered the entire investigation process – to advise and provide strategic guidance as well as representation during the investigation phase. Which is standard for HCA-related mandates – on which we have a very good track record.

Specifically, the investigation was on unfair commercial

practices. Regulated by the *Unfair Commercial Practices Directive 2005/29/EC* (UCPD), these include misleading and aggressive commercial practices, which – and this came into play throughout the case – “are likely to materially distort the transactional decision of the average consumer.”

CEELM: Walk us through the process. How do these investigations unfold?

Ritter: The HCA's proceedings consist of two major parts: the investigation, run by case handlers, followed by the decision-making phase, run by the Competition Council (CC) – the actual decision-making unit of the HCA.

The first steps during the investigation, normally, are a series of requests for information. And the client received a lot of those, which we worked on, providing the information as best we could. The scope of the investigation shifted somewhat – perhaps a reason for the large number of requests. There was some unexpected back and forth between the HCA's units as we went along.

Once the investigation was complete, the second phase, before the CC, took place. As a first step, the CC issued their preliminary position – including the initial findings based on the investigation report, what they thought of the case, and a likely decision in the matter. The client could then submit written comments in what amounts to a defense, and opt for a hearing – which we did, of course. The client made cooperating with the authority on this case a priority.

After the first hearing, we were surprised that the CC instructed the case handlers to investigate yet another aspect of the service. This is unusual. Once that investigation was completed, the CC issued another statement of objection, so a second hearing followed. Then we were stuck waiting for a decision.

The HCA's decision came in December 2019. The HCA decided that the “free and always will be” statement was misleading because Facebook uses users' data and monetizes it – so, according to the HCA, the users were paying for the service not with money but with their personal data – which meant that the service was not free. As the HCA saw it, if the consumer provides *anything* in return, they *de facto* “pay a price” – be it attention, or commitment, or data – and the service cannot be considered free.

CEELM: And then it was time to go to court?

Ritter: Well, to go before the court of first instance – the Budapest Metropolitan Court (BMC). Indeed, we filed a lawsuit against the HCA decision. Then COVID-19 struck, and the Hungarian administrative court system underwent an unrelated full reorganization. All pending cases were reallocated, with significant delays: we only got the hearing in autumn 2020.

The reviewing court held two hearings – which was also unusual because the facts on what had happened were not really disputed. It was just a matter of legal interpretation of the applicable law, in particular, what is covered by *price* and how the average consumer understands the term “free.”

The court’s decision completely accepted our arguments and vacated the HCA ruling: the BMC agreed there was no basis for the HCA to decide as they had – to equate (background-collected) user data to money payments made by the consumer, and call both a *price* of the service.

It was also significant that, for a violation of the relevant legislation to occur, the commercial practices themselves had to be not just misleading, but also have the ability to distort the consumer’s decision-making.

We were able to support our position on this with a 2018 first-instance court ruling from Germany, on the same subject matter, which was, fortunately, upheld on appeal. The German courts essentially ruled that consumers know that *free* is about not having to pay money, which is undisputed for Facebook’s social media service. They held that non-monetary commitment (like time and attention) is a matter unrelated to the message of the service being free. So, the statement was not misleading the average consumer. This position was also taken by the BMC.

CEELM: The HCA wasn’t happy with that decision, I take it?

Ritter: No, the HCA challenged that decision. While HCA cases are first reviewed by a court of first instance, any subsequent challenges go straight before the Kuria.

It’s important for these challenges to be drafted properly, as the Kuria will only review a decision within the limited scope

of the challenge. Essentially, the Kuria had to decide if the previous BMC ruling had been lawful. Only a violation of the law, within the court of first instance’s decision, would have meant that the decision was struck down.

This was not the case. The BMC’s decision was deemed lawful, with no problems or violations either on the interpretation of legislation or procedural rules. The Kuria adopted its decision in October 2021. The written decision was received mid-November and the HCA eventually published the decision on its website, as it’s required to do.

CEELM: What were the immediate practical implications of Kuria’s decision?

Ritter: Because normally any HCA decision is immediately enforceable, the original fine they imposed – and it was a record one, in 2019, for HUF 1.2 billion – had already been paid. So, the amount had to be returned to Facebook, with interest. Some procedural costs were also imposed on the losing party – but compared to the sizable fine these were marginal.

CEELM: What do you think is the wider impact of the case?

Ritter: These proceedings were presented as a landmark case by the HCA back in 2019, a showcase of the authority’s creative enforcement relating to digital services. The publicity was quite impressive, showing the HCA’s intention to impact the delivery of cross-border services by big international players, in the interest of consumers.

The case may also increase the appetite of enforcers in other EU member states for doing the same. The incentive is all the greater since, as of May 2022, the sanctions for unfair commercial practices infringements will be harmonized in all member states: the maximum fines for such infringements should be at least 4% of a company’s global turnover, similar to the case of GDPR infringements.

In addition, the HCA’s case was an interesting and relevant response to the question of consumers’ data, from an unfair commercial practices regulation perspective. The legal implications of Kuria’s reasoning are also interesting. It offered an interpretation of what *price* means under the UCPD, a piece of constructive reasoning to be added to the enforcement practice evolving around that directive, in particular relating to zero-priced services. ■



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MARKET SPOTLIGHT: TURKEY



GUEST EDITORIAL: IMPRESSIONS FROM THE NEW KID ON THE BLOCK

By Tarik Guleryuz, Partner, Guleryuz & Partners

When much was happening around the world, especially with the global pandemic, we decided to start our firm – Guleryuz & Partners – in September 2020. We made a major investment ignoring all the current challenges, including COVID-19 and the sluggish Turkish economy.

Starting a new law firm literally from scratch has allowed me to notice the depth of the Turkish legal market. At first, the economic turmoil had a direct effect on the legal market since local clients were trying to scale back budgets. Political risks frighten foreign clients thus reducing their investments, meaning fewer opportunities for Turkish law firms and their lawyers. And, in this context, something challenges both local and foreign clients: problems associated with the judicial system and the weakening rule of law in Turkey. Extreme competitiveness is also a characteristic of the market, fueled by the ever-increasing number of lawyers available.

There have also been many positives, of course. First, despite Turkey's own challenges, the country, a G20 member, also has long-term potential, with an increasing number of Turkish companies investing in other countries. Turkish lawyers are becoming more and more visible within the international scene, and the younger generation has a broader vision – in terms of foreign language, gender equality, sustainability, the rule of law, *etc.* At our law firm – and this also reflects our vision for the project from the start – we aim to work with those colleagues exemplifying the best qualities of a lawyer, those who can contribute towards a better, higher-toned market. In the long term, these positives will ultimately transform Turkey into a major player on the international stage.

Under current circumstances, we are also working hard on effective forecasting. Considering the devaluation of the Turkish lira and the current economic turmoil,

Turkish assets are now much more affordable, thus attracting foreign investors, which will lead to an increase in inward investment and M&A transactions.

There will also be an increase in all types of litigation, especially shareholder disputes and debt collection-related matters – since more and more Turkish citizens are facing these challenges today and, unless there are solid changes within the country, the number of those affected by the turmoil will, unfortunately, increase.

As a new player on the market, you first work to become more visible, then to become prominent, then you work on grabbing major headlines – focusing on e-marketing, identifying the most suitable international associations, becoming active members – so there's a lot of networking. Our positioning in international markets has recently afforded us invites to conferences in Paris and Budapest. While there, I heard impressions of the Turkish market, as seen from the outside. Our European colleagues have a great interest in the Turkish legal market, for both inward and outward referrals. It's understandable, considering that Turkish companies, such as Getir, Sisecam, Tiryaki, Tav, Anadolu Efes, *etc.*, have seen a massive expansion – in particular towards Europe – and are thus attracting European attention.

The current restrictions still make it quite difficult for a *new kid on the block*. However, I estimate that the amount of work available within the Turkish legal market will increase moving forward, due, in part, to the overall global situation and, in part, because of the new opportunities that the Turkish market has to offer – despite the turmoil it's currently suffering. ■



NAZALI: EXPANDING HORIZONS

By **Andrija Djonovic**

It is not often that a CEE law firm decides to expand beyond the borders of its home market. Seeking out clients abroad and maintaining a standard of quality service is not only taxing but may also prove harmful – if not planned correctly.

Turkish firm **Nazali Tax & Legal** is a compelling example of expansion done right. In the short span of just six years, this Istanbul-born firm grew to cover six jurisdictions in Europe and North Africa. We spoke with Senior Partner **Fatih Uzun**, who has been with the firm since 2016 and deals with customs and foreign trade matters, to learn more about how Nazali came to be, why it expanded, and what its plans for the future are.

CEELM: As a brief primer, can you walk us through the history of Nazali?

Uzun: Actually, Nazali is a young firm. We've been established in November 2015 – we are celebrating our sixth anniversary.

Ersin Nazali, our Founding Partner, was working as a tax inspector until, in 2012, he decided to make the switch to private sector consultancy work. After having worked at an international law firm for two years he decided to create Nazali. It was a small firm with just six people, at the time, but it grew immensely over a short period. Now, Nazali engages over 250 professionals in six jurisdictions.

CEELM: Can you tell us more about Nazali's overall operations?

Uzun: Nazali has five offices in Turkey, which is our core jurisdiction. Here, we operate out of Istanbul, Bursa, Ankara, Izmir, and Denizli. Outside of Turkey, we have set up offices in Casablanca, Kyiv, Moscow, Amsterdam, and London.

Nazali provides the full scope of legal services with over 25 practices such as tax (certification, consultancy, and litigation), customs and foreign trade, social security and labor law, litigation, corporate law, M&A, data privacy and protection, intellectual property, accounting, competition law, and financial audit. The philosophy behind the firm is that both financial and legal solutions could be provided to clients under the auspices of one office and one brand – like a one-stop shop. Besides, each of our partners is diligently following up on the projects and in close contact with the clients. We believe our clients are also pleased with such a unified professional approach, as they do not have to shop around for different

sources of advisory solutions.

An important feature, having to do with why Nazali is successful in helping our clients with more than just pure legal advisory, is the partner structure. We have 14 partners in total, some having long histories of working within governmental structures in Turkey (*i.e.*, tax, customs, social security, competition law), while others have significant private sector experience in multinational entities and law firms. For example, I have spent 11 years with the Ministry of Customs and Trade of Turkey as a customs investigator, thus I can say that we have extensive experience in both the theoretical and practical aspects of the services we provide.

We know how the system works, inside and out – which gives Nazali a competitive advantage – and our clients can expect not only more detailed advice but advice that is more likely to be actionable and efficient in getting the deal through.

CEELM: Your work and speedy growth have not gone unnoticed abroad. In 2018 you partnered up with Andersen Global and cooperated for some time. What's the story there?

Uzun: Our collaboration with Andersen Global first started in 2018. They approached us first, initially engaging us as a collaborator firm and then as a full member of their global network. We even ended up taking their name!

We were a part of the Andersen Global network for a while, which was a fruitful experience for us, but we eventually decided to part ways at the start of 2020. The rationale behind this was that we wanted to expand and grow under our own name, to further develop and expand under a brand of our own making.



Don't get me wrong, Andersen Global is, historically, a very strong brand in its own right. But we were, simply put, of a different making. Our boutique approach to tax and legal – for both domestic and international clients – mandated a different approach to client work, as opposed to that of the huge tax advisory firms and their affiliate law firms.

Instead of going for volume and having hundreds and thousands of clients, we sought to nurture trust-based relationships with each client – as if they were our only one. Thus, we considered that our next logical evolutionary step would be in that direction, so we found it best to part ways with Andersen Global. It was not a difficult decision and we parted ways amicably.

CEELM: Soon after that, Nazali began setting up shop in many other jurisdictions. How did this come to be and what were the main drivers behind the decision to expand?

Uzun: After that, we focused on our own brand, and we wanted to be the first Turkish firm to expand outside of our borders. To date, I believe we are the only ones to have had such a foray with a Turkish brand.

Now, our main drivers for expansion were, of course, our clients. Working with a number of large international companies, while fostering our bespoke approach to each one of them, bore fruit in the fact that they wanted us to support their operations elsewhere, not just in Turkey. Having a broad base of specialized legal services, it was quite inviting for us to scale up and spread out.

We first set up in Casablanca – Morocco has a lot of strong ties to Turkey because several companies operate along that line, so we figured this was a logical move. Also, we weighed that this move would allow us to keep a beat on business in North Africa and use Morocco as a gateway of sorts, eventually.

From there, we followed our clients and the flows of the business. We went to Moscow, which naturally led to Kyiv next. We then set our sights on Amsterdam and, in the end – so far – London. It was such a natural and organic evolution of our brand because we moved smart and listened to our clients attentively.

CEELM: Being the first Turkish firm to expand abroad and set up direct office lines must have been challenging.

Uzun: It was a difficult decision, indeed. Our transition was

made easy by the fact that we already had a few dedicated desks for these markets but the leap from a desk to a full office is a huge one.

Penetrating foreign markets, however much preparation we put into it, was not easy. Every market and every client – especially when you approach them with such care and attention to minute details as we do – presents a unique challenge. And, of course, each new challenge comes with different perspectives to doing business. But, as I mentioned, our main catalysts for growth were our clients – it was them, in a way, who decided which markets we would expand to. If it weren't for them, asking us to engage them more and more in these jurisdictions, we never would have reached outside of Turkey.

The mechanism of expansion was not difficult to find – rather more difficult to implement. We expanded by reaching out and hiring local experts and well-established professionals and began onboarding them to our vision. The process of transplanting our philosophy onto each one of our centers abroad was tough. In fact, we are still facing some challenges to full, seamless integration when it comes to transmitting our philosophy to every corner of our operation. But it is getting better every day.

Don't forget that we are still a young firm, so these sorts of growing pains are normal. Why, most of our expansions abroad – to Ukraine, the Netherlands, and the UK – came in the past two years. It is a natural path towards establishing brand recognition, and we are more than up to the challenge. We want our approach to ultimately be a unified one, offering business-first solutions across the board. In that way, we can grow with our clients as they themselves develop.

CEELM: Is there any synergy in this sort of network approach? Do the offices help each other out?

Uzun: All our markets are in synergy, really. Our offices are building a common knowledge bank and our entire know-how vault grows in synchronicity. As we learn more from our clients in, for example, Ukraine – we can support our clients in Russia better. This sort of professional exchange weaves a tight-knit brand presence and quality of service.

As for our home base, Turkey has a very robust economy, both in terms of its GDP and the number of qualified, educated professionals. The workforce is uniquely positioned, and the manufacturing capacity potential is high enough for the country to be able to capitalize on all of it, in the next two

or three years. As Turkey experiences investor surges from various parts of the world, we will be in a better position to help them, based on what we have learned and gone through in other markets.

CEELM: The strength of your team outside of Turkey is 50 professionals. Which office is the most developed one and represents a balancing point for your network abroad?

Uzun: In terms of headcount – our Ukraine office is the biggest one at this point, followed by Morocco and Russia, the Netherlands, and finally the UK. But don't be fooled by the numbers here. Our entire team – all 250 of us – works together as one. Approximately half of the team are qualified lawyers, with the other half being experts like certified public accountants, customs brokers, IT specialists, even engineers and the like. This allows us to balance both law *stricto sensu* and business advisory, making Nazali more than both by integrating them.

CEELM: Finally, Fatih, what's next for Nazali? What's in the pipeline and where do you plan to go next?

Uzun: Establishing a clear strategy during pandemic times has been difficult and challenging. We still wish to expand our business to many other markets, but we must do so carefully and not rush in.

We are currently considering establishing an office in New York – and we were close to doing so last year, but we postponed this endeavor due to the market changes ushered by COVID-19. We want to see if we can accurately profile how the market would react to us before we take the leap across the Atlantic.

We do not believe that bullish expansion is the answer, and it would only be more difficult to expand and attract a local clientele with which we have no previous ties. So, we are currently focusing more on maintaining a happy client base, fostering our current relationships, and growing a bit more vertically, in terms of experience and knowledge.

All in all, it will take some time to see how Nazali clients are behaving and follow the ebbs and flows of global business. There is no rush for us, especially with the world on somewhat of a hold due to the changing conditions spurred by the pandemic. We will employ a more careful approach and decide on our next step towards enlargement later, with the right call at the right time. ■

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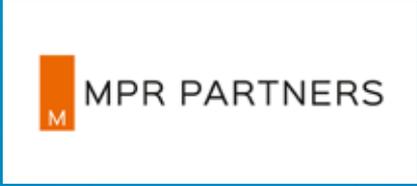
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MARKET SNAPSHOT: TURKEY

THE TURKISH AGRICULTURAL SECTOR AND THE IMPACT OF ESG AWARENESS AND REGULATION IN 2021

By Done Yalcin, Managing Partner, Yalcin Babalioglu Kemahli in Cooperation with CMS



Turkey is the world's tenth largest agricultural producer and a hub for many top global players in food production. The country is accelerating the integration of sustainability principles into the sector's growth strategies.

In 2021, the lingering effects of the pandemic severely impacted supply chains and food production in Turkey. However, the investment outlook remains positive as the agricultural sector embraces a holistic sustainability approach to improve the overall sustainability position of the Turkish economy. Greening supply chain management is becoming a key issue for many buyers, in line with the various legislative pushes, especially in Europe, Turkey's most important trading partner. It remains to be seen whether the initiatives now planned and implemented will be able to keep pace with the upcoming global regulatory changes and trends in sustainability.

In 2020, Turkish agriculture employed roughly 18% of the total workforce and contributed 6.6% to the country's GDP. The total output of the sector has ranged from USD 37 billion to USD 51 billion in the last five years. The sector can be divided into three groups: producers (mainly family-owned farms), processors, and retailers. Many large multinational companies operate in Turkey, while the retail sector is mainly dominated by a handful of local food retailers. As the agricultural sector is of great strategic importance in Turkey, the sector's sustainability initiatives will support Turkey's overall green growth.

Although the first sustainability initiatives date back to the 2000s, awareness has increased in recent years, in line with global trends. Recent projects by processors and retailers have focused on sustainable and local raw material supply, through programs such as *Good Agricultural Practices*, to ensure sustainable agricultural production while addressing food safety and nutrition security concerns.

In addition, reducing and minimizing food waste is high on the agenda. The Turkish Ministry of Agriculture and Forestry and non-profit organizations have launched initiatives such as *Protect Your Food* and the *Food Waste Prevention Project*.

Social responsibility is also vital. The share of fragile employment is higher in agriculture. Family farms are scattered throughout Turkey, and it is important to improve the working conditions

(economic and social) of these people – particularly women, through programs such as the Ministry's *Women Weaving Camlet* and leading processors' *My Sister*.

Agricultural and food exports form 12% of Turkey's total exports, so international regulations on agricultural and food exports are also paramount. The EU is the most important export market, so EU procurement strategies, such as the *Farm to Fork* strategy and the *Carbon Border Adjustment Mechanism* (CBAM) under the *EU Green Deal*, will change the direction of the agricultural industry.

The Aegean Exporters' Associations estimates that the total carbon costs that Turkish agricultural exports will face could reach EUR 150 million after the implementation of the CBAM. As a result, the participation of Turkish industry and government in projects to adapt to the *EU Green Deal* has never been more important to secure market access. The Turkish government is also strengthening the ESG framework through programs like the *National Action Plan for Sustainable Land Management*, prepared in accordance with the Food and Agriculture Organization, and the *National Water Plan*. These programs seek to ensure the effective use of natural resources – especially water and soil. There are also official projects to support local producers, such as the *Herbal Production Development Project* for the local procurement of imported agricultural materials, and social support programs for local farmers.

In addition, as explained in the *Green Deal* by the Turkish Ministry of Commerce in July 2021, Turkey will take further measures, such as reducing the use of pesticides and aligning with EU legislation on organic farming and land consolidation, all driven by the EU objective of sustainable agriculture.

The transition to sustainable food production is an essential capital-intensive economic shift, considering the regulatory wave from Europe. Further investment, in technology and R&D, will be required to meet growing demand and keep pace with global trends in sustainability and ESG. The future of sustainability in agribusiness should be shaped from a macroeconomic perspective, with microeconomic implementation. Legislation is also required to support this development, by creating the necessary regulations and leveling the playing field for companies, so that the front runners do not suffer a competitive disadvantage. ■

MERGER CONTROL TRENDS IN TURKEY

By Neyzar Unubol, Head of Competition, and Ali Tunçsav, Associate, Kolcuoglu Demirkan Kocakli



Despite uncertainty due to the pandemic, the pace of merger activity in Turkey has not decreased and merger control is still one of the Turkish Competition Authority's (TCA) key enforcement areas. The *Law on Protection of Competition* (Competition Law) amendment in June 2020 was a milestone for merger control in Turkey as it changed the substantive test for assessment of mergers. Below are some observations regarding the adoption of the new test and the TCA's recent approach to merger control and remedies.

Adoption of the SIEC Test

The substantive test for the assessment of mergers changed from the *dominance* test to the *significantly impeding effective competition* (SIEC) test. To block a transaction under the dominance test, the TCA was required to prove that the transaction would lead to the creation or strengthening of a dominant position. Under the SIEC test, proving a dominant position would not be a legal precondition for blocking a transaction, and the transactions that could harm competition without creating a dominant position could also be blocked. Therefore, the adoption of the SIEC test allows the TCA to make a more thorough assessment of the anticompetitive effects of proposed transactions, in terms of both unilateral and coordinated effects.

Shortly after the SIEC test's adoption, its effects were observed in the TCA's decisional practice. In March 2021, the TCA announced the first decision (dated August 13, 2020, and numbered 20-37/523-231) to block a transaction after the adoption of the SIEC test. The decision does not include any assessment of dominance but analyzes the characteristics of the relevant markets and the potential anticompetitive effects on the upstream and downstream markets. The decision demonstrates that the TCA's focus moved to a more effects-based approach from a dominance-oriented analysis, and stricter merger control enforcement is on the horizon.

The TCA's Approach to Merger Remedies

The TCA's approach to merger remedies has also evolved during recent years. The prominent trends in remedies are the alignment with the European Commission's decisions and the rise in behav-

ioral remedies.

The TCA's recent approach regarding multi-jurisdictional transactions that are notified before the European Commission is to wait for the European Commission's final decision on remedies and to apply the same remedies to the transaction as accepted by the European Commission. Moreover, the TCA does not require any monitoring obligations that are specific to Turkey for the application of these remedies. This approach prevents duplicity and is practical and effective both for the TCA and the transaction parties.

It should also be noted that the TCA assesses the transactions' effects in Turkey and may require the parties to submit remedies specific to the local market. In the *Fiat/Peugeot* merger decision dated December 30, 2020, and numbered 20-57/794-354, the TCA concluded that the transaction as notified would lead to coordinated effects in Turkey, since a direct competitor of the target company is jointly controlled by the purchaser's ultimate shareholder and there is a structural link between these parties, due to a common directorate. As a result, the remedies submitted before the European Commission were insufficient for the TCA, and the transaction parties submitted additional remedies that directly addressed concerns related to the local market.

Behavioral remedies became a popular tool to eliminate competitive concerns raised by a transaction and to obtain the TCA's approval. Even though the TCA's guidelines on remedies explicitly state that structural remedies are more efficient and preferable when compared to behavioral remedies, the TCA's recent decisions imply a more permissive approach towards behavioral remedies.

In 2021, three transactions were cleared with behavioral remedies. These behavioral remedies mostly addressed vertical concerns and included obligations, such as to not discriminate among buyers in the downstream market, not refusing to deal, and not imposing exclusivity on buyers. However, in some cases, horizontal concerns, such as the dissemination of competitively sensitive information, are addressed with obligations to end interlocking directorates. ■



DATA PROTECTION – AN OVERVIEW OF 2021 AND WHAT TO EXPECT IN 2022

By Sinan Abra, Head of Data Protection, Yalcin Babalioglu Kemahli in Cooperation with CMS



In Turkey, 2021 continued to be dominated by the COVID-19 pandemic and the various legal difficulties and ambiguities that it brought. This raised several questions on how to apply the Turkish data protection law and related legislation, in particular about how to properly process data on health, vaccination status, and PCR tests.

While the Turkish Data Protection Board (Board) passed various decisions in 2021, they generally did not result in the final resolution of the above issues. Conversely, while the Turkish government did publish decrees and letters impacting this area, it remains unclear how the provisions of these decrees and letters should be interpreted together with the provisions of the law.

The following is a summary of the main developments in the field of data protection in Turkey, in 2021.

Decisions of the Board

Unfortunately, during 2021 the Board did not publish any decisions or guidance on how personal data related to vaccinations and PCR tests should be kept, with the exception of one decision in which the Board found that various systems implemented by public authorities for the recording of personal data relating to vaccinations, PCR tests, and infection status were outside the scope of the law. Yet this decision, unfortunately, does not clarify if and how private entities may collect and process the same set of data.

The Board did, however, decide to extend the deadline for *VERBIS* registrations – the public data controllers' registry in Turkey – until December 31, 2021. Registration with *VERBIS* is mandatory for various Turkish and foreign data controllers, and the extension of the registration obligation prevents entities that have not complied with this obligation, also due to the difficulties brought about by the pandemic, from being subject to sanctions.

Decrees and Governmental Orders

There is currently a decree and an official letter in force, published by governmental authorities in Turkey, on the data protection implications related to COVID-19.

The decree in question was issued by the Ministry of Interior and

requires all individuals to show their HES Code (*HES Kodu*), created using an app issued by the Ministry of Health, when entering public areas such as shopping malls, cinemas, and theaters. The HES code contains information on vaccination status, PCR tests, and whether the person has suffered from a COVID-19 infection in the last 14 days. The said letter was sent to all governors by the Ministry of Labor and Social Security. The letter succinctly states that, “beginning September 6, employers are authorized to require unvaccinated employees to submit to weekly PCR testing and to maintain records of vaccinated employees and those who submit weekly PCR test results.”

As mentioned, the processing of personal data by private legal entities continues to fall under the scope of the law, which provides strict rules for the processing of health-related data. Thus, the obligations imposed on employers by the above-mentioned letter could be considered as contrary to the law. Therefore, it is necessary to clarify, on the basis of precedents and decisions of administrative authorities, how these potentially contradictory issues are interpreted in Turkish legal practice.

Further Work

To conclude, the law, which is based on *EC Directive 95/46*, was a major step forward for the implementation of, and compliance with, data protection in Turkey. However, there is still a considerable need for development, especially as many questions remain largely unanswered due to the existing regulations and thus cause difficulties in the application and implementation of the law.

To this end, and in view of the problems mentioned, we expect the Board to clarify which persons (*e.g.*, company doctors) are authorized to process health data on behalf of the employer, as mentioned in the above letter.

In addition, the Board should also clarify the exact conditions for the cross-border effects of the Law. This is important to determine the data controllers abroad who, as mentioned above, are required to register with *VERBIS*.

Finally, we expect the Board to publish a list of safe countries to which personal data can be transferred without explicit consent. This is an important issue, as Turkey hosts many subsidiaries of global companies. Accordingly, the publication of such a list should ease the cumbersome cross-border data transfer procedures that currently apply to these companies under the law. ■

CROWDFUNDING IN TURKEY IN LIGHT OF CURRENT REGULATIONS

By Nilay Duran, Partner, and Kubilay Cetin, Associate, Nazali



Crowdfunding is a new generation funding and investment system which allows different individuals to invest in a project in exchange for shares or interest. Crowdfunding offers an alternative funding market that creates a win-win situation for entrepreneurs and investors.

The biggest challenge with crowdfunding is fraud risk. Another challenge is the potential for misleading information about projects. In order to ensure trust in the crowdfunding ecosystem and make it a popular funding method, certain regulations must be in place and scrutinized by competent authorities to prevent the potential risks associated with this funding method and to ensure its reliability for market players, for investors in particular.

Legislation on Crowdfunding in Turkey

The first legislation on crowdfunding in Turkey came into force on November 28, 2017, with an additional article in the *Capital Markets Law* requiring the approval of the Capital Markets Board of Turkey (CMB) for crowdfunding platforms. At later stages, the CMB published the equity-based crowdfunding Communiqué on October 3, 2019, while lending-based crowdfunding is regulated by the *Crowdfunding Communiqué* (Communiqué) from October 27, 2021.

The Communiqué regulates (1) platforms, (2) investors and investment limitations, and (3) entrepreneurs and venture companies.

Platforms: The platform is defined in the Communiqué as an institution that acts as an intermediary in lending-based and/or equity-based crowdfunding services in the electronic environment. To operate as a crowdfunding platform in Turkey, the CMB's approval must be obtained. There are several qualifications that platforms need to comply with to obtain the CMB's approval. Such qualifications – including the type of companies, capital requirements, founders' and board members' requirements, and funding limits – are regulated under the Communiqué. Platforms cannot carry out crowdfunding activities for foreign start-ups with the purpose of collecting funds from a person residing in Turkey. Crowdfunding activities such as opening accounts for crowdfunding and fund transfer to these accounts of persons resident in Turkey on foreign platforms are outside of the Communiqué's scope, provided that these platforms are not carrying out any promotion, advertising, and marketing activities towards

residents of Turkey. The CMB is authorized to set the criteria if the activities are aimed at a Turkish resident.

There are five different platforms established by the CMB. Several projects have been successfully funded via these platforms. Even though there is no specific regulation on donation-based crowdfunding, there are also donation-based crowdfunding platforms in Turkey. There is no lending-based crowdfunding platform yet, as the Communiqué came into force quite recently.

Entrepreneurs and Venture Companies: Venture companies or entrepreneurs that will receive funds via lending-based and/or equity-based crowdfunding must engage only in technology and/or production activities. There are also detailed requirements as to financial statements, mandatory provisions in the articles of association, the type of venture company, *etc.* Some companies, such as public companies, cannot raise funds through lending-based crowdfunding. At the same time, some requirements set out in the relevant article do not apply to venture companies that will receive funds via lending-based crowdfunding.

Investors: The Communiqué regulates specific investment thresholds for investors that are not qualified. Qualified investors are determined by the CMB. Venture capital trusts and investment trusts are qualified investors. The thresholds are: (1) for equity-based crowdfunding, an investor who is not qualified can make investments up to TRY 50,000 in a year – however, this threshold can go up to TRY 200,000, as 10% of the investor's declared income; (2) for lending-based crowdfunding, the same yearly investment thresholds apply – additionally, an investor who is not qualified can make investments up to TRY 20,000 for each project.

It would seem that, if the legislation on crowdfunding is too rigid, this funding method can lose its attraction. On the other hand, if the legislation is not protective enough, crowdfunding can be used as a means for fraud, which would cause investors to lose trust in the ecosystem and result in entrepreneurs losing potential funding alternatives. Therefore, there has to be balanced legislation that addresses the needs of the ecosystem. As there is a growing interest in crowdfunding in Turkey, we are of the opinion that such a new set of regulations introduced by the CMB will have a positive effect on the crowdfunding ecosystem. ■



MARKET SPOTLIGHT: GREECE



GUEST EDITORIAL: A BRIEF INSIGHT INTO THE GREEK LEGAL MARKET

By John Kyriakides, Managing Partner, Kyriakides Georgopoulos

The legal profession in Greece has changed and been upgraded in recent years in the context of providing legal services and support across a spectrum of economic, social, and technological developments. Modern lawyering is directly linked to the needs of the client in very specific areas (such as economy, energy, health, immigration, personal data, and artificial intelligence). In the past 30 years, Greece has witnessed the establishment of the institution of law firms, the transition to a new era of cooperative action, and the gradual abandonment of the legal office as the sole dominant model of legal practice. Law firms that form a structured group and provide a comprehensive package of services operate in a dynamic manner, evolving in line with market requirements. This is also a guarantee for young lawyers who seek better working conditions, remuneration, and career prospects.

Moreover, specialization through professional involvement with a specific area of law or through postgraduate studies is now a necessity for the successful practice of the profession. The traditional concept of the Greek all-rounder lawyer, providing both legal representation before the courts and practicing all areas of law, is no longer accepted and is treated with much suspicion by prospective clients, who actively seek a lawyer with specialized knowledge and understanding. Many areas have niche fields within them, that require an in-depth knowledge of that particular practice, and the law changes so frequently that it is practically impossible to keep up with every area. Indeed, in response to clients' demands and the need to keep up with international standards, the vast majority of new-generation lawyers in Greece pursue postgraduate studies and it is also now common for lawyers to further their studies abroad, often in several jurisdictions, in order to develop a broader perspec-

tive of the law at large, increase their international commercial awareness, and gain exposure to international practices.



Greece is on a growth path, after several years of economic crisis and the recent pandemic, which is inevitably linked with necessary reforms. Investment is the key to growth but requires a proper environment. In order to create such an environment, on the one hand, reforms are being advanced and, on the other hand, investors must be supported and secured. Those investors are either construction and tourism companies or other companies which have joined programs offering subsidies, such as the Recovery and Resilience Facility, thus financing the projects. It is a given, therefore, that there is competition involved in the process of selecting contractors, selecting equipment, drafting, and reviewing contracts and loan terms. A major role in this area is played by the legal services provided to investors at all levels (analysis of the investment environment, financing, guarantees, negotiation, *etc.*).

At the same time, in the area of reforms, it should be noted that the ongoing reform of the judiciary, by means of extending the integrated information system of courts, the possibility of conducting remote conferencing, and the collection and processing of judicial statistics, will provide for an improvement of legal services.

The above supports the upgrading of the legal profession after a fairly long period of stagnation, an upgrade which will assist lawyers as well as the development of the country. ■



CHECKING IN WITH GREECE

By Teona Gelashvili

January is always a good time to look back, take stock, and make plans. And 2021, while a complicated year, was in no way uneventful. Across CEE, we've had lawyers and law firms variously reporting on – besides the obvious pandemic-related restrictions and increased work flexibility – a record year for M&A transactions, growing green energy, effervescent capital markets, a surprisingly solid real estate sector, ascendant ESG practices, a renewed focus on infrastructure, and TMT going from strength to strength.

To better understand the country's new normal, we reached out to a (baker's) dozen law firms in Greece. We asked each which practice was busiest in 2021, what the drivers for that activity were, and where they think we're headed, in 2022.



Energy

Metaxas & Associates Managing Partner Antonis Metaxas, KLC Executive Partner Alexandros Tsirigos, and Moussas & Partners Managing Partner Nicholas Moussas all report that Energy was the main practice area, in terms of activity, in 2021 – with Moussas highlighting renewables and energy disputes and Tsirigos mentioning M&A transactions, project development and construction mandates, and project financing transactions.

“We have been dealing on the daily with demanding cases involving complex energy regulation issues,” Metaxas says, pointing out that renewable energy is on the rise. The firm advised on quite a few deals in that regard, he says, including providing legal support to the Municipality of Megalopolis on the preparatory process for the “Just Transition Development Plan, towards its decarbonization effort, in order to ensure a fair development transition by 2023.” Metaxas also highlights the project involving “Hellenic Hydrocarbon Resources Management on the reassessment and modification of offshore safety provisions in hydrocarbon activities aiming, *inter alia*, to ensure the safe storage of natural gas.”

Tsirigos points to the National Energy group deal “regarding the development, construction, financing, and operation of its 500-megawatt solar and winds assets portfolio,” and to the mandate from the Greek Ministry of Finance to “formulate the regulatory and contractual framework for channeling EUR 12 billion from the EU Recovery and Resilience Fund (RRF) to eligible projects contributing to the green and digital transition.” Moussas highlights the Green Island of Astypalaia by VW project – a ‘Smart Green Island’ initiative in Greece, with work on “the implementation of a pioneering mobility system,” as well as “climate litigation, which mostly consists of disputes related to the licensing and construction phase of renewable projects or to state schemes aiming to reduce emissions and enhance the penetration of renewables.”

In terms of what has been driving this work, Moussas points to “climate change concerns, which have become a market trend.” In particular, Metaxas talks about work being generated by the Greek government, that, “in order to keep up with the European framework on Green transition, cycle economy, and sustainability, is implementing major reforms in the energy sector, which naturally translate into a complex energy policy.” This, Tsirigos says, led to a “favorable feed-in tariff and feed-in-premium regime.”

And this regulatory drive has not gone unnoticed by the market, with Tsirigos explaining that Greece is registering a “high investment appetite for RES projects.” Complemented by the perceived legal safety and, according to him, an overall “improvement of the economic outlook,” this all means that a lot of work ends up in law firms’ pipelines.

Looking to the future, Moussas expects energy mandates to “significantly increase, because Greece is following a growth pattern which is expected to continue, with further investments in renewables, infrastructure, and projects in



Alexandros Tsirigos,
Executive Partner,
KLC Law Firm



Antonis Metaxas,
Managing Partner,
Metaxas & Associates



Christina Kiortsis,
Manager,
Kiortsis & Associates Law Offices



Christos Stefas,
Partner,
Stefas – Tasiopoulos & Associates



Constantinos Klissouras,
Partner,
KP Law Firm



Jasel Chauhan,
Partner,
Hill Dickinson



Kriton Metaxopoulos,
Managing Partner,
A&K Metaxopoulos and Partners



Nicholas Moussas,
Managing Partner,
Moussas & Partners

general.” Tsirigos points out that, alongside the same drivers that contributed to the energy sector’s growth trend, the practice will be “further boosted by the RRF funds, leveraged with private sector resources.” Metaxas believes that, with the Greek government’s drive to keep up with the EU and the energy market in an ever-expanding phase, “energy will remain our core practice throughout 2022, and in the years to follow.”

Maritime & Shipping

For Hill Dickinson, Stefas – Tasiopoulos & Associates, and Watson Farley & Williams, Maritime and Shipping were the busiest practice areas, as Partners Jasel Chauhan, Christos Stefas, and Vassiliki Georgopoulos respectively report. We saw the “most prolific growth in ship sale and purchase.” says Chauhan, noting that it was a record-breaking year “in terms of volume of sales, with demand for tonnage far outstripping supply across different sectors, most notably containers and dry bulkers.”

Georgopoulos says that 2021 has been a remarkably busy year, particularly for ship finance, with her firm advising on CPLP Shipping Holdings’ USD 150 million corporate bond issuance, a USD 34.2 million loan to subsidiaries of Globus Maritime Limited for the refinancing of its fleet of dry-bulk vessels, and a sustainability-focused USD 25 million financing for Union Maritime Limited, among others.

Stefas highlights one project, as an example: “a salvage claim regarding the grounding and fire incident on the passenger vessel Europa Link in the port of Corfu.” His firm represented the Kerkyra Maritime Company and Igoumenitsa Maritime Company in a dispute over salvage services with the vessel’s underwriters.

Chauhan and Georgopoulos share the opinion that the pandemic was an important driver behind the growth registered across Shipping practices. “Initially, industries curbed production, expecting that consumers would curtail spending.” Chauhan explains, “however, amid the pandemic, online sales of products soared ... and supply of tonnage has been unable to keep pace.” According to him, “a series of problems, including the pandemic-related labor shortages and immigration problems, port congestion, the temporary closure of the Suez Canal, and a dearth of available containers used to store and move goods” caused “a huge spike in freight rates in some sectors and vessel prices – in some cases five to six times higher than the pre-pandemic five-year seasonal average.”

Georgopoulos adds that “increased focus on sustainability across all industries” and “the increased charter hire rates for containers” were some of the other factors behind the shipping finance activities. For Stefas, the main driver is still, “most probably, global trade growth – with trade about to reach the level of USD 28 trillion by the end of 2021.”

As for 2022, Chauhan expects the “sustained record-high freight rates seen

over the last year” to continue. He notes that, according to the Baltic and International Maritime Council, “the spike in freight rates and vessel values will continue well into 2022 and are expected to be sustained at these elevated levels going into 2023.” Therefore, Chauhan expects “corporate acquisitions and ship sale and purchase activities to continue upward and sale volumes to remain robust throughout 2022.” He notes that “exceptional market circumstances and fluctuations have also maintained a high level of shipping-related disputes and legal activity (post-Brexit), and these appear set to continue.”

Georgopoulos adds that, in shipping, increased activity is expected on sustainability-linked loans, issuances of Greek shipping bonds, as well as on compliance with the latest regulations. According to her, “renewal of the existing fleet through the ordering of newbuildings adapted to cater for new fuel technologies” is also anticipated.

Stefas too believes “the practice to remain at least at the same levels in 2022, with a fair possibility to increase,” if world trade “continues recovering during 2022 and the COVID-19 pandemic begins to relapse.”

Corporate and M&A

Drakopoulos Senior Partner Panagiotis Drakopoulos and Avramopoulos & Partners Senior Partner Vassilis Avramopoulos say that Corporate and M&A has been the busiest practice, throughout the year, with an “increased number of deals, including both new projects and resumed transactions that had been previously paused due to the pandemic,” according to Drakopoulos.

Avramopoulos mentions “several projects, primarily referring to acquisitions of both companies and assets.” He says the “tourism industry was one of the main fields of interest ... with traditional clients as well as newcomers, from various jurisdictions around the world, wishing to invest in Greece.”

The main driver for M&A transactions has been momentum, Drakopoulos says. According to him, factors such as “the stabilized political and economic conditions, the lengthy period of inertness and insecurity due to the pandemic, and the heavy capital left to deploy,” alongside a legal framework with no significant changes, have all “been working in favor of businesses.”

Avramopoulos adds that local political factors, in particular,

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Initially, industries curbed production, expecting that consumers would curtail spending. However, amid the pandemic, online sales of products soared ... and supply of tonnage has been unable to keep pace.

“the enhancement of a relationship of trust between foreign investors and the Greek government,” resulted in intense activity in the field. In addition, he notes that the Greek government prioritized “the creation of an attractive investment framework,” through the establishment of a “stable tax environment and the provision of investment incentives.”

Looking at 2022, Avramopoulos believes that the Corporate and M&A practice “will face new challenges, as Greece is expected to experience increased mobility in terms of investment, provided that the COVID-19 pandemic will be successfully controlled.”

Drakopoulos agrees that “stakeholders are fretting about high market prices, with valuations expected to reach an all-time high next year.” However, he has a positive outlook for the upcoming year. “The practice will continue to boom,” he says, highlighting that “ongoing business activity in the industry is incrementally growing and is combined with an already increased appetite and pressure from investors to deploy capital.”

Banking and Finance (NPLs)

Moratis Passas Partner Vassilis Saliaris and KP Law Firm Partner Constantinos Klissouras note that a significant rise in non-performing loans activity has been characteristic for 2021.

According to Klissouras, the firm “generated significantly increased (more than double) workloads in 2021” in disputes, litigation, and asset liquidation work, as well as “in finance, restructuring, and investments work.”

Saliaris says his firm advised companies from the Greek banking and financial sector on a number of securitization transactions, including “the Piraeus Bank Group on the Hellenic Asset Protection Scheme securitization transactions Sunrise I and II (involving two retail and corporate NPE portfolios valued at EUR 7.2 billion and EUR 2.7 billion, respective-

ly), the doValue Group on the Mexico securitization transaction originated by Eurobank (EUR 3.2 billion multi-asset NPE portfolio), and Davidson Kempner on the Project Galaxy securitization transaction (for a EUR 10.8 billion NPE portfolio).”

As for the drivers of this activity, Saliaris explains that “Greece went through a large-scale crisis, between 2008 and 2016, that resulted in a massive increase in NPLs.” The pandemic “disrupted global financial stability and reversed the growth prospects of the Greek economy” even more, he says. According to him, the government initiated a series of measures to address these issues, including “a program to securitize and sell bad loans which helped to reduce NPLs.” More specifically, “the Ministry of Finance implemented the Hellenic Asset Protection Scheme” under which the four systemic Greek banks have submitted requests “to securitize EUR 31.3 billion (gross book value) of NPEs.

Klissouras says that “the overall improvement of Greece’s macroeconomic outlook, over the past two and a half years, following its ten-year fiscal and banking crisis,” has been a driver for his firm’s practice. “The acceleration of non-performing servicing activities by specialist servicers, and the reduction of COVID-19 pressures on economic activity” have also been principal factors, he notes.



Greece went through a large-scale crisis, between 2008 and 2016, that resulted in a massive increase in NPLs.

Saliaris says that in 2022 these measures are “reasonably anticipated to be continued, taking into consideration that the NPLs are expected to increase again, as the impact of the COVID-19 crisis on the real economy intensifies.”

“Growth will continue at a more sustainable pace” for the practice, according to Klissouras, “both as a result of particular projects and as a result of the expected further improvement of economic conditions in Greece.”

Intellectual Property

Kiortsis & Associates Law Offices Manager Christina Kiortsis reports that the busiest practice in 2021 has been Intellectual Property, “with patent work, mostly including European Patent validations in Greece, covering the biggest part of that activity.”

Kiortsis highlights that her firm’s clients for the past year included Indena, Regeneron Pharmaceuticals, Scotsman Ice, Soler & Palau Research, Geox, Revance Therapeutics, Amylin Pharmaceuticals & AstraZeneca Pharmaceuti-



Panagiotis Drakopoulos,
Senior Partner,
Drakopoulos



Theodoros Skouzos,
Managing Partner,
Iason Skouzos & Partners



Vassiliki Georgopoulos,
Partner,
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Vassilis Avramopoulos,
Senior Partner,
Avramopoulos & Partners



Vassilis Saliaris,
Partner,
Moratis Passas

als, Nabla Wind Power, GlaxoSmithKline, and others, on patent and utility model filings.

She says patent work might be “considerably reduced in Greece the following years, maybe even starting from 2022.” The reason behind it is that “the European Patent Office and the participating countries are in the final stages of establishing the Unitary

Patent and the Unified Patent Court,” she explains. “This represents the biggest change to patent law in Europe for 50 years.”

Kiortsis believes that the initiative “will create a single approach to patent registration and litigation across the 24 European member states” and, further, that Greece will not necessarily need to be involved “during the whole grant or court procedure regarding European Patents.”

Litigation

A&K Metaxopoulos and Partners Managing Partner Kriton Metaxopoulos identifies Litigation – in particular, commercial, corporate, and patent litigation – as the firms’ busiest practice in the last year.

As an example, Metaxopoulos says the firm represented the “five-star Astir Palace hotel in a commercial dispute, as well as in a corporate action involving former directors of the company.” He also highlights having represented “BAT against Philip Morris, in a major international patent dispute.” He says market trends have been the biggest factor supporting such activity.

Thinking of the future, Metaxopoulos is of the opinion that “the impact of COVID-19 and the recent legislative amendments in the field of litigation practice and court disputes” are likely to negatively affect the business of the Litigation practice. Therefore, in 2022, the firm is fully prepared to “also focus on other practice areas such as IP, copyright disputes, and GDPR,” he adds, alongside “advertising law and real estate law.”

“*The European Patent Office and the participating countries are in the final stages of establishing the Unitary Patent and the Unified Patent Court. This represents the biggest change to patent law in Europe for 50 years.*”

Tax

Iason Skouzos & Partners Managing Partner Theodoros Skouzos says Private Client Tax Matters was the firm’s busiest practice in 2021, advising “mainly high-net-worth individuals and incoming tax residents moving to Greece.” According to him, there are two main drivers for this activity.

First, “during the COVID-19 crisis, many categories of individuals – self-employed IT professionals, independent contractors, but also salaried employees – realized that they can work from anywhere,” he says. For many of them, Greece turned out to be “one of those ‘anywhere’ places worth living in, because of its natural beauty and ideal climate,” Skouzos adds.

“*During the COVID-19 crisis, many categories of individuals – self-employed IT professionals, independent contractors, but also salaried employees – realized that they can work from anywhere.*”

The other factor, motivating foreigners to “to set-up their life and tax presence in Greece,” according to Skouzos, are the tax incentives for individuals introduced by the “liberal government elected in 2019, applying to (1) high-net-worth individuals, (2) pensioners, and (3) ‘digital nomads.’” So, the pandemic, the Greek landscape, and tax incentives “created an incoming flow of new clients interested [in moving to] Greece. We are their guardian angels.”

Skouzos expects the practice to continue to grow, for several reasons. He says that better management of the COVID-19 pandemic – including “the vaccination campaigns, Greece’s efficiency in organizing travel under the new circumstances, and people becoming more accustomed to traveling again” – will motivate even the more reluctant individuals to travel to Greece. In addition, “Greece is a very attractive place for investment now,” he notes, which “increases the overall traction of the incoming flows of permanent residents.” ■

EXPERTS REVIEW: LABOR



This issue’s Experts Review section focuses on **Labor**. The articles are presented ranked by the average weekly hours of work in each country, according to Eurostat data available for 2020. Hungary goes first, with the least hours worked (39.3) every week, and Turkey comes last, with a whopping 44.5 hours worked, on average, every week.

Country	Hours Worked /Week	
■ Hungary	39.3	Page 70
■ Russia*	39.5	Page 71
■ Slovenia	39.5	Page 72
■ Croatia	39.6	Page 73
■ Romania	39.8	Page 74
■ Czech Republic	39.9	Page 76
■ Slovakia	39.9	Page 77
■ Poland	40.1	Page 78
■ Bulgaria	40.4	Page 79
■ North Macedonia	40.8	Page 80
■ Serbia	42.3	Page 81
■ Montenegro	44.3	Page 82
■ Turkey	44.5	Page 84

* 2020 Eurostat data unavailable. 2017 OECD figures were used instead.



HUNGARY: THE DOWNTURN IN EMPLOYMENT DISPUTES – NOT WORTH INVOLVING COURTS ANYMORE?

By Szilvia Fehervari, Partner, Szabo Kelemen & Partners Andersen Attorneys



Almost ten years ago, in 2012, major changes were introduced in Hungarian employment law, including a new *Employment Code*. The updated rules had a significant impact on market practice and, consequently, on the volume of employment litigation. The latter number was further influenced, however, by the new *Code of Civil Procedure*, which came into effect in January 2018. In

this article, we offer insight and explanation for the possible causes of the decreasing number of employment lawsuits.

Decrease in Numbers

As per court statistics, between 2000 and 2011 the number of employment litigations initiated was over 25,000, almost every year. In 2012 this number dropped below 20,000 and, in the following years, the fall continued. By 2019, the number of cases had decreased to 4,615.

In 2020, the Hungarian court system also underwent radical changes, with the abolition of the separate administrative and employment courts. In the first half of 2021, only 2,563 new employment claims were brought to courts, which, in the light of the downward trend, is not a surprising number. Some types of cases have indeed been reclassified from employment cases to administrative cases, however, the decrease in the number of employment lawsuits has been long present before this reclassification.

It is also noteworthy that in 2019 30% of the employment cases completed by courts lasted three months or less, by far the highest rate for the duration of employment disputes. This ratio remained at 28% in the first half of 2021. It indicates that almost one-third of employment disputes end on either the first or the second court hearing, which is due to the number of settlement agreements approved by courts.

The Price of Wrongful Termination

Many professionals claim that it is simply no longer worth it for employees to start a litigation procedure with their (former) employer. The new employment and civil procedure regulations certainly did not make it easier for employees to bring their claims to court. The new *Employment Code* has changed the basic characteristics of the

legal consequences of wrongful termination, such as their extent and conditions for application. Before 2012, employees could generally apply for reinstatement and were entitled to claim a higher and non-fixed amount of compensation, whereby the length of litigation just increased the amount of their claim.

According to the current regulation, employees may only apply for reimbursement in narrow and predetermined cases of serious infringements. In addition to this, the current *Employment Code* caps the amount of compensation that may be claimed in case of unlawful termination – employees may only receive up to 12 months' absentee pay as compensation. When employees find a new job that offers them a higher salary during the litigation, they may only claim a fraction of that compensation.

As the quantitative risk of wrongful termination has thus been defined and significantly reduced, the employers can avoid and/or mitigate the legal consequences of wrongful termination through applying termination agreements more frequently and, due to this, the latency of the termination cases is increasing.

The Change in Market Practice

Not all causes for the decrease in court claims and changes in the employment practice are negative, however. In recent years, employers are getting more careful with handling their HR matters, as the supply and demand sides of the employment market change. Employers also frequently request the help of attorneys in HR matters, which could also be a factor in decreasing the number of employment disputes.

In the event an employer decides to end the employment relationship, current market practice shows that, instead of unilateral termination, termination agreements are increasingly common. While a termination agreement reduces the risks of a lawsuit, it also helps the parties create a win-win situation. To facilitate negotiations and reach an agreement, employers can also assess the situation in light of the above-mentioned cap applicable in case of wrongful termination.

Although the visible number of employment disputes decreased, we cannot conclude that there are no disputes between employees and employers. However, the above numbers show that the current employment and procedural laws can lead and influence the parties to resolve their conflicts by means other than litigation, resulting in cost and time-saving solutions and settlements. ■

RUSSIA: ELECTRONIC MANAGEMENT OF LABOR AND EMPLOYMENT DOCUMENTS

By Olga Mokhonko, Head of Corporate & Employment, Noerr



The long-discussed and anticipated electronic management of labor and employment documents in Russia finally resulted in corresponding amendments to the *Russian Labor Code*, effective as of November 22, 2021.

The law now explicitly provides that e-document management can apply to most of the labor and employment documents, even to those which the law requires to be executed in hard copy and against an employee's signature. Only a few exceptions apply, like employee labor books, internal HR orders on dismissal, reports on accidents at work, and documents related to labor protection briefings, which must still be executed in hard copy.

However, Russian law establishes a number of requirements for the IT systems to be used for e-document management. It can be either a governmental IT system or an employer's IT system meeting the requirements on signing and storage of documents and providing for the possibility to record the receipt of documents by an employer and an employee. The drafting, signing, provision, and review of e-documents by an employee shall be managed via such IT systems.

Transfer to e-Document Management

In order to implement a transfer to e-document management, an employer shall take the respective decision considering the opinion of a primary trade union (if there is one in the company), providing: (1) information about the chosen IT system for e-document management; (2) procedure to access the IT system of the employer (if necessary); (3) a list of documents to be transferred to an electronic format; (4) categories of employees to which e-document management applies; and (5) the notice period to notify the employees about the transfer to an electronic format.

The employer shall also adopt an internal policy on e-document management (considering the opinion of a primary trade union, if there is one) which can provide, in particular: (1) timelines for signing and review of e-documents by employees; (2) the procedure to conduct briefings on e-document management; and (3) exceptional cases when labor and employment documents can be executed in hard copy.

Employees shall be individually informed of the transfer to e-document management, within the established term. The transfer requires the written consent of the employee, unless the employee has been

hired after December 31, 2021, or had no work record as of December 31, 2021. If an employee does not grant consent, the employer shall provide them with labor and employment documents in hard copy at no expense.

Upon hiring, any new employee shall be notified of e-document management in the company. Lack of consent cannot serve as grounds for a refusal to hire or dismissal.

e-Signatures

The law sets forth a number of requirements for electronic signatures to be used by employers and employees. The type of electronic signature to be used depends on the document it should apply to.

In particular, it requires an employer to use an enhanced qualified electronic signature for signing and amending employment contracts, material liability contracts, notices on changes to employment terms and conditions, and internal orders on a disciplinary penalty. For signing other documents other types of electronic signatures can be used.

To sign and amend employment contracts and material liability contracts, to sign consents for transfers to another job position, resignation letters, and revocations of resignation letters, and to acknowledge a notice on changes to employment terms and conditions an employee can use either an enhanced qualified electronic signature, an enhanced nonqualified electronic signature (if the parties had agreed on the procedure of its use), or an enhanced nonqualified electronic signature issued with the use of governmental infrastructure.

An employee not having an electronic signature cannot serve as grounds for dismissal or refusal to hire. The employer bears the expenses for obtaining the required electronic signatures by employees.

Further Aspects of e-Document Management

The employer shall keep electronic documents within the same terms as provided for by Russian law with respect to documents executed in hard copy.

The employer is entitled to decide that e-document management also applies to employees working remotely.

Finally, since the described law provisions are just the first steps towards a transfer to e-document management in the area of labor and employment relations, we anticipate the issuance of governmental clarifications and, likely, the adoption of further amendments to the law or by-laws in the short-term. ■

SLOVENIA: SPIN-OFF COMPANY LIABLE FOR CLAIMS OF UNTRANSFERRED EMPLOYEES?

By Amela Zrt, Head of Employment, CMS



Picture a situation where a company divests a part of its business to create a new company. Employees are transferred to the spin-off company too.

Based on Article 75 of the *Employment Relationship Act* (ZDR-1), the provisions on the transfer of an undertaking (change of employer) then apply. The article governs the joint and several liability of both the transferor and transferee company; however, it limits liability solely to the claims of employees who were actually transferred.

So, what happens to those claims from employees whose employment with the transferor company terminated before the transfer, *i.e.* before the division was entered in the court register?

In September 2021, the Supreme Court addressed such a case. The lower courts decided that the transferee company is severally and jointly liable and ordered it to pay the amounts the employee had claimed. The decision hinged on the assessment that the spin-off contract saw all the parent company's rights and obligations arising from the transferred assets transferred to the spin-off company – the employee's employer.

However, the lower courts did not rely on Article 75 of the ZDR-1 when reaching this decision, but on Article 433 of the *Obligations Code*. The latter regulates the liability of the person to whom all or part of a property passes under a contract. It stipulates that such a person is jointly and severally liable together with the former property holder for the debts related to the whole or part, but only commensurate with the value of its assets.

The spin-off company contested this decision before the Supreme Court, questioning whether the lower courts had acted lawfully when applying Article 433.

The spin-off company argued that the ZDR-1 provisions are more specific (*lex specialis*) and thus that Article 433 is inapplicable. It further argued that if the court deemed that the ZDR-1 could not be applied either, then the *Companies Act* (CA) would apply.

While the Supreme Court agreed that the ZDR-1 provisions are more specific, it also stated that Article 75 of the ZDR-1 does not address the issue at hand and cannot, therefore, be applied.

But, according to the Supreme Court, Article 433 cannot be applied either. Even though the business was transferred contractually, the provisions in question cannot be applied because the contract is a spin-off of the company contract, which represents an instance of company law and is therefore regulated by the CA (again, the *lex specialis*).

Article 636 of the *Companies Act* stipulates that for all liabilities of the company incurred up until the division is entered in the court register, in addition to the spin-off company to which the division plan allocated the obligations, each other company participating in the spin-off is jointly and severally liable, commensurate to the asset value allocated to it in the spin-off plan, less the obligations assigned.

The spin-off company mistakenly thought that according to Article 636 it was only liable for the assets transferred to it in the spin-off plan and not also for the assets not assigned to it from which it hoped to be exonerated. The liability under Article 636 of the CA is broader, covering joint and several liabilities for all the obligations that occurred prior to the entry of the division in the registry, including the obligations not assigned to the spin-off company.

As the court rightfully established, the liability remains for the spin-off company, regardless of whether the CA or the *Obligations Code* is applied; the only difference is in the extent of the liability.

We pondered how the spin-off company could avoid liability for such claims. Considering that, pursuant to Article 636 of the CA, the spin-off company is only jointly and severally liable for the obligations incurred until the division is entered in the court register, we wondered what would transpire if the termination notice was given to the employee after such event. Unfortunately, this would not help when dealing with an employee involved in the spun-off business activity. If such an employee was not transferred and then later terminated by the mother company, it is very likely that the employee could make a successful claim for unlawful termination and would thus end up employed by the spin-off company. However, this particular option can be explored for an employee who is not part of the spun-off business and thus not part of the transfer. ■

CROATIA: CROATIA TO UPGRADE THE RULES ON REMOTE WORKING

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



As the COVID-19 pandemic globally swept away the *business-as-usual* concept, many countries, including

Croatia, were faced with a rising problem of workplace-based COVID-19 transmissions. Croatia had a remote work (RW) framework initially introduced in 2003, but its application in practice was considered rather exotic. Once RW became one of the main workplace-related responses to COVID-19, authorities and employers were suddenly faced with interpretation and implementation problems. As a temporary solution, the Ministry of Labor and Pension System (Ministry) issued a number of opinions regarding the RW regime. These opinions were intended to loosen the regulatory grip, usually by turning a blind eye to unambiguous and mandatory statutory requirements, for example, by interpreting that a pandemic constitutes such circumstances under which employers are allowed to unilaterally impose a RW regime.

At the same time, the Ministry also rekindled its work on preparing amendments to the current *Employment Act*. As part of the lengthy consultation process, the draft of the new employment act (Draft Act) is currently being discussed with trade unions and employer associations. Following global trends, notable updates found in the Draft Act include rules regarding platform-based work (affecting companies such as Uber, Bolt, Wolt, *etc.*) and the broadening of the harassment-at-work concept – but the hottest topic still remains the upgrade to the RW rules.

Under the Draft Act, RW is defined as work that is not performed at the employer's worksite, but rather performed from the employee's home or another location agreed between the parties, which would include the increasingly popular shared workspaces. What is more, the Draft Act envisages an option for the parties to agree that the employee may freely choose their workplace. Such an option is bound to be appealing to employees eager to take workcations or transform into digital nomads. On the other hand – due to the employer's remaining liability to ensure health and safety for any workplace, as well as the concerns related to confidentiality and the supervision of employees' work – it may be reasonably expected that the employers

will, in general, be hesitant in allowing their employees' full discretion in choosing the workplace. More frequently, they might opt for allowing their employees to choose between pre-selected workplaces, such as on-demand work platforms, or opt to restrict the option of full discretion in choosing the workplace to contractors and freelancers, rather than employees.



The Draft Act provides that, under normal circumstances, RW is to be implemented by the employer and employee entering into a RW employment agreement, which must contain eleven mandatory details related to RW. Most notable of those, the RW employment agreement must contain the amount of the consideration the employer must pay to the employee to compensate costs associated with RW, such as the increased costs of energy, water, utilities, *etc.* However, the Draft Act fails to provide both any minimum consideration amount and any criteria to determine its appropriate amount, which means that the consideration is subject to the parties' agreement and that even a symbolic consideration would fulfill the mandatory requirement.

Finally, the Draft Act undertakes to promote RW as a tool of work-life balance. In particular, non-RW employees who have difficulties balancing their family and/or personal duties, due to, for example, disability, parental duties towards children under eight years old, or duty of care towards a family/household member, will now have a statutory entitlement to request a temporary RW arrangement from their employer. What is more, the employer will only be allowed to reject such a request on justified grounds, which are not specified in the Draft Act, and will be left for the courts to interpret in each individual case.

Given that the changes to the employment legislation directly affect the Croatian workforce – about 1.5 million strong – the Draft Act is bound to receive further scrutiny and tweaks in the months to come. One may hope that changes to the proposed RW regime, as envisaged under the Draft Act, will aim to lessen the regulatory requirements and provide more clarity. Only this will help achieve accepting RW as a new normal, rather than just a temporary pandemic measure. ■

ROMANIA: REGULATING THE ROMANIAN GIG ECONOMY

By Alexandra Rimbu, Partner, and Sonia Benga, Associate, MPR Partners



Digitalization and technology have seen incredible evolutions over the past years worldwide. This development has fostered the perfect environment for the *gig economy* to be able to sustain incredible growth. Short-term working agreements between companies and workers, which are paid after every undertaken task, are at the

foundation of the gig economy and they seem to be more popular with every passing day. The COVID-19 pandemic has proven to have been yet another factor that allowed this market sector to reach new heights, with more and more people turning to online platforms as an additional source of income. These people are generally labeled as 'platform workers.'

The Gig Economy in Romania

While Romania, with its top-notch internet, is a perfect place for the gig economy to thrive, the lack of legislation in this specific area can be discouraging. However, lack of legislation is a common denominator among European countries.

When talking about Romanian platform workers, two categories are easily distinguishable. First, there are those individuals whose tasks are still performed online. They identify projects through online platforms, and they carry them out in front of their computers. The legislation concerning them only offers two choices: (1) they can either choose to register as an authorized person or (2) follow the path of a limited liability company.

The second category of platform workers consists of those we see on the street, carrying branded backpacks, delivering groceries, or driving people from one place to another. This is the category of workers who perform their tasks offline. For them, the situation is quite different. So far, only workers carrying out their activity in the field of transport are covered by existing Romanian legislation.

Furthermore, said legislation only covers their obligations and not their rights. Thus, these workers may only carry out their activity after priorly licensing each used automobile with the Romanian Road Authority. Therefore, their activity may be regulated, but their protection is not. Romanian drivers may opt for two ways to collaborate

with online platforms: (1) registering as an authorized person with the Romanian Trade Registry or (2) finding work within a fleet.



While choosing the first option will lead to qualifying drivers as self-employed, when opting for the collaboration with a fleet they could also benefit from signing contracts as actual employees. Thus, the perks of platform work will be rounded out with the protection that characterizes traditional employment. However, this is not without downsides. Additional charges such as commissions and possible limitations in terms of flexibility may follow suit, limiting some of the popular perks of the gig economy.

Detrimentially, choosing self-employment will leave drivers without the sought after, extensive, and straightforward protection originating in labor contracts. One can only hope that the legislator will manage to find a common ground for the much-needed legislation.

European Forecast

On December 11, 2021, the European Commission published a set of measures meant to improve and support both the working conditions and the sustainable growth of online platforms throughout the Union. These measures include a communication, a proposal for a directive, as well as draft guidelines and they come as a direct consequence of the lack of unified regulations regarding this specific field. As such, the proposed directive strives towards shedding light on the legal employment status of people turning to digital platforms to find labor, while also introducing a number of criteria in order to more clearly determine if an online platform can be qualified as an employer or not. Additionally, the proposed directive also aims for better transparency when it comes to the algorithms used by online platforms, as well as the traceability of online platforms.

Conclusions

The set of measures originating at a European level has been long awaited, with the European Parliament greenlighting it back in March 2021. All that remains to be seen is how and when the directive is adopted and how the Romanian legislator will transpose it. ■



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CZECH REPUBLIC: PAST, PRESENT, AND FUTURE OF CZECH EMPLOYMENT LAW

By Veronika Kinclova, Head of Employment, Clifford Chance



Since 2020, employers and employees in the Czech Republic, as well as elsewhere, have been preoccupied with issues relating to COVID-19, not least the employees' testing, quarantines, or vaccination. It is without question that the pandemic has left its footprint on the Czech labor market and provided an impetus to many current trends.

Looking beyond the pandemic, this article will focus on the development of the Czech employment market in a post-COVID-19 world and the role that Czech employment law will play in it.

The employment market in the Czech Republic is battling a lack of people to fill in vacancies, increasing production costs, and the need to be competitive. Employees ask for flexibility and freedom to work from where and when they want. Employers understand that to succeed in the current as well as the future business environment they will have to be flexible. However, instead of shaping the relevant decisions based on their business needs, employers are forced to restrict flexible work arrangements, due to legal and tax reasons, or to create solutions that entail risks of sanctions from the state authorities.

Flexible Work Arrangements and Current Legislation

The employment relationship and the protection which employees enjoy under the Czech *Labor Code* seem to be failing to respond to the needs of the fast-developing employment market. Accelerated by the pandemic, the phenomenon of the *gig economy* produced several jobs which are a hybrid between employment and a freelancer relationship. This is quite apparent in the delivery services where couriers, claiming to be self-employed individuals, often work for only one client and under its directions, driving the client's company cars dressed in the company colors. For the flexibility and financial benefits of the freelancer relationship, mutations of this arrangement are being used in more and more sectors nowadays. Unfortunately, under Czech law, such arrangements bear the risk of high employment and tax sanctions, if classified as an employment relationship.

The companies using freelancers, rather than hiring them as employees, try to mitigate the risks by engaging them indirectly, via third-par-

ty service providers. However, from the perspective of Czech law, the arrangement can be qualified as the supply of workforce without a work agency permit (*i.e.*, a concealed work agency scheme). While state authorities in some CEE countries are turning a blind eye, the Czech labor inspector has recently been empowered to impose a fine of up to CZK 10 million (approximately EUR 385,000) for a concealed work agency scheme, not only on the supplier but on the user of the workforce as well.

Another example is work-from-home which, due to the COVID-19 pandemic, has been a frequently discussed topic leading some legislators, for example in Slovakia, to amend the provisions on teleworking to reflect the current needs and trends of the market. In the Czech Republic, in the absence of specific regulation, employers usually adopted their own work-from-home internal policies, with the uncertainty of their potential legal, tax, and social security implications.

The Labor Code and Hopes for the Future

There have been several attempts to modernize the Czech *Labor Code* over the past years. In 2016, a proposed work from home regulation, being part of a more extensive draft amendment of the *Labor Code*, did not make it through the legislative process in the Chamber of Deputies before their mandates expired. Another attempt with the same goal was made in summer 2021 but was rejected by the government – which considered the proposed work from home regulation in part as problematic, unclear, or unnecessary – rather than suggesting workable amendments. As such, our *Labor Code* still lacks a sensible regulation that would both enable people to work from places other than employers' premises and not burden employers with increased liability and costs.

A change may come with the new government which promises to increase the flexibility of the *Labor Code*. The public will want to make the new government keep its word and new initiatives, emerging from employment market specialists and practitioners, will hopefully lead to changes to the *Labor Code* – providing for a functional set of rules and rights for employers and employees that will govern the performance of work from anywhere in the Czech Republic, including from home, as well as other flexible work arrangements. With any luck, the initiatives will convince the government and Czech legislation will soon catch up with the realities of the employment market. ■

SLOVAKIA: KURZARBEIT IN SLOVAKIA – EFFECTIVE MEASURE FOR EMPLOYERS IN TIMES OF CRISIS?

By Radovan Pala, Partner, and Radoslava Lichnovska, Head of Employment, Taylor Wessing



Based on the new *Act on Support During Short-Time Work*, also known as *Kurzarbeit*, the employers' new permanent support scheme will apply as of January 1, 2022, in Slovakia.

The basic aim of the new regulation is to compensate employers financially for temporary loss of working hours and thereby preserve employment. *Kurzarbeit* can

be applied if an employer is forced to reduce its operational activities due to temporary external factors beyond its control that have a negative economic impact on its business, particularly the declaration of a state of emergency, state of crisis, or *force majeure*. Furthermore, the *Kurzarbeit* allowance applies only in case at least one-third of the employer's workforce is not assigned work for at least 10% of their working hours.

The *Kurzarbeit* allowance will be funded from social insurance contributions, at a rate of 0.5% from the assessment base, which reduces the insurance rate for unemployment (currently 1%). Therefore, the amount of the employer's social security contribution burden does not change due to the introduction of *Kurzarbeit*.

Kurzarbeit was adopted in reaction to the developing economic crisis caused by the COVID-19 pandemic, and the complicated, yet not very effective, state aid system provided to employers within the *First Aid* contributions project. Under that system, the employer had to undergo a demanding administrative process, and the contributions were paid only two months after applying. Finally, the contribution amount per employee was capped relatively low.

Another reason for introducing this scheme was the gradual implementation of the *Kurzarbeit* system in all member states of the EU, which thus becomes a benchmark for the country's competitiveness, as well as the EU's pressure to introduce a permanent tool to maintain employment and compensation for loss of income.

During the law-making process, the legislator was inspired mainly by the applicable legislation in Germany and Austria, where the system had been in place for some time. Consequently, it has transplanted most of the conditions under which the aid is granted in those

countries. Such a procedure is by no means exceptional but should not be applied without considering the specifics of a particular country.



As an example, we consider it unjustifiable that the conclusion of an agreement with the employees' representatives or the individual employees concerned (in case there are no employees' representatives) on activation of *Kurzarbeit* is required to claim the support. Under current legislation, a trade union may operate at an employer without proving any minimum level of representativeness towards the employees it formally represents. Therefore, in Slovakia, we often see so-called 'quasi trade unions' (with minimum membership), whose primary aim is not to defend employees' rights. As quasi trade unions often set out to torpedo employers' activities, we consider this requirement a significant obstacle in fulfilling the conditions for the allowance. In addition, we believe that such requirements are superfluous, as one of the conditions for granting the support is the payment of social insurance contributions for at least 24 months before the employer applies for the allowance. Thus, the employer prepays any potential future allowance.

If the employer fails to receive the respective consent to activate the allowance (without the necessity of being notified of any relevant reason), it is forced to ask an arbitrator to resolve the dispute. This process, including the time limit for the arbitrator's decision, may result in a deadlock situation where the employer misses the deadline for allowance application and, consequently, loses its entitlement thereto. As a result, both the employer and, in the end, the employees themselves would be negatively impacted as the employer will likely be forced to proceed with employment terminations, despite fulfilling all other conditions for the activation of the *Kurzarbeit* scheme.

Despite the several shortcomings of the new legal regulation on *Kurzarbeit*, it is generally welcomed. Slovakia needs such a stable and foreseeable system of support that can help employers mitigate the consequences of abrupt external negative circumstances, without a long-lasting impact on their business and workforce. The devil is in the details, however, and only the practical implementation of the *Kurzarbeit* system will show its potential flaws or prove its effectiveness. ■

POLAND: THE FUTURE OF WORK IN POLAND

By Tomasz Kudelski, Partner, and Raf Uzar, Head of Communication and Development, Penteris



Three of the world's most influential institutions have established expert teams to gather as much data as possible in order to make sense of the nature of the changes currently affecting the global labor market. Many law firms are already on board and are implementing strategies that will meet these changes head-on.

Global Agenda

In 2019, the Global Commission on the *Future of Work* produced a report proposing a “*human-centered agenda for the future of work that strengthens the social contract by placing people and the work they do at the center of economic and social policy and business practices*” with three pillars of action: (1) increasing investment in people's capabilities; (2) increasing investment in the institutions of work; and (3) increasing investment in decent and sustainable work.

Similarly, the OECD published a *Future of Work* manifesto listing five central areas that need to be worked on: (1) a fairer world of work through COVID-19; (2) a world reshaped by digitalization; (3) skills and learning; (4) social protection; and (5) ensuring job quality.

Most recently, the World Economic Forum issued its *Future of Jobs 2020* report which surveyed a range of industries and countries in an effort to understand changes to the labor market following COVID-19, map the jobs and skills of the future, and track the pace of change. The report, for example, found that most companies understand the value in investing in employees, however, the window of opportunity to reskill/upskill employees has become a lot smaller in the new, post-COVID-19, labor market.

Polish Contractual Chance

Research across the board is indicating that the contractual landscape is changing and will continue to change. As the *gig economy* expands, the number of temporary contracts increases with atypical and non-standard employment arrangements becoming the norm. According to Eurostat, this is something Poland is already experiencing. In 2020, the largest proportions of temporary employees (ages 15-64) in the EU were found in Spain (23.8%), Poland (18.4%), the Netherlands (18.1%), Portugal (17.8%), and France (15.2%). Marry this with Poland remaining at the top of the class for lowest figures in long-term unemployment within the EU in 2020 (ages 15-74), and

the future looks bright: Poland 0.6%, the Czech Republic 0.6%, Denmark 0.9%, the Netherlands 0.9%, Hungary 1.1%.

Polish Population Power

An additional driving force in the Future of Work is the fast pace of technological change and its effect on the workplace. Poland's chance also lies in the fact that it is one of the largest states in the EU and thus has a great swarm of users: 31 million internet and 26 million social media users, in 2021, according to Statista. Therefore, Poland has a statistically high number of innovators and early adopters in comparison with other EU states. This is also enhanced by the quality and price of technology. Poland has one of the fastest fixed broadband download internet speeds in CEE, whilst mobile data price is one of the cheapest in CEE: compare Poland's USD 0.7 per gigabyte of data to the Czech Republic's USD 7.95, according to Statista.

Polish Economic Opportunity

The ball is now in the court of HR professionals, lawyers, and learning and development consultants. The advent of new workplace technologies is changing the nature of work and working hours, and stricter definitions for hybrid / home office work are required. This also includes clarity on remote working costs and the related responsibilities of employers as well as clarity on health and safety policies/procedures. For example, on who would be responsible if COVID-19-positive employees continue to come to work and infect others.

With redundancies rife and lay-offs looming, the need to prepare employees for the post-pandemic workplace is greater than ever. In response to shifting skill needs, when surveyed, 89% of Polish companies were keen to retrain existing employees or they expected existing employees to pick up skills on the job, according to the *Future of Jobs 2020* report. This hints at the opportunity for Polish businesses to offer employees the chance to retrain, reskill, and upskill rather than choose the easier option of redundancy.

The conditions are right. According to Eurostat, Poland had the fifth highest GDP growth rate in the EU, in 2020. The IMF forecasts Poland to remain in the EU's top five, in 2022, and the European Commission predicts Poland's move into the top four for GDP growth, in 2023. Ironically, the key to whether a post-pandemic Poland continues to flourish could well rest with how Poland's labor law gets to grips with working remotely. ■



BULGARIA: THE RISKS OF PROVIDING EOR SERVICES IN BULGARIA

By Radoslav Alexandrov, Partner, and Violeta Kirova, Principal Associate, Boyanov & Co



In 2012, the Bulgarian Parliament introduced statutory rules regarding the activities of temporary staffing enterprises (TSAs). Before that, their existence and operations were recognized and tolerated in practice, but their activities took place in a legal vacuum.

The 2012 rules tied the hands of businesses rather than effectively regulating the relations between commissioned employees, outsourcing companies, and employers using leased staff. It is not a secret that both outsourcing companies and staff feel they had a lot more business flexibility during the legal vacuum.

Nearly ten years later, businesses are still facing the same or even increased difficulties in implementing some globally popular models in Bulgaria. The most relevant example is the 'Employer of Record' (EOR) model.

An EOR is a third-party organization that hires and pays an employee on behalf of another company and takes responsibility for all formal employment tasks. Using an EOR allows companies to engage with overseas workers legally and efficiently, without having to set up a local entity or risk violating local employment laws.

Bulgarian Legislation Does Not Recognize EORs!

The principal rule under Bulgarian law is that the employee must enter a direct employment contract with the company they will actually work for. There are only two exceptions to this rule – the EOR model is not one of them.

The first would be to provide services as TSAs, the next best thing. TSAs hire employees for temporary work and send them to companies, to work under their management and control. The *Bulgarian Labor Code* regulates temporary employment through a TSA and the *Employment Promotion Act* regulates TSA registration requirements and procedures. There are certain restrictions regarding the use of the TSA model, however, which also represent fundamental differences to the EOR model. TSAs are subject to registration with the Employment Agency of Bulgaria. The process normally lasts up to two months and the registration certificate is valid for five years (subject to further extensions).

TSAs (unlike EORs) may send employees to a user undertaking for temporary work only, in two cases: either to replace an absent employee or to complete a specific task/project, with a clear start and

end. Staff may not be sent to support the 'usual work' of the client! The type of work – temporary – requires the conclusion of a fixed-term employment contract with the employee. The contract terminates once the titular employee returns or the specific project is completed.

The number of temporary employees sent by a TSA may not exceed 30% of the client's own employees. The TSA and the user undertaking need to enter into a written agreement and are severally and jointly liable for the obligations against the employee stemming from the temporary work.

These restrictions mean that a global EOR service provider may operate in Bulgaria, after registering as a TSA and with the above limitations, which significantly alter the classic EOR model.

The second exception would be to provide a business service to the client. There are companies that provide typical EOR services – usually at the cost of employment plus markup – however, they enter a business service contract with their client. The service is not an *EOR service*, rather the subject matter of the employee's work. The wording of the business service contract must be carefully drafted to avoid claims of 'personnel leasing.' For example, if the employee is a software developer, the subject matter of the business service contract would be 'the provision of software services.'

Providing such business services does not require licenses/registration and there are no specific requirements for the operation of the providers. In some cases, such a subject matter would be entirely justified: the service provider operates in the same business sector as the end client and creates a dedicated team of professionals working exclusively for that client. In other cases, such structures would not be fully compliant with the law: an HR agency provides the end client with software development or marketing services, through a business service contract – when such services are clearly not in the same business sector where the client operates, nor are they typical for the sector in which the HR agency operates.

Companies providing such services have full liability as an employer against the employees. However, they also bear the risk of authorities claiming *Bulgarian Labor Code* breaches and imposing administrative sanctions. Even though such risks could be mitigated through well-drafted service contracts, they cannot be fully excluded. ■



NORTH MACEDONIA: EMPLOYMENT CHALLENGES ARISING FROM LATEST ANTI-COVID-19 MEASURES

By Marija Filipovska, Partner, and Zlatko Kujundjiski, Attorney-at-Law, CMS



On November 17, 2021, the Infectious Diseases Commission of North Macedonia proposed anti-COVID-19 measures requiring unvaccinated healthcare professionals and public sector employees to

be vaccinated and recommending the vaccination of private-sector employees. The form of the measures could differ somewhat from this proposal; the definite measures, however, are expected to be adopted soon.

The measures are a logical outcome of the negative effects of COVID-19 on public health, the increased mortality, the economic repercussions across numerous sectors, and the negative impact on the social and political environment in North Macedonia. As in many other Eastern European countries, North Macedonia has vaccinated a low number of citizens – only 47% of its adult population is fully COVID-19 vaccinated, one of the lowest vaccination rates in Europe. That said, and in keeping with the example set by some other European countries, the measures appear to be necessary in order to protect the people, the economy, and the social system.

If properly implemented, these measures may ultimately compel employees in certain categories to accept the COVID-19 vaccine in North Macedonia. Although necessary, in the context of the developing pandemic situation in Europe, the measures raise questions about how they will be implemented in practice, the potential repercussions on the business sector, and the expenses incurred.

How Would the Anti-COVID-19 Measures Affect Employers?

The new anti-COVID-19 measures stipulate that all healthcare professionals must be fully vaccinated, and all public-sector employees should present (1) a certificate confirming they have received one dose of vaccine, or (2) a negative PCR test, or (3) a certificate confirming they have had COVID-19 (not older than 45 days) in order to enter their working premises.

The proposed period for compliance with these conditions is 30 days, for healthcare professionals, and 10-15 days for public-sector employees, from the date on which the measures are adopted.



The public sector (*i.e.*, central administration, local self-government units, state and local self-government institutions, bodies, *etc.*) employs around 10% of all employees in North Macedonia and, if enacted, these measures would ultimately be expected to result in the mandatory vaccination of all healthcare professionals and most public-sector employees.

At this point, it is only “recommended that the private sector join in and introduce the measures to protect the production capacities and the economic processes of the country.”

Specific Challenges in Implementing the New Anti-COVID-19 Measures

It remains to be seen how the government would compel healthcare and public-sector employees to accept vaccinations, how the measures would be applied in practice, and who would bear the implementation costs.

It is not yet clear whether the measures will be applied to the private sector. The invitation for the private sector “to join in the measures” reveals that they are voluntary for private companies, so they seem to be allowed to decide whether, and to what extent, they will comply with the new measures.

As there is no state of emergency, these measures would be implemented by adopting a new (or amending the existing) law. The adoption of any act other than law (resolutions, decisions, decrees, *etc.*) by the government or other bodies would be challenging to implement, so it remains to be seen how the government would tackle this issue.

In practice, we have already started seeing a variety of reactions from various stakeholders – employers, commercial chambers, labor union representatives, and others. As already mentioned, the measures’ definite form and content are soon to be solidified. ■

SERBIA: THE BENEFITS AND DOWNSIDES OF EXECUTING A WORK-FROM-HOME EMPLOYMENT AGREEMENT

By Jelena Nikolic, Partner, JPM Jankovic Popovic Mitic



The COVID-19 pandemic caused many changes in doing business and, therefore, also had a significant impact on regulating the mutual rights, obligations, and responsibilities deriving from employment.

Due to the insufficiently precise provisions of the *Labor Law* regarding work outside the business premises of the employer, as well as lacking practice, employers in Serbia were caught off guard and forced to adjust the working process to the quarantine rules, the restrictions in movement, the lack of means for preventing the spread of infectious disease, *etc.*

Luckily, as time passed by, it became clearer what the options of organizing work outside the business premises of the employer are. Pursuant to the provisions of the *Labor Law*, employer and employee may agree for the work to be conducted outside the business premises of the employer, *i.e.*, from home.

In order to prevent the spread of COVID-19, many employers intend to limit access to the business premises for those employees who are either not vaccinated or do not have a negative test for the virus. However, Serbian legislation does not stipulate the right of the employer to process the personal information of the employees and, therefore, to prohibit their access to their place of work.

That said, it is undisputed that in order for the work outside the business premises of the employer, *i.e.*, work from home to be introduced, there has to be a consent of the employee.

When executing an employment agreement for the work outside the business premises of the employer, *i.e.*, work from home, or when executing an annex to the employment agreement for such purposes, the *Labor Law* stipulates mandatory elements for such employment agreements or annexes to the employment agreement. Namely, the parties must regulate working hours, the manner of conducting supervision of the employee's work, the means of work that will be provided to the employee (that the employer is required to install and maintain), compensation for expenses for the usage of those means of work, and compensation of other expenses.

The compensation of expenses for work from home became the main issue when executing the employment agreement, *i.e.*, the annex to the employment agreement for work outside the business premises of the employer. It is considered that this compensation should cover the expenses of electricity, internet connection, and other expenses that employees might incur due to organizing work from home. However, since it would be quite complex to determine the exact amount of these expenses – which part represents the private expense of the employee and which part represents work-related expenses – this compensation is usually determined as a flat amount, paid per day or per month, depending on the period for which work outside the business premises of the employer is agreed.

Since employees are not entitled to the compensation of expenses for commuting to and from work for those days of work that are spent at home (working remotely), employers usually redistribute this expense to cover the expense for work from home.

It is important to stress that employees who are working remotely are entitled to the same basic salary as the employees who conduct work at the business premises of the employer. In addition, work outside the business premises of the employer, *i.e.*, work from home must be regulated in a manner that allows the employee to use rest periods during work, daily rest, and weekly rest periods in line with the law.

Although working from home has many benefits for both employers and employees (it allows for a higher level of flexibility, it is more cost-effective, *etc.*), it also has its downsides. Employees usually communicate only via e-mail, making them feel more isolated, which may affect the relationships between co-workers and team morale. In addition, remote work can make it quite difficult for the employer to monitor the performance of the employees.

Consequently, many employers tend to combine the two, *i.e.*, enable employees to split their working time between work from home and work from business premises of the employer, as the most productive solution.

Regardless of whether employees will work full working hours remotely or only a certain part of those, the employer is still required to amend its general acts, as well as employment agreements, in order to stipulate the mutual rights, obligations, and responsibilities of the parties when the work is conducted outside the business premises of the employer. ■

MONTENEGRO: WHAT EVERY FOREIGN NATIONAL NEEDS TO KNOW BEFORE BEING APPOINTED AS MANAGING DIRECTOR OF A MONTENEGRIN COMPANY

By Dragana Bajic, Partner, CMS Belgrade and Tamara Samardzija, Attorney-at-law, CMS Podgorica



a short overview of those conditions.

A managing director of a Montenegrin company must be employed with the company, based on a local employment contract. The employment contract of a foreign national must be tied to the length of the temporary residence and work permit (Permit), and obtaining the Permit is a condition for obtaining employment.

The main phases of the process for obtaining the Permit and establishing employment are the following: (1) applying for the Permit; (2) collecting the Permit; and (3) signing the employment contract and registering the employment status with the tax administration.

Before applying for the Permit, a foreign national must report their entry into Montenegro – within 24 hours. This can be done either through the hotel where they are staying, or they can report the fact themselves to the Tourist Bureau or the Ministry of the Interior.

After that, the following documents (original or certified copies) must be submitted by the foreign national, in person, to the Ministry of the Interior office in the reported municipality of residence in Montenegro: (1) written offer from the local company for their employment as managing director; (2) evidence of relevant qualifications (the recognition procedure for a foreign state diploma must be initiated at the Ministry of Education, Science, Culture and Sports); (3) evidence of an occupational health check by a certified Montenegrin health laboratory; (4) evidence of sufficient funds to cover the costs of living in Montenegro (e.g. either a salary that is higher than average or a statement by the company that it will cover their cost of living, etc.); (5) evidence of their accommodation in Montenegro (e.g. excerpt from the land registry proving ownership of real estate in Montenegro, lease contract for an apartment, etc.); (6) evidence of their health insurance coverage in Montenegro; (7) evidence that they have not

been convicted of a criminal offence that is prosecuted *ex officio* and have not been unconditionally sentenced to imprisonment for longer than six months, or that the consequences of any past conviction no longer apply; (8) excerpt from the relevant Montenegrin registry proving that the company is duly incorporated and that they are registered as managing director; (9) copy of their passport; and (10) proof that the EUR 67 fee has been paid. In case the above-listed documents were issued by authorities abroad, their legalization by an apostille may also be necessary, depending on the country of origin, so this should be checked in advance.



If a certain document is missing or is deemed inadequate by the authorities, the foreign national must submit additional and/or adequate document(s), within ten days from the date of the initial filing. The Permit is issued within 15 days of submitting the complete application to the Ministry of the Interior, and the foreign national must collect it in person.

The employer is required to conclude the employment contract with the foreign national within 24 hours of the date the Permit is issued and to register the employment status with the tax administration. To receive a salary under the employment contract, the foreign national will need to open a bank account in Montenegro.

The Permit applies for one year and may be extended twice (each extension is on an annual term basis). A request to extend the Permit must be filed no later than 30 days before it expires. The same procedure applies to the extension as to the initial filing. However, the set of necessary documents differs slightly. Namely, all the above-listed documents must be submitted, except those under points (4), (5), (6), and (7).

Furthermore, when filing for an extension, one must submit a confirmation from the Montenegrin tax administration proving that all employment-related taxes have been duly paid. Once the conditions for the extension of the initial Permit no longer apply (i.e., three years after the first submission), a request for a new Permit must be submitted, so all the documents must be provided anew, including payment of another administrative fee. ■

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TURKEY: THE COVID-19 VACCINE – A NEW ERA AND STRUGGLES FOR EMPLOYERS

By Sertac Kokenek, Partner, Esin Attorney Partnership



One of the most important inventions of the 21st century is undoubtedly the COVID-19 vaccine, with respect to its affirmative effect on public health. Before its invention, humanity had been battling a substantial rise in the number of COVID-19 cases, and the vaccine managed to raise hopes of controlling the pandemic. Likewise, Turkey, especially the Turkish Ministry of Health, has taken a lot of steps towards having individuals become more conscious of the importance of vaccination, in an effort to decrease the number of cases. Recently, the total number of shots administered has reached more than 119 million.

As the vaccination program continues, some controversial opinions regarding whether vaccination should be mandatory have been raised. The biggest issues are those raised between employers and employees. For instance, some corporations in Turkey have announced that employees who are not vaccinated can carry out their work from home but cannot enter the workplace. The employees' reaction to this announcement was rather negative, as they claimed vaccination cannot be made mandatory. The government has announced that vaccines are not mandatory, however, instead, it brought in certain restrictions. With its announcement dated September 3, 2021, the Turkish Ministry of Labor and Social Security (Ministry) paved the way for employers to request mandatory COVID-19 tests from their unvaccinated employees. The Ministry stated that employers are required to inform all of their employees about the protective and preventive measures against the health and safety risks that may be encountered in the workplace. The Ministry also requested that employers, separately and in writing, inform those employees who have not completed their COVID-19 vaccination. It has been made mandatory for the employees who are not vaccinated after receiving such information to be notified by their employers regarding the possible consequences of a definitive diagnosis of COVID-19, in terms of labor and social security legislation. Most importantly, as of September 6, 2021, employers will be able to request that those employees who are not vaccinated against COVID-19 take a mandatory PCR test once a week.

The main controversy is whether all the measures taken due to the COVID-19 pandemic limit the fundamental rights and freedoms guaranteed by the constitution, given that both vaccination and tests are an intervention that violates physical integrity. The fact that these measures are taken through announcements, and not through laws, also creates additional controversy. On the other hand, employers have extensive occupational health and safety obligations and run the risk of being liable in the case of occupational accidents resulting from COVID-19. In this regard, employers are required to take all necessary measures to protect the health of their employees and prevent them from being exposed to occupational accidents resulting from COVID-19, which makes it very hard to strike a balance between the fundamental rights and freedoms and protecting public health.

It does not seem possible, at present, for employers to require their employees to get vaccinated, and terminating the employment agreements of employees who refuse to get vaccinated would be risky. Employers can implement encouraging internal regulations for their employees such as: (1) relying on COVID-19 measures (*e.g.*, social distancing, mask requirements, *etc.*), (2) imposing remote working (if the current position of the employee is not suitable for remote working, the employee can be transferred to a position suitable for remote working by obtaining a written and wet-signed consent within six business days), (3) sending employees on paid leave on the day of vaccination, (4) covering transportation costs to the hospital for the employees who will be vaccinated, (5) starting the above-mentioned PCR test application, and (6) sending employees on annual paid leave. However, vaccination should not be a basis for different treatment. In other words, employers must make sure not to discriminate against unvaccinated employees and against those who refuse to provide a negative COVID-19 test result.

All in all, as the pandemic and the world's fight against the virus evolves, the employers' focus might have changed but COVID-19 will indisputably continue to be a trending topic for employers and their workforce for some time to come. Employers should continue to monitor all government authorities' announcements and any possible legislative changes with respect to vaccination, and take the required actions. ■

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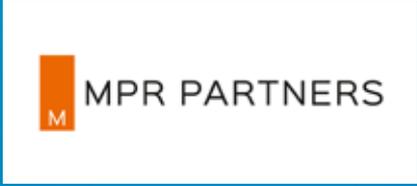
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