CEE Legal Matters

Year 9, Issue 6
July 2022

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

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EDITORIAL: TROPICAL EXTERNALITIES

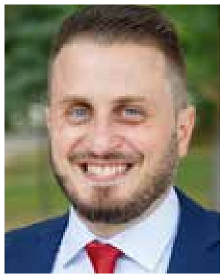
By Radu Neag (A Mango Person)

There are two kinds of people in the world: those who divide the world into two kinds of people, and those who don't." The quote is variously attributed to American humorist Robert Benchley or comedian Groucho Marx. Can you guess what kind of people they were?

Still, this was a fun distraction my friends and I used when we were growing up, to pass the time on tedious train rides to the seaside or when just hanging out. There were *Friends* people and *Seinfeld* people. Eclair people and Savarin people (don't ask). Morning people and those who hated morning people. Dark chocolate people and milk chocolate people (white chocolate isn't chocolate). *Star Wars* people and *Star Trek* people. *Lord of the Rings* people and *Harry Potter* people. Basketball people and football people. Coca-Cola people and Pepsi people. I think you see the pattern.

The fun started with having to pick a side even though, most likely, you enjoyed both or hated both equally. And then it picked up with dividing all your friends into tribes and ascribing increasingly whimsical characteristics to those tribes. Dark chocolate people, for example, think they're better than everyone else. Coca-Cola people are silly. And Savarin people just wanted to see the world burn.

I caught myself playing the game, recently, when listening to the news on the radio while driving. The piece was about the shockingly heavy rains in Romania's southwest – about 60 liters of water per square meter. It's the second such storm this year. While surveying the damage – significant to property, with roofs flying off houses – and disruption – massive, as broken trees blocked many a city avenue – the city spokesperson was thankful there were no casualties. Then, in what I thought was a particularly inspired segue, they veered into climate change and how our readiness measures were, quite literally, designed to cope with another world entirely.



The particular example they used for that transition caught my attention: Southern Romania now grows figs, dates, and pistachios. As I was working on this issue of the magazine at the time – with a specific focus on the energy transition – the understanding that we have a long way to go to address climate change, despite our recent vigorously renewed efforts, was fresh in my mind. So, my logical next step (apparently) was to fill out that list of sub-tropical fruit with mangoes – as a bonus, unlike figs and pistachios which do well in more arid climates, mangoes can tolerate the occasional downpour. So, we might well start growing them locally in the near future.

Within the category of exotic fruit – mangoes are definitely a title contender for me. But that category has downsides – a larger carbon footprint due to transportation, the fruit being picked before ripening naturally, and sometimes the (ridiculous) cost. Were they to grow locally, however, I'd have to decide if I'm a mango person or a – for the sake of argument – peach person. Remember I said those categories had to be quite close, frequently overlapping? So, apples or strawberries were out.

The decision? Don't get me wrong: I'm not rooting for just enough climate change so that I can grow mangoes in my own backyard. I know the more likely outcome is we'll end up growing no fruit at all. And I'll do my part to prevent climate change: I'm rooting for no climate change at all (I'm still more of a skiing person than a fruit person, I like my winters). But for the two-kinds-of-people-in-the-world game – locally grown, tree-ripened, low carbon footprint, fresh mangoes sound too good to be true. ■

The Editors:

■ Radu Cotarcea
radu.cotarcea@ceelm.com
■ Radu Neag
radu.neag@ceelm.com

Letters to the Editors:

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

GUEST EDITORIAL: TWO YEARS OLDER AND A DECADE WISER

By Nemanja Stepanovic, Managing Director, JPM Jankovic Popovic Mitic

Writing an editorial proved to be equally as challenging as operating in the CEE legal market. For the record, I will confine my experiences mostly to the region of the Western Balkans. In hindsight, the past year(s) were something of a specialty, even by our own criteria and relative to our extensive experience. But let's start from the beginning…

The year 2020 started as a promising year, and then, all of a sudden, we discovered what globalization really means in its truest sense. With the first global pandemic since the end of WWI everyone was affected, rich and poor, those developed and those that are not, and everything suddenly just came to a halt.

For us in Serbia (and I would assume for the better part of CEE as well), it practically meant no multijurisdictional transactions for an unforeseeable time. Bluntly speaking, we were left to our own devices and our legal market. And yes, we struggled but, yes, we managed as well, playing it by ear and learning by doing, in the process.

And we all learned some valuable lessons. For instance, some of the assumptions we were taking for granted proved to be wrong. Working from home was considered to be something contrary to the very nature and spirit of the legal profession, and now has become a part of the everyday routine, a welcome addition to work-life balance. We learned to trust technology more, e-meetings made us more efficient and forced us to change our perceptions and approach to lawyer-client relationships.

Now, with COVID-19 eventually faded from our lives, we are back to business two years older and about a decade wiser.

Still, operating in CEE remains a challenging task, to say the least. The legal markets are small, so it is no wonder that international clients and law firms are seeing it as one single market. That may be the main reason behind the existence of so many different associations of law firms at the moment, all playing the same "one point of contact" trump card. Whatever the name, they are all more or less a loose association of law firms, without unified management, a clear set of guidelines, or common policies.

Even so, it seems to be the right course to take. Despite the existing differences between jurisdictions (pricing models, GDP, EU membership or lack thereof, etc.) all CEE countries are economically and historically close – they share common values and common problems. The good thing is that there is (and will be) knowledge transfer, implementation of new legal practices, and sharing of experiences from those with more advanced legal markets. There is another matter that should not be overlooked – getting to know each other better, again. Though not long ago most of us used to live in one country, there are new generations that may not share the same sentiment.

All in all, though there are still many rivers to bridge, the CEE legal market remains a promising one. There is a great work ethic present, and most of the lawyers have a wide range of experience, particularly in M&A, dispute resolution, and real estate matters, and are ready to learn and accept new challenges. ■

Impressum:

- CEE Legal Matters Kft.
- Szechenyi utca 10, 1054 Budapest, Hungary
- +36 1 796 5194

The Editors:

- Radu Cotarcea radu.cotarcea@ceelm.com
- Radu Neag radu.neag@ceelm.com

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ACROSS THE WIRE: DEALS AND CASES

Date Covered	Firms Involved	Deal/Litigation	Value	Country
17-May	Tashko Pustina; Wolf Theiss; Yavuz & Uyanik & Akalin	Wolf Theiss and Yavuz & Uyanik & Akalin advised 4iG Nyrt on the acquisition of an 80.27% stake in AlbTelecom from a subsidiary of Turkey's Calik Holding. Tashko Pustina reportedly advised the sellers. The deal was cleared by the Albanian Competition Authority on March 4, 2022.	N/A	Albania; Bulgaria; Hungary; Turkey
16-May	Herbst Kinsky	Herbst Kinsky advised Byrd Technologies on its EUR 50 million Series C financing round led by Cambridge Capital and including Elevator Ventures, Mouro Capital, and Speedinvest.	EUR 50 million	Austria
23-May	Cerha Hempel; Hennerkes, Kirchdoerfer & Lorz	Cerha Hempel, working with Stuttgart-based Hennerkes Kirchdoerfer & Lorz, advised Germany's Ejot Group on its incorporation of a European Company.	N/A	Austria
23-May	E+H; Schoenherr	Schoenherr advised Austrian scale-up Storyblok on its USD 47 million Series B financing round led by Mubadala Capital and HV Capital, with 3VC and Firstminute Capital also participating. E+H advised HV Capital on its investment.	USD 47 million	Austria
24-May	Schoenherr	Schoenherr advised Austrian cancer treatment and research center MedAustron on the environmental impact assessment for the commissioning of a fourth treatment room.	N/A	Austria
26-May	BPV Huegel; Chammas & Marcheteau; Haslinger Nagele; PwC Legal (Oehner & Partner); Rabel & Partner	BPV Huegel and Vienna-based PwC affiliate Oehner & Partner advised Voyageurs du Monde on the acquisition of a majority stake in the Eurofun Group. Reportedly, Paris-based Chammas & Marcheteau advised the buyer as well, with Haslinger Nagele and Rabel & Partner reportedly advising the sellers.	N/A	Austria
1-Jun	Hogan Lovells; Wolf Theiss	Wolf Theiss advised Erste Group Bank on its update of the Unlimited Commercial Paper and Certificate of Deposits program. Hogan Lovells' Frankfurt office advised the bank syndicate which worked on the update, led by the arranging Citigroup Global Markets Limited.	N/A	Austria
7-Jun	Cerha Hempel; Viehboeck Breiter Schenk & Nau	Cerha Hempel advised Poke House on its investment in Austrian company Honu Gastronomie, operating the Honu Tiki Bowls stores in Vienna. Viehboeck Breiter Schenk & Nau reportedly advised the seller.	N/A	Austria
10-Jun	Baker Mckenzie; Schoenherr	Schoenherr advised the sellers on the sale of ARZ Allgemeines Rechenzentrum to Accenture. Baker McKenzie advised the buyer.	N/A	Austria
13-Jun	Schoenherr	Schoenherr advised Red Bull and Arbeitsgemeinschaft Teletest (AGTT) on the establishment of a joint venture.	N/A	Austria
15-Jun	Boyanov & Co; Filip & Company; Freshfields; Oppenheim; PRK Partners; Savoric & Partners; Wolf Theiss	Freshfields Bruckhaus Deringer, Savoric & Partners, and Filip & Company advised Borealis on a binding offer for its nitrogen business from the Agrofert group. Wolf Theiss advised Agrofert. Oppenheim, Boyanov & Co, and PRK Partners reportedly advised Borealis as well.	EUR 810 million	Austria; Bulgaria; Croatia; Hungary; Romania; Slovakia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
15-Jun	Arntzen De Besche; Babic & Partners; Baker Mckenzie; Bech Bruun; Djingov, Gouginski, Kyutchukov & Velichkov; Jadek & Pensa; Nestor Nestor Diculescu Kingston Petersen; PBBR	Baker McKenzie advised Palfinger on establishing its European Works Council. Babic & Partners, Djingov Gouginski Kyutchukov & Velichkov, Nestor Nestor Diculescu Kingston Petersen, and Jadek & Pensa advised Palfinger on Croatian, Bulgarian, Romanian, and Slovenian law-related matters, respectively. Bech-Bruun, Arntzen de Besche, and PBBR reportedly advised on Danish, Norwegian, and Portuguese law-related matters.	N/A	Austria; Bulgaria; Croatia; Romania; Slovenia
6-Jun	Cerha Hempel; Wardynski & Partners	Cerha Hempel advised the XXXLutz Group on a share acquisition establishing an equal partnership in the Black Red White Group. Wardynski & Partners reportedly advised XXXLutz as well.	N/A	Austria; Poland
17-May	Doklestic Repic & Gajin	Doklestic Repic & Gajin advised Beijing New Building Materials Plc on the transaction with the Coal Mine and Thermal Power Plant Ugljevik for the creation of a EUR 50 million gypsum board joint venture. China's Shihui Partners reportedly advised BNBM on the deal as well.	EUR 50 million	Bosnia and Herzegovina; Serbia
19-May	CMS	CMS advised Portugal's MGI Capital on the sale of Bezmer Energy to Philicon-97.	N/A	Bulgaria
20-May	Djingov, Gouginski, Kyutchukov & Velichkov	Djingov Gouginski Kyutchukov & Velichkov advised Ukrainian professional tennis player Elina Svitolina on the incorporation and establishment of the Elina Svitolina Foundation in Bulgaria.	N/A	Bulgaria
14-Jun	CMS	CMS successfully defended hydropower producer Kooperatsiya Parallel 2000 in a post-privatization dispute initiated by Bulgaria's Public Enterprises and Control Agency.	N/A	Bulgaria
14-Jun	Deloitte Legal; Yordanov and Dobrev	Deloitte Legal advised Kongsberg Digital and the shareholders of InterConsult Bulgaria on the acquisition of the company from ICB founders Stoyan Dobrev and Atanas Dobrev. Yordanov and Dobrev reportedly advised the sellers.	N/A	Bulgaria
24-May	Deloitte Legal (Krehic & Partners); Divjak Topic Bahtijarevic & Krka	Deloitte Legal's Krehic & Partners advised the Kovacic family on their sale of Aquapark Istralandia to the Looping Group. Divjak Topic Bahtijarevic & Krka advised the buyer.	N/A	Croatia
6-Jun	Deloitte Legal (Krehic & Partners); Wolf Theiss	Deloitte Legal's Krehic & Partners advised CME on its EUR 50 million acquisition of RTL Croatia. Wolf Theiss advised RTL Croatia.	EUR 50 million	Croatia
6-Jun	Planinic, Soljic and Partners; Savoric & Partners	Savoric & Partners advised Croatian retail chain company Studenac on its acquisition of Lonia Trgovina. Planinic Soljic and Partners advised the sellers.	N/A	Croatia
7-Jun	CMS; Kunstek Halle & Simac; Latham & Watkins; Linklaters; Savoric & Partners; White & Case	CMS advised Porsche on a new EUR 500 million investment round into Rimac that also included, among others, Softbank and Goldman Sachs as new investors. Savoric & Partners worked with White & Case to advise Softbank and with Linklaters to advise Goldman Sachs on their respective investments. Reportedly, Kunstek Halle & Simac, working with Latham & Watkins, advised Rimac on the deal.	EUR 500 million	Croatia
13-Jun	Divjak Topic Bahtijarevic & Krka; Schoenherr	Divjak Topic Bahtijarevic & Krka advised Unconditional and its majority owner Edvard Varda on the sale of a stake in the company to the Fressnapf Group. Schoenherr advised the Fressnapf Group on the acquisition.	N/A	Croatia
25-May	Deloitte Legal (Krehic & Partners); Simpson Thacher & Bartlett; Wolf Theiss	Deloitte Legal's Krehic & Partners advised sellers Tomislav Plesa and Domagoj Makar on the sale of their shares in Heloo to TaskUs. Wolf Theiss, working with Simpson Thacher & Bartlett, advised the buyer.	N/A	Croatia; Serbia
19-May	Dentons; Kocian Solc Balastik	Kocian Solc Balastik advised the VGP Group on leasing a 49,000 square-meter warehousing commercial space in VGP Park Olomouc to Hella Autotechnik Nova. Dentons reportedly advised Hella Autotechnik on the deal.	N/A	Czech Republic

Date Covered	Firms Involved	Deal/Litigation	Value	Country
24-May	JSK; Marek Hoskovec Law Office	JSK advised Sudop CIT on its acquisition of Czech information technology company Profiq. The Marek Hoskovec law office reportedly advised the sellers.	N/A	Czech Republic
25-May	Allen & Overy; Clifford Chance	Clifford Chance advised a club of lenders including Komercni Banka, Ceska Sporitelna, and Raiffeisenbank on a EUR 137.5 million loan to the Accolade group for the construction of an Amazon automated distribution center. Allen & Overy advised Accolade.	EUR 137.5 million	Czech Republic
26-May	BNT Attorneys; Glatzova & Co	Glatzova & Co advised Germany's Handolfo Invest on its acquisition of Czech food supplements manufacturer Algamo.	N/A	Czech Republic
30-May	Cytowski & Partners	Cytowski & Partners advised Spaceflow on a EUR 8 million Series A round with Hydda.	EUR 8 million	Czech Republic
2-Jun	Taylor Wessing	Taylor Wessing advised the Passerinvest Group on its acquisition of the building housing the general headquarters of the Directorate of Roads and Motorways, in the Prague 4 district, from investor Simona Otavova.	N/A	Czech Republic
3-Jun	Havel & Partners	Havel & Partners has, on a pro bono basis, helped the Vlcek Family Foundation organize an architectural workshop in which an expert jury selected the winning design for the reconstruction of the Cibulka estate in Prague.	N/A	Czech Republic
3-Jun	Hogan Lovells	Hogan Lovells successfully represented CPI Property Group and Radovan Vitek before the New York Appellate Division in a defamation dispute initiated by Kingstown Capital.	N/A	Czech Republic
6-Jun	Cytowski & Partners; Mavericks; Novalia; Wilson Sonsini Goodrich & Rosati	Cytowski & Partners and Mavericks advised the sellers of SatisMeter on its sale to Productboard. Novalia, working with Wilson Sonsini Goodrich & Rosati, advised Productboard on the acquisition.	N/A	Czech Republic
6-Jun	Havel & Partners	Havel & Partners advised Czechoslovak Capital Partners on its acquisition of the Vanickova 5 building in Prague from Ceska Posta. Ceska Posta was reportedly advised by Pavel Vanerek.	N/A	Czech Republic
13-Jun	Havel & Partners	Havel & Partners successfully represented the Roche Group before the Czech Arbitration Court in a domain dispute.	N/A	Czech Republic
13-Jun	Dentons; Glatzova & Co; Goodwin Procter; Schoenherr; Sidley Austin	Dentons advised GeneProof founders Radek Horvath and Milos Dendis on the company's merger with the American Laboratory Products Company, leading to the establishment of the ALPCO Group. Glatzova & Co and Sidley Austin advised the Silicon Valley Bank on financing the merger. Goodwin Procter and Schoenherr reportedly advised Ampersands, the owner of ALPC.	N/A	Czech Republic
30-May	Clifford Chance; Kocian Solc Balastik	Clifford Chance advised UniCredit Bank Czech Republic and Slovakia on the refinancing of the existing financial indebtedness of the Mattoni 1873 group, advised by KSB.	EUR 260 million	Czech Republic; Slovakia
20-May	Pohla & Hallmagi	Pohla & Hallmagi advised Restate on the sale of a loft-office commercial property in Tallinn to Infortar. The Luminor Bank provided transaction financing.	N/A	Estonia
24-May	Mason Hayes & Curran; TGS Baltic; Triniti	TGS Baltic advised the Truffle Capital SAS fund on leading a EUR 5.5 million investment round into Cachet. Triniti and, reportedly, Ireland-based Mason Hayes & Curran advised Cachet on the round.	EUR 5.5 million	Estonia
2-Jun	Triniti	Triniti advised Depo Ventures on leading a USD 1 million investment round in DriveX.	USD 1 million	Estonia
14-Jun	Sorainen	Sorainen advised Livonia Partners and their joint venture with the target's management on the acquisition of Stebby.	N/A	Estonia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
16-May	Clifford Chance; Dimitrakopoulou and Partners; Karatzas & Partners; KLC; Koutalidis; Lambadarios Law Firm; Potamitis Vekris; Zepos & Yannopoulos	The Lambadarios law firm advised the Hellenic Republic Asset Development Fund on the first stage of the new concession tender for the Attiki Odos motorway.	N/A	Greece
18-May	Souriadakis Tsibris	Souriadakis Tsibris advised Goldman Sachs on establishing a branch in Athens.	N/A	Greece
20-May	Baker Mckenzie; Bernitsas	Bernitsas Law, working with Baker McKenzie, advised Gastrade on the EUR 280 million financing and development of the Alexandroupolis independent natural gas system project.	EUR 280 million	Greece
1-Jun	Lambadarios Law Firm	Lambadarios advised the Athens Water Supply and Sewerage Company (Eydap) on an international tender procedure for the award of a five-year services agreement regarding the operation and maintenance of the Psyttalia Wastewater Treatment Plant.	N/A	Greece
31-May	DLA Piper; Lakatos, Koves & Partners	Lakatos Koves and Partners, working alongside Clifford Chance's Munich office, advised Egeria Capital Behar on the acquisition of Isoplus. DLA Piper reportedly advised the sellers.	N/A	Hungary
1-Jun	Gardos Mosonyi Tomori; VJT & Partners	VJT & Partners advised Navitasoft and its owner on the three-round HUF 1.2 billion capital investment by the Blue Planet Climate Protection Fund. Gardos Mosonyi Tomori reportedly advised the fund.	HUF 1.2 billion	Hungary
2-Jun	Lakatos, Koves & Partners	Lakatos Koves and Partners advised GLP on its long-term lease agreement with online retailer Alza.hu for a 22,000 square-meter warehouse within the Sziget Logistics Centre in Hungary.	N/A	Hungary
17-May	Triniti	Triniti advised Enersense on the exercise of its call option to increase its shareholding in the local Latvian affiliate Empower.	N/A	Latvia
18-May	Cobalt	Cobalt advised Latvenergo AS on its issuance of EUR 100 million five-year green bonds with a fixed annual interest rate and a yield to maturity of 2.42%.	EUR 100 million	Latvia
7-Jun	Cobalt	Cobalt successfully represented Eolus Vind subsidiary Pienava Wind before Latvia's Administrative Regional Court in a dispute against the Tukums Municipality for the approval of the construction of a 22-turbine wind farm.	N/A	Latvia
10-Jun	Cobalt	Cobalt advised real estate developer VPH on the development of a shopping complex on the site of the former Riga Dairy Factory, in the center of Riga, with a total investment of up to EUR 40 million.	EUR 40 million	Latvia
13-Jun	Sorainen; TGS Baltic	TGS Baltic advised Remg Trade, Executo, and Future Farm on the sale of Selp to the Taaleri Group and Lords LB Asset Management. Sorainen reportedly advised the buyers.	N/A	Latvia
2-Jun	Ellex (Valiunas); Sorainen	Sorainen advised Eveko Investicija on a built-to-suit lease agreement for the logistics terminal in Kaunas with Itella Logistics. Ellex advised Itella Logistics.	N/A	Lithuania
3-Jun	Ellex (Valiunas)	Ellex advised a Lords LB Asset Management subsidiary SPV on a EUR 23 million bond issuance.	EUR 23 million	Lithuania
9-Jun	Dentons; Freshfields; Sorainen; TGS Baltic	Dentons and TGS Baltic advised the Republic of Lithuania on the EUR 650 million issuance of 2.125% notes due 2032, pursuant to the country's Euro Medium Term Note Program. Sorainen advised underwriters Barclays and BNP Paribas. Reportedly, Freshfields Bruckhaus Deringer advised the underwriters as well.	EUR 650 million	Lithuania
10-Jun	Freshfields; Sorainen	Sorainen, working with Freshfields Bruckhaus Deringer, advised Capitalica Asset Management fund Capitalica Baltic Real Estate Fund I on its EUR 3 million bond issuance.	EUR 3 million	Lithuania

Date Covered	Firms Involved	Deal/Litigation	Value	Country
13-Jun	Sorainen	Sorainen advised the INVL Baltic Sea Growth Fund on its acquisition of the Nemunas and Egles Sanatorija treatment centers in Lithuania.	N/A	Lithuania
15-Jun	TGS Baltic	TGS Baltic advised Lithuanian state-owned energy transmission and exchange group Epso-G on its EUR 75 million issuance of five-year sustainability-linked bonds.	EUR 75 million	Lithuania
16-May	Norton Rose Fulbright	Norton Rose Fulbright advised Panattoni Europe on the construction of a Polish logistics center for Hermes Fulfilment.	N/A	Poland
16-May	Al Sharif Law; B2RLaw; Kinstellar (Gen Temizer Ozer); Rajah & Tann	B2RLaw advised Partners for Growth on its USD 25 million venture debt financing for Opontia. Kinstellar Turkey affiliate Gen Temizer Ozer advised Partners for Growth on Turkish law matters, with Rajah & Tann and Al Sharif Law advising the fund in Singapore and Saudi Arabia, respectively.	USD 25 million	Poland
17-May	Wardynski & Partners; WKB Wiercinski Kwiecinski Baehr	Wiercinski Kwiecinski Baehr advised Blirt's shareholders on the sale of a 96% stake to Qiagen. Wardynski & Partners advised Qiagen on the acquisition.	N/A	Poland
18-May	DPPA Legal; DWF	DWF advised IWG plc on the lease agreement for 1,450 square meters of office space in the Okraglak building in Poznan. DPPA Legal Grzonek Swidnicki advised the landlords on the deal.	N/A	Poland
19-May	Linklaters; White & Case	White & Case advised the CTP Group on its recent acquisition of a Polish logistics project portfolio from 7R. Linklaters advised 7R on the sale.	N/A	Poland
20-May	Greenberg Traurig	Greenberg Traurig advised Panattoni on the acquisition of an undeveloped plot in Magnice, near Wroclaw.	N/A	Poland
23-May	Grabalski, Kempinski i Wspolnicy; Sobczynscy i Partnerzy	Sobczynscy i Partnerzy advisesd the Avallon MBO Fund on the sale of its stake in Ceko to the Polmek Group. Grabalski Kempinski i Wspolnicy reportedly advised the Polmek Group.	N/A	Poland
24-May	DWF	DWF advised Orlen Capital Group's special purpose vehicle CCGT Grudziadz on the execution of engineering, procurement, and construction and long-term service agreement contracts for a gas power plant with a consortium of Siemens and Mytilineos.	N/A	Poland
24-May	Allen & Overy; Decisive Worldwide Szmigiel Papros Gregorczyk	Allen & Overy advised Bank Pekao on its lease of office space in Warsaw from HB Reavis. Decisive Szmigiel Papros Gregorczyk advised the lessor.	N/A	Poland
25-May	Eversheds Sutherland	Eversheds Sutherland advised investment advisor Sequoia Investment Management on a EUR 38.5 million agreement between the Sequoia Economic Infrastructure Income Fund and Green Genius aimed at financing the construction of a 66-megawatt portfolio of photovoltaic plants in Poland.	EUR 38.5 million	Poland
25-May	Balicki Czekanski Gryglewski Lewczuk; Marszalek & Partnerzy	Balicki Czekanski Gryglewski Lewczuk advised Symfonia on its acquisition of a majority stake in HRtec. Marszalek & Partnerzy reportedly advised the unidentified sellers.	N/A	Poland
26-May	Clifford Chance; White & Case	Clifford Chance advised mBank on the PLN 75 million issuance of two series of green bonds by R.Power. White & Case reportedly advised R.Power.	PLN 75 million	Poland
26-May	Linklaters	Linklaters advised Investika Realitni Fond and Bud Holdings on their acquisition of the Tensor Office Park office complex in Gdynia from EuroEast, represented by Greenstone Asset Management.	N/A	Poland
26-May	SSW Pragmatic Solutions	SSW Pragmatic Solutions advised Chinese conglomerate Meide Group on its acquisition of Poland's Odlewnia Zawiercie.	N/A	Poland
26-May	Clifford Chance; SMM Legal; Sobczynscy i Partnerzy	Clifford Chance advised Highlander Partners on the PLN 65 million sale of its portfolio company Rotometal to its current CEO Grzegorz Dolbniak. Sobczynscy i Partnerzy advised Rotometal minority shareholders Joachim Setnik and Barbara Setnik. SMM Legal advised Dolbniak on the management buyout.	PLN 65 million	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
27-May	Dentons; Norton Rose Fulbright	Dentons advised the EBRD, PKO Bank Polski, and Bank Pekao on their PLN 763 million financing to Goldbeck Solar and Respect Energy for the construction of a 286-megawatt photovoltaic farm in Poland. Norton Rose Fulbright advised developer Goldbeck Solar.	PLN 763 million	Poland
31-May	Gessel	Gessel represented MS Galleon AG in proceedings before the President of the Office of Competition and Consumer Protection on granting consent to a concentration consisting in it taking control over Rafako SA and its subsidiaries.	N/A	Poland
1-Jun	Allen & Overy; DLA Piper	Allen & Overy advised ING Bank Slaski on providing financing for Stena Real Estate's acquisition of two office buildings in Krakow and Wroclaw.	N/A	Poland
1-Jun	Baker Mckenzie; CMS	CMS advised Medicover on its acquisition of McFit Polska from the RSG Group. Baker McKenzie advised the seller.	N/A	Poland
2-Jun	JDP	JDP Drapala & Partners advised Boehringer Ingelheim on establishing a shared services center in Wroclaw.	N/A	Poland
2-Jun	Baker Tilly; SSW Pragmatic Solutions	Baker Tilly Legal Poland advised the shareholders of Sempire on the sale of a 60% stake in the company to Shoper. SSW Pragmatic Solutions advised Shoper on the acquisition.	N/A	Poland
2-Jun	Gessel	Gessel advised Luneos Green Energy on its acquisition of an unidentified 19-megawatt photovoltaic farm project.	N/A	Poland
2-Jun	Sobczynscy i Partnerzy	Sobczynscy i Partnerzy advised the shareholders and founders on their sale of Izolbet and Izolbex to Holcim Group company Lafarge.	N/A	Poland
6-Jun	DWF; DZP Domanski Zakrzewski Palinka	DWF advised the V-ridium Power Group on an agreement with T-Mobile Polska for the supply of renewable energy for 15 years. Domanski Zakrzewski Palinka reportedly advised T-Mobile.	N/A	Poland
8-Jun	Allen & Overy; WKB Wiercinski Kwiecinski Baehr	Wiercinski Kwiecinski Baehr advised Ingka Investments on the EUR 190 million acquisition of a 63-megawatt onshore wind farm and a 29-megawatt photovoltaic farm from OX2. Allen & Overy advised OX2 on the sale.	EUR 190 million	Poland
9-Jun	Al Tamimi & Company; Baker Hostetler; Baker Mckenzie; Benvalor; Loyens & Loeff; Malecki Legal; Soltysinski Kawecki & Szlezak	Malecki Legal and Soltysinski Kawecki & Szlezak advised Brand New Galaxy on its sale to Stagwell. Baker McKenzie advised Stagwell on the acquisition. Reportedly, Loyens & Loeff, Benvalor, Al Tamimi & Company, and Baker Hostetler advised Brand New Galaxy as well.	N/A	Poland
10-Jun	B2RLaw; Druces; Eversheds Sutherland; White & Case	B2RLaw, working with Eversheds Sutherland's London office, advised Johnson Matthey on the GBP 50 million sale of its battery materials business to the EV Metals Group. Reportedly, Druces and White & Case advised EV Metals.	GBP 50 million	Poland
10-Jun	Sadkowski i Wspolnicy	Sadkowski i Wspolnicy successfully represented the interests of the Metropolitan Transport Authority in Katowice before the District Court in Warsaw in a public procurement dispute. The result of the case allowed the MTA to complete a PLN 1 billion public transport services tender procedure.	PLN 1 billion	Poland
13-Jun	Clifford Chance; CMS	Clifford Chance advised Hillwood Polska on the financing for the construction of a logistics park in Sycow provided by BNP Paribas Bank Polska. CMS advised BNP Paribas on the deal.	N/A	Poland
15-Jun	Baker Mckenzie; Setterwalls	Baker McKenzie advised AGIC Capital on its acquisition of a majority stake in Grafotronic and its subsidiaries. Setterwalls advised Grafotronic's shareholders.	N/A	Poland
15-Jun	DWF; Myszor Zielinski Adwokaci	DWF advised Zeitgeist Asset Management on its acquisition of a development project comprising four residential buildings in Gdansk-Oliwa. Myszor Zielinski Adwokaci reportedly advised the sellers.	N/A	Poland

Date Covered	Firms Involved	Deal/Litigation	Value	Country
15-Jun	Rymarz Zdort; White & Case	Rymarz Zdort advised Polish energy company Enea on its PLN 750 million issuance of Series D shares. White & Case advised global coordinator and joint bookrunner Pekao Investment Banking and joint bookrunner Pekao Biuro Maklerskie on the issuance.	PLN 750 million	Poland
18-May	Deloitte Legal (Reff & Associates); Domokos Partners	Deloitte Romania's Reff & Associates advised Roca Industry on its EUR 14 million acquisition of Dial. Domokos Partners advised the seller.	EUR 14 million	Romania
19-May	Nestor Nestor Diculescu Kingston Petersen; Wolf Theiss	Nestor Nestor Diculescu Kingston Petersen advised Marcos Provit on its EUR 8.5 million cross-border corporate bond issuance through a private placement under the coordination of CVI Dom Maklerski. Wolf Theiss advised CVI.	EUR 8.5 million	Romania
24-May	Stratulat Albulescu	Stratulat Albulescu advised both software developer Cyscale and VC fund GapMinder in a EUR 3 million seed funding round for Cyscale.	EUR 3 million	Romania
27-May	Mitel & Partners; PwC Legal (D&B David and Baias)	PwC's Romanian affiliate D&B David and Baias advised the shareholders of Thagora Technology on the sale of their company to the Lear Corporation. Mitel & Partners advised Lear.	N/A	Romania
30-May	Bonn Steichen and Partners; Stratulat Albulescu; White & Case	Stratulat Albulescu, working with Luxembourg-based Bonn Steichen and Partners, advised Machinations.io on a USD 3.3 million Series A round. White & Case's London office reportedly advised Hiro Capital, which led the round.	USD 3.3 million	Romania
1-Jun	Musat & Asociatii	Musat & Asociatii advised the Catted Group on the financing provided by Libra Internet Bank for the development of the Catted Family residential project.	N/A	Romania
2-Jun	Zamfirescu Racoti Vasile & Partners	Zamfirescu Racoti Vasile & Partners provided pro bono legal assistance to 45 survivors and persons close to the victims of the Colectiv Club fire before the magistrates of the Bucharest Court of Appeal.	EUR 40 million	Romania
8-Jun	RTPR	Radu Taracila Padurari Retevoescu advised Chimopar on the EUR 25 million sale of a Bucharest plot of over 20 hectares, located on Theodor Pallady Boulevard.	EUR 25 million	Romania
9-Jun	KPMG Legal (Toncescu si Asociatii); PwC Legal (D&B David and Baias)	PwC's Romanian affiliate D&B David and Baias advised Fiterman Pharma on the sale of its Uractiv product portfolio to Sun Pharma company Terapia. KPMG Legal affiliate Toncescu si Asociatii reportedly advised the buyer.	N/A	Romania
9-Jun	BPV Grigorescu Stefanica; LC Legalproof	BPV Grigorescu Stefanica advised Sarmis Capital-backed Smart ID Dynamics on the acquisition of the Brasov-based integrated software solutions provider Spectrum. LC Legal Proof advised Spectrum on the deal.	N/A	Romania
10-Jun	Suciu Popa	Suciu Popa advised on the establishment of Enel Group's e-mobility arm in Romania under the Enel X Way brand.	N/A	Romania
13-Jun	Filip & Company; RTPR	Filip & Company advised Banca Comerciala Romana on the sale of a part of its BCR Fleet Management operational leasing business to the Arval group. Radu Taracila Padurari Retevoescu advised the buyer.	N/A	Romania
24-May	PR Legal	PR Legal advised Coca-Cola on its acquisition of the plant for bottling the Rosa Homolje natural mineral carbonated water in Neresnica, Serbia.	N/A	Serbia
27-May	Cvjeticanin & Partners	Cvjeticanin & Partners advised the Korea Trade-Investment Promotion Agency on its implementation of Serbian labor law regarding collective and individual legal acts.	N/A	Serbia
2-Jun	Markovic Vukotic Jovkovic; Naumovic & Partners	Markovic Vukotic Jovkovic advised the Fashion Company on its acquisition of a 60% stake in Movem. Naumovic and Partners advised the sellers.	N/A	Serbia
3-Jun	Markovic Vukotic Jovkovic	Markovic Vukotic Jovkovic advised IKEA on the construction and opening of a retail park in Belgrade, next to an existing IKEA store.	EUR 50 million	Serbia
6-Jun	Zivkovic Samardzic	Zivkovic Samardzic advised Catalyst Romania and 3TS Capital Partners on the Serbian aspects of their investment in Hunch.	EUR 4 million	Serbia

Date Covered	Firms Involved	Deal/Litigation	Value	Country
8-Jun	NKO Partners	NKO Partners advised the Dr. Max Group on another pharmacy chain acquisition in Serbia – that of Belgrade-based K-Pharma.	N/A	Serbia
19-May	Taylor Wessing	Taylor Wessing represented Slovakia's President Zuzana Caputova in a libel dispute with Member of Parliament Lubos Blaha.	N/A	Slovakia
10-Jun	NautaDutilh; Wilmerhale; Wolf Theiss	Wolf Theiss, working alongside NautaDutilh and lead counsel WilmerHale, advised Lookout on the acquisition of SaferPass.	N/A	Slovakia
14-Jun	EY Law; ODI Law	ODI Law advised Slovenian diagnostic system manufacturer Mesi on a strategic investment from Heine Optotechnik CEO Oliver Heine. EY Law Germany reportedly advised the investor.	N/A	Slovenia
15-Jun	Karanovic & Partners (Ketler & Partners); ODI Law	ODI Law advised Slovenian real estate developer Eta Invest on refinancing its financial debt owed to Elements Capital Management with a new loan obtained from a commercial bank. Ketler & Partners, a member of Karanovic, advised ECM.	N/A	Slovenia
23-May	Cukur & Partners; Moral & Partners	Moral & Partners advised Taxim Capital on its investment in Yilpar. Cukur & Partners advised Yilpar and its shareholders.	N/A	Turkey
26-May	Aydemir Consultancy Legal	Aydemir Consultancy advised Fillo Lojistik on its collective labor agreement negotiations with Turkey's Nakliyat-Is trade union and their subsequent agreement.	N/A	Turkey
30-May	Turunc	Turunc advised Istanbul-based Ege Kimya San. ve Tic. A.S. on a collaboration agreement with France-based Amber Energy for designing, building, and operating a cathode active material precursor pilot plant in Sakarya, Turkey.	N/A	Turkey
1-Jun	Aydemir Consultancy Legal	Aydemir Consultancy advised Oppo on its collective labor agreement negotiations with the Turk Metal Union.	N/A	Turkey
6-Jun	Aksan; Gemicioglu; Turunc	Turunc advised Bogazici Ventures on its participation in a USD 2 million investment round in Craftgate together with AK Portfoy and APY Ventures. The Gemicioglu law office advised Craftgate and, reportedly, the Aksan law firm advised APY Ventures.	USD 2 million	Turkey
20-May	Integrites	Integrites advised Wartsila's France-based Special Applications division on the bidding process and the agreement with Energoatom for the procurement of replacements for the safety backup of the nuclear power plant worth over EUR 2 million.	EUR 2 million	Ukraine
24-May	Redcliffe Partners	Redcliffe Partners advised the EBRD on providing risk-sharing instruments to ProCredit Bank, OTP Bank, and OTP Leasing in Ukraine in a food security guarantee program worth up to EUR 30 million.	EUR 30 million	Ukraine
26-May	Baker Mckenzie; Integrites	Baker McKenzie and Integrites contributed to the completion of the European Commission questionnaire regarding Ukraine's application for European Union membership. Baker McKenzie contributed to the completion of Parts I and II of the questionnaire. Integrites worked pro bono to contribute to the submission of the Ukrainian Government's response.	N/A	Ukraine
30-May	CMS	CMS advised FAS Energy on the acquisition of a solar power plant being developed in the Kyiv region, with an expected capacity of 112 megawatts, from an unidentified Ukrainian developer.	N/A	Ukraine
15-Jun	Sayenko Kharenko	Sayenko Kharenko successfully represented the inventors of the Krovospas hemostatic agent in an intellectual property dispute against the Teteriv Production Association.	N/A	Ukraine

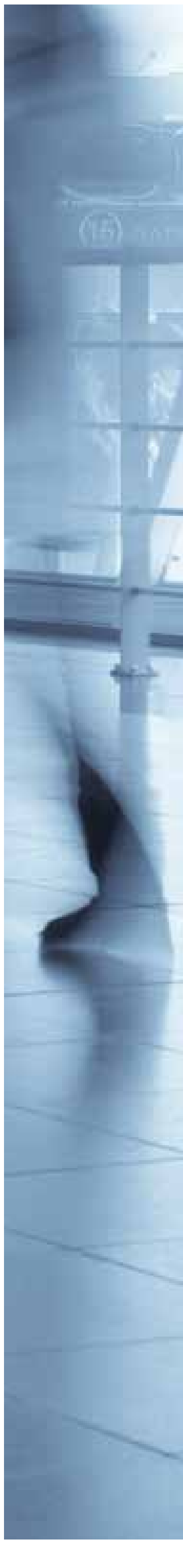
Legal Ticker:

■ Full information available at:
www.ceelegalmatters.com
■ Period Covered:
May 16, 2022 - June 15, 2022

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: Kozlowski Tomasik Oszczak Opens Doors in Warsaw

By Radu Cotarcea (May 10, 2022)

The former Environment and Project Development DWF team led by Zbigniew Kozlowski has spun off to establish the Kozlowski Tomasik Oszczak law firm, with Milosz Tomasik and Marcin Oszczak as co-founding Partners.

Kozlowski, who will be serving as the new firm's Managing Partner, had been with his former team since 2017 when he joined K&L Gates as an Of Counsel and Head of Environment. In 2019, he became an Equity Partner with K&L Gates just before the firm withdrew from CEE, with DWF taking over the Warsaw team (as reported by CEE Legal Matters on May 2, 2019). Between 2007 and 2017 he worked with CMS. He specializes in energy, environment, project development, and construction.

Tomasik too had been with the team since 2017. In 2021, he was appointed as a Local Partner with DWF (as reported by CEE Legal Matters on January 14, 2021). Just like Kozlowski, he joined the team from CMS, where he had worked since 2010. He specializes in environment, energy, permitting, and spatial planning.

Oszczak was a Counsel with DWF between 2019 and 2022. Before that, he worked for CMS between 2008 and 2019. Earlier still, he was a Lawyer with SK&S. He focuses on construction contracts, service contracts, and civil and administrative law.

The three Partners were joined by Senior Associates Karol Jaworecki and Michal Bystrzynski and Junior Associate Michalina Polawska. ■

Hungary: OPL Partners with Gunnercooke to Become OPL Gunnercooke

By Radu Cotarcea (May 23, 2022)

The Orban & Perlaki law firm has announced it partnered with UK-headquartered Gunnercooke, with the Budapest-based firm rebranding to OPL Gunnercooke.

According to the firm, "unlike most partnerships in the big law universe, OPL has not been acquired, nor will it be a branch or local franchise office of Gunnercooke." Instead, "OPL is responsible for building up and coordinating a network of Gunnercooke lawyers and offices in the entire CEE region."

As part of the partnership, a joint venture between the two – Gunnercooke Legal Tech – will provide the global Gunnercooke network and clientele with legal tech solutions from Budapest.

One of OPL's founders, Miklos Orban, has been appointed to Gunnercooke's leadership team as Chief Technology Officer and will also serve as Managing Partner of Gunnercooke CEE. ■

Ukraine: Queritius Opens Doors in Kyiv with Arrival of Sergiy Gryshko as Partner

By Teona Gelashvili (May 26, 2022)

Queritius has opened for business in Kyiv, with the hire of Sergiy Gryshko as a Partner.

Queritius is a dispute resolution boutique established in March of 2020 (as reported by CEE Legal Matters on September 8, 2020), focused on international matters involving primarily Central and Eastern Europe.

Before joining Queritius, Gryshko spent six and a half years with Redcliffe Partners. Earlier to that, he was a Senior Associate with Clifford Chance for three months and a Dispute Resolution Coordinator with CMS for almost eight years.

Gryshko has an LLB from the Yaroslav the Wise National Law Academy of Ukraine and an LLM from the Queen Mary University of London.

"As counterintuitive as it may seem, the timing could not have been better for Queritius to go East and gain more visibility in Central and Eastern Europe," commented Gryshko. "I am thrilled to be part of the endeavor."

"We are elated that Sergiy is joining Queritius in Kyiv," added Founding Partner Wojciech Sadowski. "We have known Sergiy for some time and he is one of the brightest stars in the Ukrainian arbitration market. We believe this is the best moment and a unique opportunity to expand our capabilities by bringing on a Kyiv-based Ukrainian team which will enable us to handle Ukraine-related work." ■

Austria: BPV Huegel Opens Salzburg Office

By Teona Gelashvili (May 26, 2022)

BPV Huegel has opened a new office in Salzburg. It will be managed by Partner Sonja Durager, Head of the firm's IP/IT/Data Protection practice group.

The firm's other offices are located in Vienna, Moedling, Baden, and Brussels. According to BPV Huegel, the firm is now "realizing its plans to expand further west in order to be best placed to provide advice to existing clients in Salzburg, Upper Austria, and Tyrol, as well as in neighboring Bavaria locally."

"With this additional location, we are completing a further step towards growth in line with our strategy," BPV Huegel Co-Managing Partner Florian Neumayr commented. "The region around Salzburg, Upper Austria, Tyrol, and Bavaria is one of the most economically viable centers in Europe and stands likewise for growth and innovation."

"I am pleased that with our comprehensive expertise and international experience we can now also advise and support clients directly on-site, in all matters of business law," Durager added. ■

Croatia: Gospic Plazina Stojs Opens Doors in Zagreb

By Radu Cotarcea (June 3, 2022)

Former Krehic & Partners Partner Matea Gospic Plazina and former Investment Banking Counsel at Zagrebacka Banka Lana Stojs have established a new firm in Zagreb – Gospic Plazina Stojs.

Gospic Plazina had been with Krehic & Partners in cooperation with Deloitte Legal since 2019. Prior to that, she worked for Savoric & Partners between 2016 and 2019. Earlier still, she was an Associate with Macesic and Partners between 2012 and 2016.

Prior to setting up the new firm, Stojs had been with Zagrebacka Banka, part of the UniCredit Group for 2.5 years. Before that, she also worked for Savoric & Partners, first joining as an Associate in 2006, being promoted to Senior Associate in 2009, and making Partner in 2015.

According to Stojs, the new firm's "work so far overall covered corporate law, M&A, capital markets, and restructuring and this will be the focus going forward." ■

Turkey: Elmacioglu Law Office Announces Partnership with Seoulsolution

By Teona Gelashvili (June 10, 2022)

The Elmacioglu Law Office has announced the formation of a collaborative partnership with Seoulsolution.

According to Elmacioglu, the partnership allows the firms to "combine their respective expertise, experience, and local insight to help Turkish companies that want to do business in Korea, and Korean companies that want to do business in Turkey."

Seoulsolution is a Korea-based business consulting and advisory firm, providing support to international companies to do business in Korea and Korean companies that are looking for opportunities abroad.

The Elmacioglu Law Office has legal offices across Turkey and North Cyprus and provides legal services to both local and international companies with a focus on maritime, energy, and labor law. ■

Poland: Osborne Clarke Announces New Decarbonization Practice

By Teona Gelashvili (June 14, 2022)

Osborne Clarke has announced it established an interdisciplinary Decarbonization practice in Poland, to be headed by Partner Katarzyna Baranska.

According to Osborne Clarke, the Decarbonization practice provides legal services for environmental, infrastructure, and green energy projects and, in addition to Baranska, includes Counsel Lukasz Petelski, Senior Associates Sylwia Uzieblo-Kowalska and Ernest Luczak, and Junior Associate Mateusz Naporski.

Osborne Clarke had only recently announced its entry into the CEE market, by opening a new office in Poland, earlier this year (as reported by CEE Legal Matters on March 2, 2022).

Specializing in the environment, infrastructure, and green energy projects, Baranska made Partner at Kochanski & Partners in 2021 (as reported on February 5, 2021) and was the firm's Head of Infrastructure & Environment. She previously spent over six years at PwC Polska as a Counsel, from 2015 to 2021. Between 2008 and 2014, Baranska also worked at White & Case as an Attorney-at-Law.

"By going beyond standard advice and supporting clients and local communities in their green transformation, we are fulfilling an important pro-environmental mission, not only as lawyers but also as citizens," Baranska commented.

"ESG issues no longer concern just a narrow group of companies, but every sector of the economy," Osborne Clarke Poland Co-Managing Partner Tomasz Olkiewicz added. "Increasingly stringent EU standards and domestic regulations, as well as growing societal pressure, mean that responsible and sustainable business is now not a choice but a necessity. Decarbonization is one of the key pillars of Osborne Clarke's worldwide consultancy. We work with our specialists from the global digitalization and urban dynamics teams to offer comprehensive support for green business transformation, including but not limited to making investments or implementing innovative technological solutions." ■

PARTNER MOVES

Date	Name	Practice(s)	Moving From	Moving To	Country
19-May	Zlatan Balta	Competition; Corporate/M&A; Litigation/Disputes	CMS	Legal Partners, in cooperation with Deloitte Legal	Bosnia & Herzegovina
3-Jun	Matea Gospic Plazina	Corporate/M&A	Krehic & Partners in cooperation with Deloitte Legal	Gospic Plazina Stojs	Croatia
27-May	Monika Kajankova	Real Estate	Wilsons	Dentons	Czech Republic
17-May	Marcin Iwaniszyn	Banking & Finance	Rymarz Zdort	Baker McKenzie	Poland
20-May	Marcin Chylinski	Capital Markets; Corporate/M&A	Rymarz Zdort	Baker McKenzie	Poland
14-Jun	Tomasz Ciecwierz	Capital Markets	NGL Legal	Deloitte Legal	Poland
18-May	Anna Zorya	Corporate/M&A	Arzinger	Rymarz Zdort	Poland, Ukraine
26-May	Sergiy Gryshko	Litigation/Disputes	Redcliffe Partners	Queritius	Ukraine

On The Move:

■ Full information available at:
www.ceelegalmatters.com
■ Period Covered:
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PARTNER APPOINTMENTS

Date	Name	Practice(s)	Firm	Country
3-Jun	Michal Kulesza	TMT/IP	Maruta Wachta	Poland
3-Jun	Michal Pekala	TMT/IP	Maruta Wachta	Poland
8-Jun	Katarzyna Koszel-Zawadka	Corporate/M&A	Baker Tilly	Poland

IN-HOUSE MOVES AND APPOINTMENTS

Date	Name	Moving From	Company/Firm	Country
3-Jun	Lana Stojs	Zagrebacka Banka	Gospic Plazina Stojs	Croatia
31-May	Nikos Salakas	Alpha Bank	Koutalidis	Greece
7-Jun	Arkadiusz Wierzbicki	Dentons	Polenergia	Poland
23-May	Vasile Tiple	UiPath	Goodlegal	Romania
1-Jun	Monica Paraschiv	Enel Romania	Enel Green Power	Romania
24-May	Miray Turkmen	MSD	Organon	Turkey
30-May	Dinc Sanver	Teva	Pearson	Turkey

OTHER APPOINTMENTS

Date	Name	Firm	Appointed To	Country
8-Jun	Evan Lazar	Dentons	Europe Head of Real Estate	Czech Republic
8-Jun	David Syed	Dentons	Europe Co-Head of the Sovereign Sector	Czech Republic
9-Jun	Vaclav Bily	PRK Partners	Managing Partner	Czech Republic
10-Jun	Kateryna Balaban	Holubova	Managing Director of Agilawyer Society	Czech Republic
1-Jun	Andrea Magdolna Nagy	EY Law	Head of Consumer Protection	Hungary
8-Jun	Rob Irving	Dentons	Europe Co-Head of Corporate and M&A	Hungary
8-Jun	Arkadiusz Krasnodebski	Dentons	Europe Co-Head of Energy Sector	Poland
8-Jun	Piotr Dulewicz	Dentons	Europe Co-Head of Private Equity and Venture Capital	Poland
8-Jun	Ewa Rutkowska-Subocz	Dentons	Europe Head of Public Law and Regulatory	Poland
8-Jun	Karol Laskowski	Dentons	Europe Co-Head of Technology, Media, and Telecommunications	Poland
14-Jun	Katarzyna Baranska	Osborne Clarke	Head of Decarbonization	Poland
25-May	Dana Toma	Wolf Theiss	Head of Real Estate	Romania
14-Jun	Flavius Florea	Wolf Theiss	Head of TMT, IP & Data Protection	Romania
8-Jun	Gulistan Baltaci	Dentons (BASEAK)	Europe Co-Head of Transport and Infrastructure	Turkey
8-Jun	Tamsyn Mileham	Dentons (BASEAK)	Europe Co-Head of the Financial Institutions Sector	Turkey
24-May	Vitaliy Radchenko	CMS	Managing Partner	Ukraine
13-Jun	Markiyan Kliuchkovskyi	Asters	Member of the War Damage Compensation Working Group	Ukraine

THE BUZZ

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

Turkey

Riding the Startup Wave: A Buzz Interview with Kerem Turunc of Turunc

By Radu Neag (May 24, 2022)

Inflation, currency depreciation, and low foreign currency reserves might lead to early elections in Turkey, but Turunc Partner Kerem Turunc chooses to focus on the positives: the buzz around the startup scene in the country.

That buzz comes down to two reinforcing factors, according to Turunc: "a lot more startup activity than there used to be and significantly more investment than in the past." The capital is both local and cross-border, he notes, with Turkey home to what is becoming a competitive indigenous startup and VC market. "There are a lot of regulated funds in the market, many more than there used to be. Also, a very large number of startups, with many becoming incredibly successful across different sectors such as fintech, eCommerce, health, and gaming, so it's not a one-trick pony either," he adds.

And he highlights one subsector in particular: "Turkey has created multiple gaming studio unicorns, with a lot of up-and-coming game developers as well. It's truly something the country can be proud of, especially since successful operations bring in more capital, so more people want to go into gaming. Which in turn creates more opportunities for investment, and so on." Turunc does note it's not all fun and games, however. "While the barriers to entry are quite low," according to him, "there is also very little room for mistakes, as gamers will drop you like a hot potato if you miss the target. It's a highly competitive market. Still, if you succeed you stand to make a killing, as the economies of scale are there." He strongly believes that startups should, in such a crowded market, focus on innovating and having a different approach. "Is there a shortage of money in Turkey compared to the size of the market? Sure, you could say that. VC funds go through hundreds of startups before investing in a handful. It all comes down to distinguishing yourself from the competition, whether by building a better mousetrap or in some other way, he says."

The other big thing when it comes to tech in Turkey, according to Turunc, is crypto, with the country expecting a new law on crypto-assets for some time now. "In light of the current situation," he notes, "that piece of legislation is expected to be passed in the near future." And while he doesn't expect it will solve every problem, "as crypto is a developing industry everywhere in the world," he says solid legislation is still much better than no legislation at all. Crypto assets were unregulated in Turkey until recently, he adds, "when crypto payments using payment service providers were banned, but trading and holding these assets is fine." The key, according to him, is how these assets will be defined – whether as securities or another type of regulated asset. "That will, in turn, determine which agencies' purview they will fall under as well as the specifics of how they will be issued."

Finally, against the backdrop of regional inflation, Turunc says Turkey still faces currency depreciation, "with its foreign currency reserves probably at an all-time low." With those issues compounded, Turunc says he is not optimistic about Turkey's economic outlook in the coming year. "Under the circumstances, with elections normally scheduled for next year, the incumbent might be inclined to hold early elections in 2022." ■

Czech Republic

Some Slow Down, Some Could Go Faster: A Buzz Interview with Prokop Verner of Allen & Overy

By Teona Gelashvili (May 30, 2022)

While recent legal updates are causing delays and others are potentially removing positive developments, Allen & Overy Partner Prokop Verner points out that there are reasons to be optimistic, especially if one is to follow the energy and online retail sectors.

"Looking at the macroeconomic picture in the Czech Republic, as elsewhere in the CEE region, we feel a significant effect of the war in Ukraine," Verner begins. "The situation is compounded by high inflation – one of the highest in Europe, with the official inflation rate of around 14%. This, in addition to increasing energy prices, creates challenges for the business sector. Many players, in particular, energy-intensive companies already feel it, but the second half of the year will likely be the most difficult, with a few insolvencies already on the horizon."

Verner remains optimistic, that despite the challenges in the second half of the year, the Czech economy will start to recover afterward. "Since the end of the last year, we have a new government, with less populist policies and more responsible public spending and rational economic policies," he explains. According to Verner, "it will likely contribute to a better economic environment in the following years."

From a legal point of view, Verner highlights two recent major developments. "First of all, last year a new act on FDI control was adopted, subjecting a few infrastructure deals to the supervision of the Ministry of Industry and Trade," he points out. "This has significantly prolonged the procedure and has an impact on investors coming from outside of the EU," Verner says, noting that the ministry is still on the learning path on how to do it efficiently.

"Second, we have a new construction act, creating a new landscape for the development sector," he adds. "The new law shortens the time for building new projects." According to Verner, it is a positive step, as currently, developing a new project usually takes from 5 to 10 years, and something was needed to be done. "The current government did not support the amendment, as they oppose centralized decision-making in general and are rather in favor of such decisions being made by the local authorities," he says.

"Surprisingly," Verner notes, "the overall challenges faced by the country do not translate negatively to the law firms' work. We still remain very busy, with no real slowdown." However, Verner notes, that "there is a trend of fewer international players active on the market, while local and regional players still have an appetite for transactions."

As for the future, Verner says that major developments are expected in the energy and online retail sectors. "The tender to extend the construction of a new nuclear power plant in Dukovany has finally been initiated," he explains. "It is a long-term project, expected to be finalized in fifteen years, yet it is a huge step forward, dramatically shaping our energy market." In addition, Verner says that online retail is another very active market, with many players. "We see their activities and appetite to expand to other markets. In that regard, a lot is going on both in transactional and TMT sectors," he notes. ■

> **"*Since the end of the last year, we have a new government, with less populist policies and more responsible public spending and rational economic policies. It will likely contribute to a better economic environment in the following years.***

North Macedonia

Still Not Enough on the EU Front: A Buzz Interview with Martin Boskoski of Lalicic & Boskoski

By Andrija Djonovic (June 15, 2022)

Some signs of political instability on the path to European Union accession for North Macedonia, rising inflation, and several interesting upcoming legislative changes are on the ticket for the Balkan country, according to Lalicic & Boskoski Partner Martin Boskoski.

"The political environment and its overall stability are often the cornerstone of the business landscape in a country – and North Macedonia is no different," Boskoski begins. "The country has been trying really hard to enter formal negotiations for entering the EU and, following the resolution of the name dispute with Greece, we thought that it would come soon, but it was not to be," he says.

The ongoing friction with Bulgaria is, according to Boskoski, blocking a smooth transition toward the EU for North Macedonia. "The German chancellor was visiting this week, with the aim to help in reaching a mutual understanding with Bulgaria, to solve any potential friction points that still linger, given the history of our countries," he says. "We are very eager to begin the negotiations process as all of us who operate in business law feel that it would help our work greatly." However, Boskoski shares that the citizens of North Macedonia are not as optimistic. "Everybody believed that the accession process would speed up following the name change, but it seems that did not suffice – it would appear a new cause for political instability manifests itself every six months."

> *We are very eager to begin the negotiations process as all of us who operate in business law feel that it would help our work greatly. Everybody believed that the accession process would speed up following the name change, but it seems that did not suffice – it would appear a new cause for political instability manifests itself every six months.*

Still, Boskoski reports that there are positive legislative changes in the pipeline that should help out the business sector. "Firstly, there is the proposed mandatory lawyer training which would take place every couple of years, if the requisite legislation is enacted," he says. "This would be very beneficial and would improve the overall quality of legal work."

Further, Boskoski reports that there were changes to the "Company Law in the area of convertible loans, which would make it easier for start-ups to be able to pursue investors, by having loans converted into a direct investment into the company." Additionally, there are proposed changes to the VAT framework, with regards to "specifying where the VAT ought to be charged for services offered abroad. This is most important for IT companies who work for foreign clients, seeing as how this would specify the place of doing business." Boskoski predicts that this will be enforced by the end of 2022. "Lately, it would appear that every third new client we work with is from the IT sector, so I feel that this would trickle down beneficially to the lawyers as well," he adds.

Finally, Boskoski reports that "the overall levels of business are getting back to normal, regardless of the high inflation – which hit 7.7% for the first quarter of 2022." However, he believes that North Macedonia is yet to experience the inflation peak and that "it remains to be seen how this gets passed on down to clients."

Albania

Taking the High(way) Road: A Buzz Interview with Besnik Duraj of CMS

By Andrija Djonovic (June 17, 2022)

While the economy appears to have been doing better, on the back of infrastructural development, the internal judicial reorganization is leaving Albania in a bit of a bind, according to CMS Partner Besnik Duraj.

"The Albanian economy, much like in other Balkan countries, is not impervious to global macroeconomic problems," Duraj begins. While initially hopeful for a full pre-pandemic recovery at the beginning of the year, he reports that the Albanian economy has hit a stall, "following the global slowdown and rising inflation."

However, Duraj expresses notes of optimism. "I believe this is a temporary phase and the numbers indicate so – the Albanian economy has had a significant 18% GDP growth in the second quarter of 2022," he says. "This improvement is a certain indicator of the recovery from the pandemic GDP drop, which was 10%." Furthermore, the FDI numbers have improved by 17%, compared to 2021, although Duraj reports that "according to the data from the Bank of Albania, this mainly represents the reinvestments of profits of existing investors, rather than the injection of fresh capital."

Turning to major projects in development, Duraj reports that the government is focusing heavily on infrastructure. "Apart from major ongoing projects, like the Skavica HHP and the Durres and Vlora harbors, the government is emphasizing infrastructural developments across the board," he says. "The main project, the 'blue corridor,' part of the Adriatic-Ionian Corridor connecting countries between Italy and Greece, is set to include the construction of new highways and reconstruction of existing roads, totaling 110 kilometers, and will require more than EUR 1 billion in investment," he explains. "Still, the economists fear that the ultimate cost born of this project might get passed down to the citizens themselves, via four different concession projects implementing a toll payment-based financing scheme," Duraj reports.

Tackling the most important changes to the legal market, Duraj points to an ongoing judicial overhaul process. The High Judicial Council adopted a new judicial map related to the reorganization of the entire judicial branch on a national level – which Duraj explains "means that the number of courts of first instance of general jurisdiction has been reduced from 22 to 13, while the number of courts of appeals went down from six to just one, seated in Tirana." Whatsmore, the administrative courts also reduced in numbers, coming down from six to two.

"The Albanian Bar Association has provided arguments against this reform, as it considers that this limits the rights of citizens to access justice and that this means a direct breach of human rights," Duraj continues. "The judicial body didn't take this into account, and so the National Bar Association decided to boycott the courts, at a national level, for four days." Duraj further reports that the Council of Ministers is currently in the process of reviewing and approving the change, and the Bar is hoping to influence and change the final outcome.

"The rationale behind the reform has been efficiency and a cost reduction, but if you take out 200-250 judges and prosecutors from the system, a lot of courts will be empty," he says. With the current efficiency rates of Albanian courts "leaving a lot to be desired, these shrinkages could only lead to further efficiency diminishment," Duraj explains.

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Finally, Duraj reports a tax system update. "There is a new draft law that seeks to impose a 15% income tax on self-employed citizens, who currently have a rate of zero," he says. The rate will be applied "following a deduction of certain operating expenses, which will be different for each industry."

Austria

Tech in the Spotlight, Whistleblowing Less So: A Buzz Interview with Lukas Feiler of Baker McKenzie

By Andrija Djonovic (June 21, 2022)

An important case before the ECJ that could have major legislative implications for Austria, a draft law regulating whistleblowing, and a major data center acquisition – the hottest topics in Austria right now, according to Baker McKenzie Partner Lukas Feiler.

"This June saw an interesting case make its way to the ECJ – a case that could have significant legal implications, based on how it is resolved," Feiler begins. As he reports, the case concerns the "country of origin principle and the extent to which member states can regulate online platforms that are based in another member state. We have been representing two of the three online platforms that pled their case before the Austrian Administrative Supreme Court, before being diverted to the ECJ," Feiler explains.

"This case raises two interesting questions," Feiler continues. "The first one is whether, under the country of origin principle of the EU e-Commerce Directive, a member state is in a position to adopt laws that regulate entire categories of online platforms that are established in another EU member state," he reports. The other question is "more of a procedural one, yet still highly relevant." According to Feiler, if a member state finds itself in a position to regulate an online platform established in another EU member state (the "country of origin"), the EU e-Commerce Directive requires – even in cases of urgency – that the country of origin is notified in the shortest possible time. The question for the ECJ to answer is whether a violation of this procedural requirement renders the respective national legislation inapplicable. "Many EU members are very active when it comes to regulating international online platforms; however, notification requirements under EU law are often not complied with," Feiler explains.

Furthermore, Feiler reports that Austria is in the process of implementing the Whistleblowing Directive, but that it is "very much behind the curve here. The current draft law is, more or less, a minimal implementation of the directive itself." Feiler stresses that a major question here is to what extent will the "law be limited to violations of EU law or whether it will cover compliance violations more broadly."

Finally, Feiler highlights a major transaction currently ongoing in Austria. "In what is probably the largest outsourcing deal in the last five or ten years, the ARZ data center – used by two of the largest Austrian banks as well as a number of smaller players in the financial services industry – is being sold to Accenture," he reports. "We have been working on behalf of Accenture on the acquisition as well as negotiating new services agreements. This deal is quite important given the implications for the landscape of the financial services industry," Feiler says, stressing the importance of technology in the value proposition of financial services. "It has become evident that Austrian banks have recognized that they cannot implement the required levels of innovation on their own, so this deal is rather indicative of the times we live in," Feiler concludes. ■

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Croatia

Proud and Hopeful: A Buzz Interview with Laurenz Vuchetich of Batarelo Dvojkovic Vuchetich

By Teona Gelashvili (June 22, 2022)

Croatia's business landscape and GDP remain quite unaffected by the war-related crises, with the country's energy market and tech sectors growing, according to Batarelo Dvojkovic Vuchetich Partner Laurenz Vuchetich.

"War-related issues are expected to have a structural impact on Croatia's energy market, mainly on renewable energy," Vuchetich begins. "Both regional and international investors are already focusing attention on two key sectors within the renewables group – solar and geothermal energy. The energy market sees demand for a number of corporate power purchase agreements, allowing investors to directly enter into power purchase agreements with off-takers, rather than entering into power purchase agreements with the national energy market regulator." Further, he notes, "the law enables energy communities, where citizen-driven energy activities can contribute to clean energy transitions."

Another major sector that is flourishing in Croatia, according to Vuchetich, is technology. "Croatia excels when it comes to IT developers. Currently, two unicorn-valued companies in the tech sector – Infobip and Rimac – have received significant funds for growth. We are hopeful this might create a similar effect to what Skype had on the Estonian IT sector and ecosystem," he explains. "Interestingly, these enterprises have not received financial support from the state but rather developed their businesses on their own. That is something we are proud of, making us hopeful for the future."

"In addition to that, we just recently received an invitation from the European Commission to join the eurozone from January 1, 2023," Vuchetich adds. "Public opinion and the business community seem to be welcoming the change, although it is interesting to see how the market will respond to prices, especially considering the current inflation rates." According to him, this might create challenges from a consumer protection perspective. "Traders will have an incentive to increase prices, therefore consumer protection bodies should pay close attention to that in the future," he notes.

Vuchetich reports there have not been any major changes in legislation recently. "An amendment to the Croatian Companies Act was adopted, primarily in relation to spin-offs. Companies divesting their assets into a newly formed company through a spin-off procedure are now jointly and severally accountable for all liabilities incurred prior to such a spin-off being effective, regardless of the value of assets acquired and liabilities assumed through the spin-off," he says, noting that it is hard to predict how it will affect the M&A landscape in Croatia.

"Other than that, the crisis has not affected our GDP yet, and the business sector is in much better condition than a few years ago," Vuchetich points out. "We don't rely on heavy industry as much – but rather on the services business and tourism sector – and that contributes to our well-being so far. We'll have to see how things develop," he concludes. ■

"Croatia excels when it comes to IT developers. Currently, two unicorn-valued companies in the tech sector – Infobip and Rimac – have received significant funds for growth.

Bosnia and Herzegovina

New Challenges for Lawyers: A Buzz Interview with Stevan Dimitrijevic of Dimitrijevic & Partners

By Andrija Djonovic (June 23, 2022)

Feeling the repercussions of global economic issues, Bosnia and Herzegovina finds itself in a more or less usual position in unusual times – with an upcoming general election this fall and swaths of legislative developments seeking to reshuffle the landscape in which lawyers operate, according to Dimitrijevic & Partners Partner Stevan Dimitrijevic.

"As it is everywhere else, global economic developments have not failed to hit Bosnia and Herzegovina too," Dimitrijevic begins. Even with BiH being less exposed to the overall migration of businesses and people due to the Ukrainian crisis when compared to its neighboring countries or others hit by the developments, it is still feeling the ramifications of the war in Ukraine.

"The EU-imposed sanctions on Russia have spilled over to our markets as well and we are scrambling to make sure our clients remain compliant in every way," Dimitrijevic continues. "We as lawyers are left in a bit of a no man's land with respect to what we can and cannot do, because we have to be completely clear what constitutes behavior that is compliant with the sanctions and what does not – where only recently we saw the explicit exclusion of legal services in the explanations related to the sixth package of EU sanctions. This was expected." The citizens of Bosnia and Herzegovina have also felt the consequences of the overall crisis, with the "average consumer basket cost going up by 10.2%," he reports.

Furthermore, Dimitrijevic says the political situation in the country is "complex, as it is so often. We have general elections upcoming this autumn and the tensions between the government and opposition parties are reaching a high point." He also reports there has been a significant number of "challenges made to the role of High Representative Christian Schmidt. Schmidt is still attempting to implement certain rules and regulations, but is facing a lot of opposition from the Republika Srpska part of the country," he says.

Speaking of new laws and regulations, there are proposed changes in several areas. "There is a new bankruptcy law in the Federation of Bosnia and Herzegovina, which updated the overall framework with modern instruments to be implemented in settlements with creditors," Dimitrijevic reports. "Also, the law on pension insurance in the same part of the country has been updated, so that unmarried couples can also benefit from spousal coverage."

However, what's most interesting is the new law on fiscalization enacted in Republika Srpska. "This has always had a strong opposition from the lawyers and the private sector as such," Dimitrijevic stresses. "The bar association feels that lawyers should be exempt from fiscalization on grounds of privacy. While the government agrees with this point, it was not included in the law itself but was left to be specified in delegated acts and bylaws." Still, Dimitrijevic feels that the independence of lawyers will remain a concern: "giving the government the competence to decide who falls under the auspices of the law and who doesn't is a less than ideal situation."

Finally, going over the most interesting deals of late, Dimitrijevic mentions a few. "The formerly regionally owned laboratory Konzilijum was sold to Medicover, where we have assisted one of the sellers. Also, the UNIS factory in Derventa was sold via an asset deal – in the wind-down procedure of this former giant – to Fructa Trade," he reports. "We are, of course, witnessing various projects developing renewable energy across the country". With Bosnia and Herzegovina offering a nice environment to work in, he says "IT developers are expected to be moving here in high numbers, reflecting the growth of the IT sector." The IT sector, Dimitrijevic concludes, "is performing admirably, in stark contrast to those business sectors suffering from international supply chain issues, like construction. Also, Bosnia and Herzegovina and all countries in the region should anticipate the impact of the distorted supply chain, as it is not unrealistic to see, in the near future, the relocation of some of the production activities closer to the consumers, placing them in the region instead." ■

Lithuania

Big Fish, Small Pond: A Buzz Interview with Elijus Burgis of Cobalt

By Andrija Djonovic (June 24, 2022)

Stable markets and an increase in start-up and tech sector professionals are looking good for Lithuania right now, but there are some standing hurdles within competition regulations that could stifle the free movement and growth of business, according to Cobalt Partner Elijus Burgis.

"The initial shock that followed the beginning of the war dissipated shortly and the legal markets, as well as the business sectors, reversed their slowdowns quickly," Burgis begins. "Transactions, being the first to feel any and all negative sentiments in the market – leading to deals being suspended or aborted – did not suffer in Lithuania at all, at least not yet."

Speaking of surprising market developments as a consequence of the global crisis, Burgis points to the startup sector. "We see the consequences of layoffs in the US and Europe spilling over into Lithuania – but with a positive twist," he says. "While the markets are going down elsewhere, Lithuanian companies see this as an opportunity to scoop up talent." According to him, Lithuanian startups have a "strong presence abroad" making it easier for them to "attract new people as fresh talent is freeing up." Moreover, he indicates that there are "people attracted to Lithuania also from Ukraine as well as Belarus and Russia – and this could very well continue."

Even the "ever-challenging construction sector – that is heavily impacted by international supply chain disruptions – is performing well in Lithuania," Burgis says. While the costs have surged, it has not been "prohibitive in any way. In fact, most of the construction projects in Vilnius are on track for timely completion."

Having all of this in mind, Burgis stresses that there is no downturn. "There is no uptick in litigation, which would always be a consequence of any external shocks to the transaction market, no matter how short they last," he explains. "Neither have we seen any surge in bankruptcies, insolvencies, or restructurings, at least for now, which only further points to things being stable."

Speaking more about legal updates, Burgis does indicate that "competition and antitrust clearance procedures are still very much affecting transactions. More transactions are being either limited or rejected by the competition authorities." He says that the markets are "quite consolidated," which leads to the authority being "very strict. However, it's the issue with regulations – sometimes they aren't adequately tailored to take the wider markets into account." Burgis explains that this is a significant issue, because "Lithuania is a small market and being a dominant player here is not the same as being a dominant player on the European market as a whole – the competition authority should start taking that into account."

Finally, Burgis says that what remains a big challenge is geopolitics. "The entire regional tension is creating certain limits leading to some investors employing a wait-and-see approach, especially those that are based in faraway jurisdictions." He feels that "Lithuania's major challenge, right now, is to succeed in projecting an image of our reality of stability and safety, in order to stave off any fears." ■

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> ***We see the consequences of layoffs in the US and Europe spilling over into Lithuania – but with a positive twist. While the markets are going down elsewhere, Lithuanian companies see this as an opportunity to scoop up talent.***

Montenegro

Diverting Power to IT, Tourism, and Real Estate: A Buzz Interview with Vladimir Radonjic of Radonjic/Associates

By Teona Gelashvili (June 24, 2022)

Montenegro is a popular destination these days for IT businesses seeking to relocate primarily from the countries currently at war, with its tourism and real estate sectors growing again, according to Radonjic/Associates Managing Partner Vladimir Radonjic.

"In Montenegro, similarly to other Western Balkans countries, unfortunately, politics is the priority topic and a part of every discussion and, in turn, is affecting society and various industries," Radonjic begins. "Following the 2020 parliamentary elections, we witnessed a major historical change resulting in the shifting of power to the opposition, after 30 years," he says. "A new government was formed recently, a very unusual coalition, since the party that was ruling for 30 years is now supporting the government, but is not formally a part of it. Interestingly, the new government tends to be more invested in PR, which can be a double-edged sword, since if they fail to deliver on their promises it might lead to some disappointments," he explains.

We should aim to put some policies in place encouraging foreign businesses to stay in Montenegro on a long-term basis, and not only temporarily.

"Unfortunately," Radonjic notes, "all investments are influenced by the government's attitude. We have seen bad precedents over the last few years, with major investors leaving the country or being engaged in disputes with the state. We need stability, especially since Montenegro's economy is heavily dependent on tourism, accounting for around 30% of our GDP."

Radonjic adds that, following the war, Montenegro has been targeted by many IT businesses seeking to relocate. "Since the beginning of the war in Ukraine, many IT companies from the US, the UK, and Switzerland have been moving their research and development staff to Montenegro, especially from Russia, Belarus, and Ukraine," he explains. According to him, Montenegro seems to be one of their top choices on account of its legal and tax regulations, as well as the climate factor. "This has already had a major impact on the local economy, with rental prices increasing in Podgorica and on the coast," he says. "We should aim to put some policies in place encouraging foreign businesses to stay in Montenegro on a long-term basis, and not only temporarily."

On the business side, Radonjic says that "general corporate and commercial work is still a big driver. We are also setting up new financial institutions." He reports that "the tourism sector, which is closely linked to real estate, is again growing, and the price of real estate, for both rentals and purchases, is increasing." Interestingly, he adds, "while earlier we saw more interest from buyers in post-soviet countries, these days the trend is changing and there is an increased interest from Western European buyers for assets in Podgorica and on the coast."

There have been no major new developments in terms of energy, Radonjic says. "In the past, the metal industry was quite active in Montenegro. However, earlier this year, there have been some negative developments, due to increasing energy prices," he points out. "The aluminum plant near Podgorica, which was one of the major exporters, was shut down and its Turkish investor is aiming to sell the factory. This has been quite a hot topic in the media, as the factory was traditionally a major employer, especially for the second-largest city in the country."

"With regards to legal updates, Montenegro finally adopted a systemic piece of legislation on company law in 2020," Radonjic says. "Unfortunately, the law has many downsides as it was not properly drafted, resulting in problems for many clients." He believes that amending the law and implementing the proposed changes would be instrumental in the smooth sailing of Montenegro's economy. ■

Latvia

The Probability of Future Incidents: A Buzz Interview with Eriks Blumbergs of Triniti

By Teona Gelashvili (June 28, 2022)

The pandemic-related consequences and the reluctance of Scandinavian funds to invest in the Baltic states, with Latvia being considered a potential war zone, led to the re-evaluation of the country's most active sectors, according to Triniti Latvia Director of Business Development Eriks Blumbergs.

"During the COVID-19 years, commercial real estate was a hot topic," Blumbergs begins. "There were a lot of real estate transactions, with new funds investing in building different spaces. However, this year, we see a re-evaluation in the real estate market. The pandemic-related consequences of offices not being at full capacity, together with the reluctance of Scandinavian funds to invest in the Baltic states, have led to the suspension of new real estate projects. Unfortunately, we are considered a potential war zone with a probability of some incident occurring in the future."

Blumbergs says that "financing is another sector where the tide is turning. We used to be a crossroads and a bridge between the EU and Russia. Now the war is having an impact on banks, especially in Latvia." According to him, the need to carefully vet clients and many businesses with frozen accounts keep lawyers busy. "On the other hand, non-bank financing is flourishing. From fintech to payday loan providers, companies are doing well and some of them have even increased their portfolios, despite the uncertainty," he notes.

The geopolitical turn of events, Blumbergs adds, has caused the energy sector to be put on high alert. "The gas tariffs are expected to be doubled by the end of the year," he explains. "Law firms are working on different compliance requirements to address how to re-index prices. This led to a switch to renewables and the fast-tracking of construction of any large-scale wind park imaginable," he says.

Blumbergs says that there are a few legislative proposals debated at the moment to find the right balance between public and private interests. "For instance, the removal of the environmental impact studies requirement has been suggested for wind farms exceeding 50 megawatts. Of course, the idea of abandoning all measures was followed by a backlash," he says. "The additional legislative proposals suggest allowing the construction of wind parks in forests and establishing offshore wind farms with Estonia in the Baltic sea."

All of this, Blumbergs notes, has created a number of challenges, such as the absence of a relevant legislative ground to register real property at sea. "This summer, we expect a panel discussion among lawyers to settle some legal debates," he notes. According to him, "these days, many interest groups are hiring law firms on advising the government, to not end up having investment disputes. Lawyers, usually sitting on the side of private industry players, are now addressing the complex tasks of public interest."

Finally, Blumbergs says that the recent reforms related to municipalities are a challenge for every lawyer. "Initially, Latvia was split into smaller regions, but now they have been merged for reasons such as economic efficiency," he says. "This has created ambiguity about territorial planning, which is a crucial question for investors. The current zoning in most municipalities will be effective until the end of 2024, and we have no clear guidelines about what to expect afterward," he concludes. ■

"Financing is another sector where the tide is turning. We used to be a crossroads and a bridge between the EU and Russia. Now the war is having an impact on banks, especially in Latvia.

Hungary

New Taxes, Capped Prices, and Battery Investments: A Buzz Interview with Peter Berethalmi of Nagy & Trocsanyi

By Teona Gelashvili (June 28, 2022)

A new tax regime and extended price cap regulations are aimed at addressing Hungary's high inflation rates and growing energy prices, while the economic prognosis for the autumn and winter seems gloomy, according to Nagy & Trocsanyi Managing Partner Peter Berethalmi.

"In Hungary, we had elections recently and a newly formed government now faces a severe economic situation, with high inflation rates, growing energy prices, and a shortage of raw materials," Berethalmi begins. "What's even worse is that, at this point, we are preparing for a more challenging period over the autumn and winter."

"To address the situation, the government has put a number of measures in place," Berethalmi says. "For instance, a new tax regime is being introduced these days for the financial sector, airlines, pharmaceutical industry, telecommunications, retail industry, etc. The government explains that a special tax regime is needed to provide more money for those sectors particularly affected by the pandemic and the war in Ukraine, which are healthcare and defense." Therefore, he says, "the government claims that the business sectors that made an extra profit during the last couple of years are now taxed more heavily. This might be true about some sectors such as finance, but is questionable when it comes to airplanes." Berethalmi adds that "the affected sectors should not charge consumers for the increased taxes, otherwise they might face some kind of liability. However, this statement by the government is a bit vague and does not seem to include any legal possibilities for protecting consumers."

According to Berethalmi, Hungary, similarly to the rest of Europe, has seen increased energy prices. "The government's policy is to keep energy prices low. Some companies are already paying much higher energy prices, while others enjoy some benefits and pay the same price as consumers," he notes. "Hungary got an exemption from the oil and gas sanctions and, consequently, we can freely import oil from Russia for the time being." According to him, "just a few days ago, to address increased energy prices and inflation in general, as well as the shortages of raw materials, the government extended price caps on certain products and fuel and the credit moratorium until the end of the year."

Berethalmi highlights that a new land registration act will come into effect in January, next year. "We don't know all the specifics yet, but we know that the government aims to go digital and promote electronic communications rather than paper," he points out. "The act will also introduce a 3D map system, which is a quite modern approach. In addition, immediate land registration will be available with certain exceptions."

"Other than that, as a law firm, we had a slight shift towards litigation," Berethalmi adds. "Real estate, construction, FDI, and the banking sector still remain busy. Interestingly, if you look at foreign investments, Hungary became a pioneer in producing electric vehicle and battery components. There are many investors from China, Japan, and South Korea." According to him, "apart from having some large automotive manufacturing plants near Debrecen, a new development is being announced every month. We can only hope that the automotive industry won't crash anytime soon." ■

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Serbia

All TMT, All the Time: A Buzz Interview with Bogdan Gecic of Gecic Law

By Teona Gelashvili (June 29, 2022)

The digital sector remains the fastest-growing part of Serbia's economy, with big movements in battery, components, and electric vehicle production as well as technology and media, according to Gecic Law Founding Partner Bogdan Gecic.

"The energy crisis accelerated the diversification of energy sources, in parallel with the Green agenda, which is similar to the EU Green Deal but applies to Western Balkan countries," Gecic begins. "The Serbian government just announced a EUR 35 billion national investment plan for renewables. We see increased interest in hydro, wind, and solar energy."

There is also a big shift of focus in the region toward the electric vehicle supply chain, Gecic adds. "As a significant source of lithium, Serbia aims to develop battery, components, and electric vehicle production. An agreement worth EUR 200 million was signed between the Stellantis Group and the Government of Serbia to produce electric vehicles in the Fiat plant in Kragujevac. Other large projects in the production of lithium-based batteries have been announced," he says.

"Another major topic is the Open Balkan initiative, which aims to create a single market for Albania, North Macedonia, and Serbia until they join the EU," Gecic points out. "A number of framework agreements are already in place, allowing for the free movement of goods, capital, and labor. This may benefit everyone, as nowadays we have labor shortages, even when it comes to 'blue-collar' work." Gecic says that, because of it, "many clients struggle to find software developers, engineers, etc., and the Open Balkan project will likely lead to better access and circulation of the labor force."

According to Gecic, the technology and media sectors have seen big movements as well. "Over-the-top media services are extremely popular in the region, with all major telecom players being involved. This is related to a big diaspora from the region living abroad, who are now keen on streaming domestic content," he notes. "We call it a 'renaissance' of domestic content production, and this is also helping develop other industries. We expect that this will keep booming for at least the next five years," Gecic says.

In addition, Gecic reports that Serbia has more than tripled its digital sector exports in the past five years. "This is the fastest-growing side of the economy by far, while the only thing slowing it down is the lack of developers," he says. "On a weekly basis, we have companies looking for opportunities to open up some form of operations, to further expand in the region."

Finally, Gecic notes "the EU's Carbon Border Adjustment Mechanism should become a reality soon, however, none of the Western Balkan countries have adopted any measures to address the challenges. The CBAM will initially target cement, steel, petroleum, aluminum, electricity, etc., but will have a spillover effect on the costs of any finished goods that use these in their production processes." Gecic says that, to address it, multi-layered work is required from many companies and governments. ■

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As a significant source of lithium, Serbia aims to develop battery, components, and electric vehicle production. An agreement worth EUR 200 million was signed between the Stellantis Group and the Government of Serbia to produce electric vehicles in the Fiat plant in Kragujevac.

Bulgaria

Addressing the Backlog: A Buzz Interview with Vladimir Penkov of Penkov, Markov & Partners

By Teona Gelashvili (June 30, 2022)

Amid political turmoil, Bulgaria is trying to catch up with a backlog of parliamentary work, according to Penkov, Markov & Partners Chairman and Senior Partner Vladimir Penkov.

"First of all, last year we had three parliamentary elections and, ultimately, they were able to form a new government only in December 2021," Penkov begins. "It led to great pressure on society, with important legal questions accumulating and many issues left unaddressed. The government normally explains the delays in the legislative process by a need to investigate and analyze best practices before adopting laws, but the process is rather slow, and the majority of legislative amendments are still in their initial stages."

Penkov adds that "political tensions increased with the arrest of the former prime minister, with many arguing that it was not in conformity with the law. In addition, in late March, a dispute arose among Bulgaria's governing coalition members, leading the former coalition member of the governing party to withdraw its ministers from the government. Consequently, there is also a risk that members of parliament will also not support the coalition and, in that case, no political party would have a majority in parliament." This, according to him, creates a risky situation, "considering the energy prices growing, refugees arriving, and general instability in the region." This is "not a great period to have another extraordinary election," Penkov adds.

Penkov says that, despite the backlog in parliamentary work, "the adoption of around 20 new laws is expected in the coming months, on topics such as corruption, judicial reform, and public procurement. Without addressing these gaps, the EU might not grant Bulgaria the EUR 12 billion funding as a part of the national recovery and resilience plan, focusing mostly on the green energy transition." On the bright side, he notes, "a law was adopted on renewable energy that facilitates households being granted permits for energy production rather easily." In addition, Penkov highlights the tax-related amendments. "The VAT threshold for due legislation has been increased, however, the new law also introduces the abolition of VAT for products imported from the EU."

> "First of all, last year we had three parliamentary elections and, ultimately, they were able to form a new government only in December 2021. It led to great pressure on society, with important legal questions accumulating and many issues left unaddressed.

"Bulgaria will soon adopt new whistleblowing and anti-corruption legislation by transposing the EU directives into national law," Penkov notes. "Additionally, the abolition of the so-called 'in-house' orders in terms of public infrastructure to private entities without tenders aims to ensure equal treatment for all competitors on the market."

"Clearly, the list of expected regulations is quite comprehensive," Penkov points out. "They aim to better protect the interests of businesses and individuals, tackle corruption, and ensure efficiency and transparency. These laws will likely be in force this summer if the parliament is still functioning by then," he says.

Penkov highlights that some significant deals were concluded in the last few months in Bulgaria. "One of the most important among those," he says, "was seeing a Bulgarian startup becoming a unicorn. Recently, Payhawk become the first-ever Bulgarian unicorn after raising USD 100 million in a Lightspeed-led Series B extension. We were quite excited to see them succeed when we analyzed the deal a month ago." ■

ROUND SIX: THE EUROPEAN UNION BAN ON RUSSIAN ENERGY IMPORTS

By Andrija Djonovic

The sixth package of European Union sanctions imposed on Russia is a widely discussed topic, yet the overall levels of preparedness to adopt the associated energy import ban varies from one country to another. Indeed, with Russian oil and gas exports being such a dominant source of energy for a number of European countries, it remains to be seen how all of them adapt to the change.

To gain insight into how certain EU member states and non-EU countries are (likely) to fare in the immediate wake of the ban, we reached out to legal professionals from Turkey, Poland, Bulgaria, the Czech Republic, and Moldova.

Round 1 – Prepared for the Ban?

"Poland, for one, is well prepared for the ban," says Penteris Senior Partner Andrzej Tokaj. "The country has strongly endeavored to become independent from Russian-sourced energy supplies for a while now, so the ban is not a sudden surprise that will have a grossly adverse impact," he says.

"We have an LNG port on the Baltic coast and the Baltic Pipe pipeline connects us with Norwegian gas resources, and, of course, our own national (albeit limited) gas production," Tokaj continues. He believes that these three components will be enough to enable Poland to even have a small annual surplus in gas. "Furthermore, a floating port is under construction near Gdansk, which will, once completed, be able to receive another ten billion cubic meters of gas each year," he says. "As far as oil is concerned, we have significantly reduced our dependency on Russian imports – from 70% of consumption to about 17%. Also, Poland will seek to retrofit its entire oil imports towards the Middle East and the US by the end of 2022."

The Czech Republic, however, finds itself in a potentially more precarious situation. "The Czech Republic largely imports oil through the Druzhba pipeline, which is exempt from the sanctions for the time being," explains PRK Partners Partner Jakub Lichnovsky. The country generates most of its electricity from nuclear and lignite power plants, and gas sources represented but "10% in the energy mix in the Czech Republic in 2021."

However, Lichnovsky does note that the country is stockpiling gas and oil "in light of the new developments. The ban might constitute a problem for businesses that are, at the moment, processing mainly oil from Russia, as their facilities are designed for such processing," he explains.

At the far end of the spectrum, Bulgaria is in an uncertain place. "At the moment, 100% of the processed oil in Bulgaria is Russia-sourced, so it is very difficult to prepare our market for alternative oil supply in such a short period of time," chimes in Schoenherr Local Partner Stefana Tsekova. "This was the reason for Bulgaria to request a partial derogation for the latest Russian sanctions and to gain additional time to prepare for the new realities," she explains. "The situation with natural gas is very similar."

On the other hand, non-EU members find themselves less between a rock and a hard place. Turkey, for example, is lucky that it is not forced to introduce a ban, given its low preparedness for any alternative, because "Russian energy imports are significant for Turkish markets and they are not replaceable in the short and medium run," explains Nazali Partner Metin Pektas. "As of 2022, approximately 30% of oil imports and 50% of natural gas imports come from Russia," Pektas says. Any ban similar to the one the EU is imposing would lead to a "big energy shortage."

Round 2 – Immediate Impact

"We maintain significant energy reserves," Tokaj says, "so, in terms of guaranteeing supply, we are pretty comfortable." Of course, with Russian oil being cheaper to obtain compared to that sourced from the Middle East or Norway in particular, Tokaj indicates that energy transportation will be more expensive.

"Oil, for example, would have to be transported via vessels, instead of a pipeline, meaning it will be slower and more intensive." Tokaj says that Poland is already experiencing price surges of up to 60%, which means that any further price hikes will create an even more difficult situation for citizens. "Given that it is still summer, and less energy is consumed, I don't think we have yet felt the peak of the price hike."

As for the Czech Republic, the oil situation is not that problematic. "In 2021, Russian oil imports covered less than 50% of Czech consumption," Lichnovsky says, indicating that the oil supply is not directly affected by the ban. However, the gas situation is somewhat more complicated.

"Russian gas imports in the last years covered almost all of our domestic consumption," Lichnovsky says, noting that only 2% of gas was produced locally while 98% came from Russia. "In total, the Czech Republic consumes approximately five billion cubic meters, and 60% of that is gas for industrial technologies," which Lichnovsky stresses is difficult to replace in the short term. The country has but 2.7 billion cubic meters of storage space, which means that it urgently requires a supply line. With the Czech Republic being a landlocked country without any LNG terminals, it cannot access alternatives as easily as Poland. "Even the gas bought from Germany is mainly Russian gas," he says.

Again, finding itself at the far end of the spectrum, Bulgaria is in a bind on account of a high dependency on Russian oil and gas. "Currently, there are one large and two very small oil refineries in the country," Teskova says. "The large one is strategically located on the Black Sea coast, and this eases the access for alternative suppliers to bring in crude barrels. However, the Burgas Neftochim refinery was privatized, back in 1999, by Lukoil, and, as one could imagine, Lukoil are not keen to use other alternative sources of supply," she explains. "An eventual suspension of the refinery would increase the import of fuels and most probably will lead to a further rise in fuel prices on the domestic market. Without the special derogation, the immediate effect of the ban would have a critical negative impact on the economy," she stresses.

Moldova finds itself in its own particular position. "Moldova has no significant refining capacity and imports more than 99% of petroleum products consumed in the country," says ACI Partners Competition Manager Emil Gutu. Indeed, even without applying the import ban, Moldova could be in significant trouble. "A considerable part of petroleum products is imported from refineries in Romania and Bulgaria that use Russian crude oil – if these refineries stop production

Andrzej Tokaj, Senior Partner, Penteris

Emil Gutu, Competition Manager, ACI Partners

Jakub Lichnovsky, Partner, PRK Partners

Metin Pektas, Partner, Nazali

Stefana Tsekova, Local Partner, Schoenherr

because of the ban, to switch to another type of crude oil, it could trigger temporary price hikes and fuel shortages in the region." A situation like that would only exacerbate the "existing diesel fuel shortage caused by the war in Ukraine."

Additionally, given that Moldova has traditionally been importing all of its natural gas from Russia, via long-term contracts with Gazprom, Gutu reports that any sort of a direct ban is not envisaged. "Our country's technical and legal preparedness for a possible halt of Russian supply was tested in October 2021, when the reduction of supply by Gazprom forced Moldova's first-ever, although limited, purchases on the European spot market."

transport," Tsekova explains. While this period lasts, however, she reports that "alternative routes of natural gas and LNG supplies are actively being considered."

Turkey, as a non-EU member, maintains its trade with Russia but is also considering diversifying sources for energy imports. According to Pektas, it is looking towards Iran, Azerbaijan, Northern Iraq, and Israel. At the same time, "Turkey is planning to increase LNG terminal and gas storage capacity," Pektas reports. Additionally, the country is "incentivizing renewable energy production – especially solar based – and such production capacity is increasing continuously."

Round 3 – Evasive Maneuvers

Even with the Czech government supporting the import ban, the country is benefiting greatly from the Druzhba pipeline exemption. Still, preparations are being made to make way for alternatives. "Czech businesses are obviously trying to obtain the necessary gas that is still available," Lichnovsky says. "We see that the Czech Republic is not prepared for a full phase-out of the Russian gas – in my view, it would take at least three, but most likely up to eight, years to get fully independent," he explains.

"We would need to negotiate with Poland and the Nordic countries on gas delivery from Norway, organize the connection of our gas pipelines to Austria and the Southern EU countries," Lichnovsky continues. Even seeking an oil alternative like shale would be problematic. "The question about shale gas from EU countries is a difficult political question and, additionally, we have banned shale gas extraction," he reports.

As for Bulgaria, it is currently focusing all its efforts on utilizing the special temporary derogation. "The derogation is valid until the end of 2024 and will allow Bulgaria to continue to import crude oils and petroleum products via maritime

Round 4 – Alternatives

"Both in terms of governmental policies and the attitude of citizens, there is a strong shift from traditional sources of energy to renewable ones," Tokaj speaks of Poland. As the country invests more in solar power, the Polish government seeks to amend the country's legislative framework to be more open to renewable resources. "Our regulations were pretty unfavorable, recently, particularly for wind power. However, changes are hastening in light of recent developments," Tokaj reports.

In contrast to Poland, the Czech Republic is looking outward for alternatives. At the moment, the country is in negotiations "with its European partners on increasing capacity of the TAL pipeline," Lichnovsky says, speaking of oil. "In addition, oil is imported to the Czech Republic via the IKL pipeline as well."

As for the gas supply, the Czech Republic is seeking to construct a new pipeline with Poland and, "potentially, also the purchase of a stake in a Polish LNG terminal," Lichnovsky continues. "Furthermore, the interconnection of the gas network with Austria, the purchase of a stake in a German LNG terminal, and gas supplies from Norway through the German

NETRA pipeline are being considered," he explains.

For very-exposed Bulgaria, alternatives are being sought in all directions. If the Burgas refinery gets shut down, the country would have to turn to ready-made fuels import. "For example, in the Black Sea region, it is possible to import oil from Kazakhstan and Azerbaijan," Teskova reports. "Oil from Algeria, Libya, and Egypt is available in Mediterranean ports, and other alternatives are also possible – the Gulf countries or the West coast of Africa," she explains. Still, these alternatives are quite costly, because of more difficult transportation and an oil price surge.

When it comes to gas, things are developing a bit faster. "The construction of the ICGB natural gas interconnection between Bulgaria and Greece – intended to bring gas from Azerbaijan and LNG from the Alexandropoulos terminal – is developing with high priority," Teskova stresses. "On Bulgarian territory, the ICGB pipeline is already successfully connected to the national gas transmission network of Bulgartransgaz, and the ICGB moves forward with its certification as an independent transmission operator, after the national energy regulators of both Greece and Bulgaria adopted a draft joint decision for certification of the project company managing the gas interconnector." Similarly to Bulgaria, Moldova, too, is looking toward Azerbaijan for a potential natural gas supply. However, Gutu stresses that this is not linked to the ban itself, but more to mounting general insecurity regarding the affordable natural gas supply. "The energy crisis of the past winter sparked a new wave of interest in energy-saving projects by businesses, public institutions, and the population," he adds.

Round 5 – Aftermath

Regardless of preparedness levels, current capacities, and plans for alternatives, the energy imports ban will definitely have substantial ramifications.

"The immediate effect will be a popular awareness of the need to conserve energy," Tokaj admits. "For businesses and citizens alike, the need to save will be palpable." He indicates that with the price hikes Poland will face, "consuming a lot of energy will not be sustainable." For the Czech Republic, things could be even worse. "From my point of view, we would certainly experience a further increase of energy prices and a further increase of inflation, which is already one of the highest in the EU," Lichnovsky says. He believes that Czech industry could find itself on the "verge of collapse" and could "become dependent on the reaction of Germany and Hungary. However, even in such a case, Czech businesses would most likely receive Russian gas in the medium-term horizon."

"The ultimate aftermath of the ban, with respect to Bulgaria, depends entirely on the timely and adequate measures that the Bulgarian government undertakes," Tsekova says, while indicating that she believes the two-year derogation will give the country enough time to prepare. "Unfortunately, the political situation is very unstable at the moment, and we could only hope that this will not hinder the implementation of the necessary steps to secure alternative energy supplies," Tsekova concludes.

As for non-EU countries, the ban will also have strong ramifications. "Most probably, the ban on Russian oil will put a temporary additional upward pressure on refined petroleum products' prices, before the market comes to a new equilibrium," Gutu chimes in. Still, he does indicate that "the supply disruptions and demand shocks created by the war itself will remain the main factors" affecting the price and security of petroleum products supply to Moldova. "A possible EU ban on Russian gas, on the other side, will likely have a massive adverse impact on the Moldovan economy and population, as it will probably cause explosive growth of the spot market price for natural gas," Gutu says. Regardless of Moldova's long-term supply contracts with Gazprom, the "price formula is partially linked to the spot market," he explains.

On a lighter note, if there is one, Pektas says that Turkey might actually be better off. While it is difficult to foresee the future because of many "variables that may have an impact on the situation, import prices from Russia may decrease" for Turkey. Without a ban in place, and in case Russia may have an excess supply because of the EU ban – it might become cheaper for Turkey to access Russian oil and gas, Pektas says.

Considering all of the above, one question clearly presents itself: What will Round 7 look like? ■

BUILDING ON 35-YEAR-OLD ROOTS: BAKER MCKENZIE HUNGARY MARKS CORAL ANNIVERSARY WITH LEADERSHIP CHANGE

By Teona Gelashvili

With Baker McKenzie's Budapest office celebrating its 35th anniversary this year, we spoke with Partners Zoltan Hegymegi-Barakonyi and Akos Fehervary to learn more about the firm's track record in the country as well as what we can expect with the former passing on the Managing Partner role to the latter this July.

CEELM: With Baker McKenzie's Budapest office celebrating its 35-year anniversary in 2022, how has the legal market changed over the years?

Hegymegi-Barakonyi: Baker McKenzie's Budapest office was established in 1987 as the first western law firm behind the iron curtain, and is one of the most successful firms since then. In the early 1990s, during the large privatizations and opening of the market economy, more than 25 international firms were present in Hungary. Though only a few of these firms had the intention to stay longer and expand their operations beyond those transactions. Baker McKenzie, however, wanted to be a full-service firm, serving clients even after the wave of privatizations and the transformation into a market economy were over. Due to the long-term focus, we developed capabilities beyond pure major transactional work, and, once that decreased, we had the resources to service other areas, such as disputes and general corporate and commercial work.

Fehervary: Indeed, we can be proud of and build on our office's great history. Nevertheless, the rapidly changing business environment, different client demands, new industries and technologies, as well as our drive for great talent requires us to be able to quickly adapt to such changes and even be ahead of the curve to be successful in the market. Over the years, the changing market led to a new perception of what "lawyering" means. It's not enough anymore to know the law and draft a contract well. Rather, one should understand the market and industries and provide excellent service to achieve the highest level of client satisfaction. It requires a completely different mindset, skills, and attitude, for which we have always been training our colleagues.

CEELM: Looking back, what were the biggest challenges that the firm had to overcome over the years?

Hegymegi-Barakonyi: We faced the same difficulties as other law firms, such as the financial crisis, the pandemic, etc. We are proud that we have had highly-ranked practices in many areas and provided a full service, meaning we could always balance things out. Specializing in different industries helped us to have a kind of safety. Another reason for our continued success is our strategy to hire the best local talents and a focus on the successful transition of generations. We didn't have any big mergers or lateral hires, instead, we focused on homegrown talent.

Fehervary: We didn't experience any drastic internal changes or turbulences. Quite the opposite, the organic growth and the broad coverage of every aspect of business law have helped us even during the more difficult times. We have developed new practices over the years to cope with new challenges, such as compliance, tax, data privacy, and energy. Another major factor was having a combination of foreign and local clients. Having strong roots in the local market – 50% of our clients are local – gives us a better balance than some other similar firms have had.

CEELM: Others also aim to have roots in the local market – what helped you succeed?

Hegymegi-Barakonyi: One of the primary factors is our long-standing deep relationship with our clients. Also, talent has always been an important focus of our firm. For instance, Baker McKenzie organizes nationwide competitions for law school students and many of them come to us to work in the end.

Fehervary: The other reason is the ability to serve every type of client with every kind of operation. Our attention to industries in addition to legal areas is also a distinctive factor, as is the fact that we are often pioneering legal technologies. As a result, we were awarded the *International Financial Law*


Baker McKenzie Partners Zoltan Hegymegi-Barakonyi (left) and Akos Fehervary (right).

Review's Law Firm of the Year – Hungary title for the second time in a row in 2022, which honors the most innovative cross-border M&A and Banking & Finance transactions.

CEELM: Akos has taken over the position of Managing Partner from July 1. What prompted the change?

Hegymegi-Barakonyi: I made this decision of stepping down after nine years of holding the position of Managing Partner. This is already a record-long tenure at our firm. During the past nine years, I was dealing with client matters as well, especially in competition law, but your focus can never be the same as an MP. Akos joined the firm in 1997, so he knows everything about our firm. Four years ago, he became a principal and thus got into the management of the office and, during the pandemic, he was very actively involved in all strategic decision-making processes. Thus, we thought the time is right for the change. It is a great feeling to pass the position to a colleague that I fully trust.

CEELM: Akos, how are you planning to cope with the additional challenge of also being in charge of the firm?

Fehervary: Definitely, it is an additional challenge but I very much intend to keep on advising clients, in addition to the management of the office. Ultimately, Zoltan and the Partners did a great deal to transform the office into a modern, well-operating company by establishing certain functions, policies, and procedures to operate as a successful firm.

CEELM: If you could look forward to five years from now, what would be your mission statement?

Fehervary: My aim is to continue building a highly business-minded and solutions-oriented system, taking into account technological and industry-focused challenges. The legal profession is becoming a mixture of legal and business advisory, good legal work now requires understanding business motivations, financial aspects, tax, audits, etc. There is a very fine line between what is "legal work" and what is not, and we must be able to assist our clients with a holistic approach. Our firm must be a space where the best talents are eager to work, and which is an attractive, diverse environment for colleagues, irrespective of their age, gender, or orientation.

CEELM: Zoltan, what would be one nightmare for you, once you pass over the keys?

Hegymegi-Barakonyi: First, I look forward to finally sleeping. Jokes aside, everything that Akos mentioned was important to me for years. With current geopolitical movements, we will especially need to focus on our clients and the challenges they face. If our clients' business is booming, they will need help in investing, while during financial difficulties, we need to provide support on sanctions, restructuring, disputes, etc. In a nutshell, whatever keeps our clients awake at night, should keep us awake as well.

Fehervary: I feel the need to stress that Zoltan is not disappearing. We will still be partners, working in and leading the same office. I know that I can rely on his knowledge and experience, while he will focus more on his competition and IP practices and strengthen the firm through that. ■

MARKET SPOTLIGHT: CZECH REPUBLIC

ACTIVITY OVERVIEW: CZECH REPUBLIC

Firms with the most client matters reported by **CEE Legal Matters**.

Clifford Chance	89
Kocián Šolc Balaštík Advokátní kancelář	84
Kinstellar	79
Dentons	77
Allen & Overy	70
Havel & Partners	70

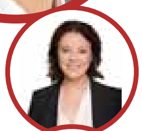
Partners with the most client matters reported by **CEE Legal Matters**.

36
Jan Juroska

28
Emil Holub

26
Milos Felgr

24
Tomas Dolezil



23
Helen Rodwell

23
Vladimir Cizek

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THE LOW-KEY PRIORITY: LIFE SCIENCES R&D IN THE CZECH REPUBLIC

By Radu Neag

Life Sciences R&D has consistently been touted as one of the Czech government's top priorities – and the markets and investors have not been indifferent. We reached out to several experts to check up on the overall health of life sciences R&D in the Czech Republic and learn how that priority translates into practice.

A Strong Academic Foundation

"The country has a strong tradition of academic excellence and research in life sciences," as PRK Partners Partner Monika Maskova points out, "with Czech universities having a great international reputation and their research work being recognized, particularly, in molecular genetics, immunology, analytical and pharmaceutical chemistry and biochemistry, cardiology, neurology, metabolic diseases and, more recently, medical applications of nanotechnologies." Glatzova & Co Partner Jiri Sixta also highlights "the deep tradition in the R&D area – from Professor Heyrovsky to Professor Holy and others making unique progress in various areas of life sciences."

The Czech Republic maintains a high number of graduates in natural sciences (biology, physics, mathematics), Dubanska & Co Partner Barbora Dubanska explains, noting that the country is "doing quite well in attracting the prestigious European Research Council Grants, with an average of four awarded every year. We have the positive examples of Gilead and IOCB, with Charles University and some others also emphasizing the work of their tech transfer offices." Maskova agrees, saying the high-quality education is supported by close ties between the academic community and the industry "supporting the translation of results from basic research into applications and commercial assets." According to her, all this translates into "the availability of highly skilled university graduates and industry-specific staff, at a competitive cost."

In Good Health

There are several positives on the business side as well. Czech life sciences R&D "has received a great deal of attention and support, in recent years, not only from academia but also from the public sector and, most importantly, from investors," JSK Partner Tomas Dolezil notes. Dozens of companies of all sizes – including many young firms and start-ups – operate in this field, he says, "characterized by an extremely high innovation potential, an above-average number of projects successfully applied to the market, and the high added value of products and high pro-export potential." Sixta agrees, saying he believes "the Czech Republic is more attractive for life sciences R&D than other CEE countries."

Dolezil also highlights "the extensive experience in the sector," with numerous companies "developing their own R&D and education departments." As Dubanska notes, "local scientists and healthcare professionals are also keener to work with partners – on clinical trials or other projects – as low base salaries mean the extra income is well worth the added effort."

"And we are quite efficient at running clinical trials," Dubanska offers, "in terms of timeframes and costs, and we also have a national template for a clinical trial agreement, so less time needs to be spent on negotiations." Manufacturers of medical devices cooperate with clinical workplaces, Dolezil notes, "both in the research and development of new devices and, later, in the application phase," also improving the level of medical care.

Finally, Dubanksa also lists some solid supporting factors: "the relatively robust healthcare system, with a decent amount of spending; and the Czech Republic being relatively quick to adopt new medical devices and innovative medicines – both legally and from a mindset perspective."

But Not Outstanding

Still, Dubanksa is adamant she "would not overestimate the Czech Republic." While the country is doing well – it isn't necessarily ahead of its CEE competitors: "We don't do enough to support technology transfer and, comparatively, we don't see that many spin-offs, as there's not enough support or security for them to pursue the road of a biotech startup. Don't get me wrong, we do have the highlights of Diana Biotechnologies or Oxygen Biotech – but there's not really a number of those lining up."

Barbora Dubanska, Partner, Dubanska & Co

Jiri Sixta, Partner, Glatzova & Co

Monika Maskova, Partner, PRK Partners

Tomas Dolezil, Partner, JSK

Looking across CEE, Dubanska says Poland is ahead on startups and has a bigger market. She notes that for Czech Zentiva, Poland has Polpharma – "with both companies looking into supporting startups. The Czech Republic also has the factories of Teva – but then Hungary has Gedeon Richter. And Austria's Boehringer Ingelheim is doing very well, building a new research center, with Austria also boasting very good academics and results."

Dolezil agrees, saying that the main challenges are "due to the absence of communication between government, university entities, and the commercial sector. Primarily, we still lack the legislative conditions for tech transfer, i.e., for the creation of an innovative environment for the establishment of spin-offs, start-ups, and cooperation with business."

For Sixta, it's still mostly a money problem: "while the funding is getting better," he says, "we are still lacking massive private funding in this area." We need more grants to fund R&D, Dubanska agrees, and "the money life sciences researchers get is peanuts – so that's not conducive to more researchers joining the field."

Lagging Legislation

When speaking about sector-specific challenges, Maskova says "the life sciences sector is highly regulated, with the legal framework often lagging behind the state of play." This puts pressure on the companies' ability to navigate complicated regulatory pathways, she says, noting that currently, "compliance issues occur particularly in connection with implementing new technologies and digitalization."

Dubanska says this also leads to an imbalance in the market. "Most biotech startups focus on medical devices or AI and digitalization, with Carebot being a good example, and not necessarily on pure innovation – new molecules, drugs, or diagnostics – as clinical trials are still too complex and expensive for small operations. Streamlining clinical trials' legal and administrative obstacles would go a long way," she says.

Sixta highlights "the relatively effective patent protection system," but says "its flexibility and the speed of the processes could still be improved," with Dolezil adding that, "on both the local and European level, we would need to further develop the protection of intellectual property for early-stage research or open data." New areas, such as "human resources and ethics in life sciences as well as the protection of the state's security in research," also face a lack of regulation and require support, according to Dolezil.

Just How Much of a Priority?

Maskova sums up the positives: "Public funding of over EUR 2.5 billion was allocated in the last decade to building research facilities," she says, with Sixta pointing out the Czech government is providing significant subsidies, including to the Czech Academy of Sciences. "The government also provides investment incentives, to invest in R&D, employ researchers, and cooperate with universities and research institutions," Maskova adds.

Dolezil agrees there is state financial support towards R&D in general, with funding for the Research, Development, and Innovation Council set to increase by 15% until 2025. Still, he points out, "that trend does not fully mirror the needs of the sector. We see a huge lack not only of direct financing but also of institutional support in general." The high entry costs for life sciences R&D, "needing access to expensive infrastructure like research laboratories, is why additional government support is needed," Dubanska points out.

Finally, she highlights the gap between data and action: "The demographics show the population getting older and sicker. With the current system, we'll run out of money soon. We know it's an important sector and we should pour more money into R&D, to facilitate the digitalization of healthcare and restructuring the system – shifting the focus to prevention rather than more expensive care." ■

OLD BUT NEW: BRACING FOR UPDATED VBER AND VERTICAL GUIDELINES

By Teona Gelashvili

On May 10, 2022, the European Commission adopted the new Vertical Block Exemption Regulation (VBER) accompanied by the new Vertical Guidelines (Guidelines), which entered into force on June 1, 2022. We spoke with several Czech competition experts to understand how these updates will influence the day-to-day business activities in the vertical agreements area.

Familiar Yet Different

"The basic structure and the main principles of VBER remain preserved," Kocian Solc Balastik Partner Sylvie Sobolova explains, noting that the most significant change consists in the readjustment of the so-called "safe harbor," i.e., vertical agreements and restrictions which fall under the exemption. "The safe harbor was narrowed in two areas – dual distribution and parity obligations – and enlarged in the other two areas – active sales restrictions and restrictions of online sales," she says.

For Havel & Partners Partner Robert Neruda, the major amendments and clarifications are related to online marketplaces or price comparison tools and reflect recent developments in online sales. "The European Commission rightly believes that e-commerce has evolved during the last ten years, to a level where it no longer needs as much protection from being restricted as in the previous decade," he notes.

Allen & Overy Senior Associate Ivana Halamova Dobiskova and White & Case Partner Ivo Janda, on the other hand, believe that the most important change relates to dual distribution. "The VBER and the Guidelines extend dual distribution exemption to also cover agreements where the parties' activities overlap at the wholesaler or importer level," Halamova Dobiskova says. "The frequent occurrence of a dual distribution system also triggered new rules on the exchange of information between the parties to the vertical agreement." The new vertical package "introduces several important changes to the assessment of distribution agreements that will have an impact on a number of our clients," Janda explains.

Impacting Online Platforms and Beyond

Sobolova and Janda say that the VBER will have an immediate impact on online platforms and e-commerce companies. "Taking into account the particular focus of the new VBER on the digital/platform economy as an increasingly important distribution channel, we believe that the new VBER will be particularly relevant for online intermediation services (OIS) providers," Sobolova explains.

Beyond that, "the VBER is applicable no matter in which sector you do business," Halamova Dobiskova argues. "Any company in various levels of the distribution chain will be impacted by the amended rules." This, according to her, might lead to "pressure from the suppliers to alter the way in which their distribution channels are structured. In particular, the amendments to active and passive sales restrictions will allow the suppliers to design their distribution systems more flexibly."

Further still, Janda adds that "the impact of the new vertical package will be notable." According to him, "the Czech competition authority (CCA) applies EU block exemptions also to purely national commercial agreements, based on authorization anchored in the *Czech Competition Act*. Consequently, the new vertical package will be equally applicable also to local commercial agreements lacking appreciable effect on the trade between member states."

New Rules of the Game

"For companies that are currently relying on the VBER, it is important to review their relationships with business partners and make amendments, if needed, until the end of the transition period," Halamova Dobiskova points out. "It is also essential for companies to train those people responsible for interactions with vertical business partners to ensure compliance with the new rules."

"The rules governing the relationship between manufacturers and distributors of goods fundamentally changed," Neruda agrees, noting that the changes create both potential risks and opportunities. "Companies should pay attention to the obligations imposed by competition law in connection with the distribution of goods and services, such as whether they are allowed to tell their distributors what prices to charge for their products, or to restrict retail sales of their products via online sales channels." According to him, "the correct setting of distribution systems should eliminate the risk of competition law infringements and the related high fines."

Sobolova adds that "the new VBER defines OIS and clarifies that OIS providers qualify as suppliers under VBER." According to her, "OIS providers should take into account that OIS-related agreements do not benefit from the safe harbor exemption in situations where the provider has a hybrid function – i.e., also competes as a seller in the relevant market."

"A provider of OIS must refrain from imposing hardcore restrictions on its customers purchasing these OIS," Janda notes. "Furthermore, in the case of dual distribution where the supplier is active both in the upstream and downstream market, companies will have to pay proper attention to information exchanges."

Shaping the CCA's Behavior

Lawyers believe that the new VBER and Guidelines will have an impact on the CCA's work and its focus when it comes to investigating vertical restrictions.

In general, Neruda notes that "in the eyes of many companies, competition law is often reduced to the topic of huge fines, which 'clearly affect only the biggest companies, not us.'" However, he adds, "in the last year, the CCA has initiated an unprecedentedly large number of new cases in the area of verticals in many industries." Consequently, he says, both large multi-national companies as well as purely local entrepreneurs end up caught by the watchdog and face the threat of fines running into millions of euros.

Up to this date, the CCA "has focused more on horizontal agreements," Janda notes. "In the Czech Republic, the CCA issued fourteen first-instance decisions with finding vertical agreements as anti-competitive in the last ten years" and, "by far, the most common infringement addressed was that of resale price maintenance (RPM), which was investigated and addressed in the vast majority," Halamova Dobiskova says. Janda adds that, after RPM, exclusive distribution and parity obligations were closely observed by the CCA.

However, there seem to be some indications that the landscape might change. "Currently, the CCA is conducting several investigations into RPM practice imposing record fines in the ensuing administrative proceedings, reaching the statutory cap of 10% of the total turnover of the fined undertaking," Neruda notes. In addition to that, "in 2021, the CCA imposed the highest penalty so far in the area of vertical agreements, CZK 96.751 million for an RPM violation," Sobolova points out. "These statistics seem to reflect the increasing attention of the Office for the Protection of Competition concerning the enforcement of vertical agreement regulations."

Consequently, "we expect that the RPM will continue to be an important focus of the CCA in vertical restraints," Janda concludes. "With the further rise of e-commerce and online platforms, we expect that the Authority may start looking more thoroughly into the contractual terms and pricing conditions of online platforms, as well as dual distribution."

A Bit of Breathing Space

At this point, Janda notes that "as the new VBER provides for a transition period until May 31, 2023," he does not expect "any major enforcement changes immediately after June 1, 2022. However, the Czech Office for the Protection of Competition might take a closer look at vertical agreements after the lapse of the transition period." ■

Ivana Halamova Dobiskova, Senior Associate, Allen & Overy

Ivo Janda, Partner, White & Case

Robert Neruda, Partner, Havel & Partners

Sylvie Sobolova, Partner, Kocian Solc Balastik

MARKET SNAPSHOT: CZECH REPUBLIC

RECENT TRENDS IN MIGRATION AND CORPORATE LAW IN CZECHIA REFLECTING THE RUSSIAN WAR AGAINST UKRAINE

By Jan Kohout, Partner, and Illia Antonov, Attorney at Law, PRK Partners

Russia's military aggression in Ukraine and the subsequent wave of refugees has been a new challenge for all European countries – and the Czech Republic is no different. A very low unemployment rate and a shortage of workers is a long-standing problem in Czechia and, thus, this new situation brings not only challenges but also opportunities. There have been more job openings than workers in the Czech economy since 2018 and, in 2021, the Labour Office recorded about 350,000 job openings. This situation slowed growth in the Czech economy and, thus, accepting Ukrainian refugees happens to be not only a moral obligation but also in the country's best interest and an opportunity for future growth.

Following the decision of the EU Council reflecting the mass influx of displaced persons from Ukraine, a new migration regime for Ukrainians was adopted as a part of the *Lex Ukraine* legislation in Czechia. Under this temporary protection regime, refugees from Ukraine are entitled to obtain Czech residence and, more importantly, a work permit in a very short period of time, along with social security protections like health and social insurance. This immensely speeds up the process of integrating Ukrainians into the workforce – especially in comparison with the existing regime and migration law practice in general – which usually involves several months of waiting for a mere application submission, the need for the employer's involvement throughout the application process, and quotas imposed on the number of admissible applications. At the same time, it is obvious that the current migration relief regime applicable to Ukrainian citizens does not necessarily solve other long-lasting practical issues existing in the Czech Republic with respect to foreigners.

Although the new migration policies are very helpful and flexible for those refugees seeking employment in the Czech Republic, it does not yet support those Ukrainians who may wish to start or relocate their businesses from Ukraine on a corporate basis. Problems arise especially in connection to the Czech interpretation and application of anti-money laundering (AML) legislation.

While incorporating a legal entity for business purposes itself remains generally quite simple, quick, and cheap, the consequences and challenges for those Ukrainians (and other foreigners) wanting to start or relocate their businesses to Czechia are more complex. These entrepreneurs may likely run into obstacles with essentials like opening a bank account for their new Czech corporate setup. Under Czech AML practice, banks usually require a plethora of information from their new corporate clients, especially those from non-EU jurisdictions, including Ukraine, like an overview of potential customers or existing economic links to Czechia. The latter can particularly create a sort of catch-22 situation – where it may not always be possible to establish these economic links without having a corporate bank account – but creating one is impossible without declaring such relationships in the first place.

Czech AML interpretations also strictly insist on personal/face-to-face identification as the primary method and provide only a few rather inflexible alternatives for remote or electronic identification that, moreover, are practically applicable for Czechs or Czech residents only.

Most Ukrainian men are significantly restricted in traveling during times of war, and personal meetings abroad are not possible for many of them. Ukrainian businesses with solely male executives or founders are thus factually excluded from enjoying the benefits of the liberal and rather flexible Czech corporate laws, and their businesses cannot easily incorporate a new setup in the Czech Republic unless using a rather complicated JV structure with a reliable local business partner.

While the general sentiment of the rapid and flexible changes to migration policies resulting in a faster and less complicated process is very helpful in solving labor shortage problems in the Czech Republic, the corporate practice continues to be strongly affected by rather rigid AML regulations, with many challenges to making Czechia more attractive to Ukrainian businesses with their current need for (temporary) relocation. ■

THE THREE THINGS YOU SHOULD KNOW ABOUT CZECH EMPLOYMENT EVEN IF YOU ARE NOT A FAN OF HR

By Helena Hangler, Head of Employment, Schoenherr Czech Republic

Even if your main focus is on developing your business and you think that the keys to HR are solid wages and an interesting benefits package, there are still some important issues in Czech employment law you should be aware of.

Criminal Liability of Your Business

According to the *Act on Criminal Liability of Legal Entities*, a legal person – a limited liability company – can itself be directly subject to criminal prosecution and convicted of a crime. Naturally, as a legal fiction, the company cannot act itself, but acts of the persons who represent the company, including its employees, are attributed to it.

One of the conditions is that the crime is committed in the interest of the company or within its business activities. The second is that the crime is committed by a person that controls it or has significant influence over it (this may even be its employees).

Employees could trigger the criminal liability of their employer if they acted either based on the instruction of a person controlling the company (e.g., the owner, director, etc.) or independently of any of their superiors because those superiors did not take reasonable preventive measures or failed to sufficiently monitor employees. In other words, if you as a company owner or director fail to monitor your subordinates, your company will bear the consequences and may end up facing a criminal conviction together with your employees.

Therefore, you should protect your company by implementing and enforcing reasonable measures, such as employee monitoring, strict rules on budgeting and gifts, a whistleblowing system, internal regulations such as a code of ethics, etc.

Transfer of IP Rights Only with Employees' Consent

The *Czech Copyright Act* regulates products created by employees within employment as so-called "employee work." As a rule, all proprietary rights pertaining to the work remain with the employer. However, the employer may not assign these rights without the employee's consent – the only exception being the sale of the enterprise.

Therefore, if your employees created a computer program for your company you may not be able to sell it if those employees refuse to grant consent. In such a case, the employer may only grant a license to the work, but this might not be sufficient for the buyer. This opens a unique opportunity for the employees to negotiate employment terms or additional compensation.

We advise entering into a reasonably extensive IP arrangement with employees. Although discussions are ongoing about whether an employee's advance consent is valid, it is still highly advisable to secure it.

Pseudo Self-Employment: Tax Optimization or Tax Fraud?

Pseudo self-employment has a long history in the Czech Republic. This is where an individual acts based on the contract of a self-employed contractor while actually working as a regular employee. Generally, this practice is not permissible under Czech law and is regarded as illegal work.

The main reasons why businesses tend to engage freelancers are the rigid employment regulations and high mandatory costs of labor.

When assessing whether someone is acting as a freelancer or as an employee it is not the documentation but the factual cooperation that counts. The key element is the level of independence of the freelancer from the company. Paying fixed monthly remuneration, giving clear instructions, or having the freelancer work full-time at the workplace would usually be assessed as indicating that the freelancer should be requalified as an employee.

Requalification may have various consequences, from Labor Inspectorate fines (up to EUR 400,000) to due payments towards tax authorities. The tax authorities interpreted the amounts invoiced by freelancers as net wages, and all mandatory surcharges were added to those amounts.

We have also been seeing increased pressure in tax matters to swap to criminal proceedings. Saving costs on mandatory payments may be understood as a criminal offense. As a result, a company engaging many freelancers on a long-term basis may also be risking criminal prosecution.

A proper assessment of whether an individual may act as a freelancer or should instead be engaged as an employee has gained increased practical significance. ■

GOOD NEWS FOR PROPERTY DEVELOPMENT

By Roman Pecenka, Partner, PRK Partners

The Times They Are a-Changin' – such a description is more than appropriate for the municipality-developer relationship in recent months in the Czech Republic. The adoption of a new construction code promises to bring fresh wind into development projects and improve the relationships between these two major players. This is most likely to happen thanks to the re-introduction of the so-called planning agreements into the Czech legal environment. Although already recognized and used in the past, this new instrument is getting more and more noticed by Czech municipalities, most of all by the City of Prague, which, on January 27, 2022, adopted the brand-new *Guidelines on the Investor Participation in Urban Development*, the application of which is done through planning agreements.

Planning Agreements in a Nutshell

In general, planning agreements are going to be a mixture of private- and public-law contracts which would have to be taken over by a building authority issuing the building permit. Their purpose is to give effect to the conditions negotiated between the municipality and the developer with respect to a new construction project on its territory. The municipality, which should play the key role in the conception of its territory, agrees to permit the execution of a specific construction project and to provide all cooperation in the extent of the agreed terms and conditions of the planning agreement (including, for example, changes of the zoning plan if needed). As long as the planning agreement is in place and fulfilled, the municipality should refrain from obstructing the project, lodging appeals, or asking for reviews, as has often been the case.

The developer, on the other hand, is forced to take into account the municipality's legitimate requirements in order to mitigate the negative impacts of the project and contribute to the overall improvement of the affected territory, i.e., not to focus on its own project only. As a result, a properly negotiated and drafted planning agreement contributes a great deal to the overall stability and predictability of construction projects.

Guidelines and Their Benefits

So far, there has been a great diversity in the forms and content of planning agreements. Their status has not been clear, municipalities were not properly trained, and, for example, financial contributions were challenged in court. That brings us back to the guidelines, which, although not binding, would most likely serve as a benchmark and inspiration for other municipalities in the Czech Republic.

The guidelines are the first document of its kind drafted in such detail, created in cooperation with developers. Therefore, they are balanced and acceptable to both parties. You can see this particularly clearly in how the guidelines deal with the developers' contributions to the municipality.

First of all, the guidelines introduce a comprehensible formula for calculating the financial contribution, which is based on the gross floor area of the project. If the performance of the project is made subject to a prior change of the zoning plan, the formula contains factors that favor constructions in brownfields over constructions in sub-urban greenfield areas – this is also fully in line with the goal of the Municipality of Prague to prioritize ESG-compliant projects.

Secondly, the guidelines present a broad range of non-financial contributions which should be acceptable to municipalities in lieu of or in addition to financial contributions. It contains, in particular: (1) *community constructions*, that can be used in order to improve/refurbish public infrastructure as well as to construct municipal flats, and (2) *subsidized housing*, in which case the developer undertakes to give a discount on rent for a specified period of time. It is worth mentioning that there was a great shortage of subsidized housing in Prague as well as in other large cities in the Czech Republic, and these contributions might be of great help.

Last but not least, the financial contributions, as well as non-financial ones, are to be used only for the intended purpose (i.e., community welfare) and in the area affected by the particular project. This will contribute to the mitigation of any potential negative impacts of the construction project.

To conclude, we believe that the guidelines are a good step ahead in creating a stable and foreseeable business environment in the development market. Planning agreements made under the guidelines have a huge potential to unplug the so-much-expected construction activity and make the cities better places to live. ■

KNOW YOUR LAWYER: VACLAV BILY OF PRK PARTNERS

Career:

- PRK Partners, Partner, 2013-present
- PRK Partners, Attorney at Law, 2001-2013
- Nobel & Hug, Trainee, 1999-2000
- PRK Partners, Associate, 1996-1999
- Gleiss Lutz Hootz Hirsch, Legal Assistant, 1994-1995

Education:

- Charles University in Prague, Faculty of Law, PhD, Doctor of Jurisprudence, 2002
- Europa Institut at University of Zurich, LLM in European Business Law, 2000
- Charles University in Prague, Faculty of Law, Master of laws, 1996

Favorites:

- **Out of office activity:** golf, history, old books
- **Quote:** "Do unto others as you would have them do unto you."
- **Book:** *The Metamorphosis* by Franz Kafka; *Bloody Novel* by Josef Vachal
- **Movie:** *The Godfather*, *Pulp Fiction*

Top 5 Projects:

- Advising on the acquisition of the Czech real estate portfolio for Austrian real estate investor M&A RealConsult Group (followed by its sale after the client's sudden death in an accident);
- Advising on the acquisition of real estate in Prague and Pilsen for CA IMMO, including representing the client in insolvency proceedings regarding ECM REI;
- Advising on the financing of solar power plants by Uni-Credit – more than 100 transactions within the last 12 years;
- Advising UniCredit Bank in 2020 on acquisition financing for the Tekro agricultural group, with the aim to acquire four agribusinesses, one of them located in Slovakia;
- Providing legal advice to a major investment group on the sale of the Main Point Pankrac office building in Prague (in the form of a share deal). The buyer was South Korean Hana Financial Investment, represented by the Mint Investments Group.

What would you say was the most challenging project you ever worked on and why?

Bily: Through the decades of working as a lawyer, and particularly working with PRK Partners, I have had a great opportunity to work on a vast number of highly interesting, innovative, and high-profile and high-impact mandates, which have provided plenty of challenges. However, one project that stood out was when my team assisted a Czech state institution with a tender in a public subsidy project. It was challenging mostly because the top representatives of the client had their own ideas on how to tackle the project, including the tender documentation but, unfortunately, these ideas were not really feasible under the laws applicable at that time. The mandate required not only knowledge of public tender legislation and sectorial knowledge, but also a great deal of diplomacy and negotiation skills when dealing with all of the interested parties, including our client's representatives. In the end, the challenging conditions made us come up with a number of highly innovative and creative, yet legally sound solutions that remain in practice to this day.

And what was your main takeaway from it?

Bily: Apart from the usual – that stress and challenges bring out the best in people – I have validated for myself that it is important to always stay on track and to be tactful and open-minded in any situation. And, also, our firm is very fortunate to have the most talented lawyers in every position, and we can rely upon them.

What is one thing clients likely don't know about you?

Bily: I love driving my Skoda 1000 MB (1966). Also, not many people know about another hobby of mine – breeding fallow deer. Oh, and I don't like poppy seed noodles.

Name one mentor who played a big role in your career and how they impacted you.

Bily: That was Jan Krulis-Randa, professor at the University of Zurich and the restorer of the Randa Foundation, established in the 19th century by his great grandfather. He had to leave Czechoslovakia and his law studies after the communist coup d'etat in 1948, so he went to Switzerland to study economics and, after spending a number of years working for various large corporations in the US, he returned to Switzerland and pursued an academic career at the University of Zurich. Thanks to a scholarship he got me, I was able to study European Business Law in Zurich, and this was probably the most crucial factor in the development of my legal career. I call him my mentor but he was also a good friend. Until his death, in 2015, we kept in touch and I could always rely on his valuable advice.

Name one mentee you are particularly proud of.

Bily: The existence of a mentee implies the existence of a mentor. If I compare myself to my own, I'm not sure I can call myself a mentor. However, of the younger lawyers I have had the opportunity to work with, I would mention my colleague Tomas Bures, who has been an important member of our team for 15 years and who is one of the best banking specialists in the Czech Republic.

What is the one piece of advice you'd give yourself fresh out of law school?

Bily: Do everything the way you did; don't change a thing.

MARKET SPOTLIGHT: POLAND

ACTIVITY OVERVIEW: POLAND

Firms with the most client matters reported by CEE Legal Matters.

DENTONS	255
GreenbergTraurig	176
CLIFFORD CHANCE	154
CMS law·tax·future	133
WHITE & CASE	118

Partners with the most client matters reported by CEE Legal Matters.

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Andrzej Stosio

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Bartlomiej Kordeczka

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Marcin Studniarek

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Pawel Debowski

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Pawel Zdort

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Szymon Okon

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OPERATING A GOOGLE LEGAL HUB IN CEE: A TKP STORY

By Andrija Djonovic

The Polish law firm of Traple Konarski Podrecki is in a position of running and maintaining a network of 15 firms, covering 19 jurisdictions, all working in unison for one of the biggest tech companies the world has ever seen – Google. To gain a deeper understanding of how this network of law firms functions and operates, we reached out to TKP Senior Partner Xawery Konarski and Partner Piotr Wasilewski.

TKP at a Glance

TKP is a Polish independent law firm with Krakow roots and a history spanning 25 years. "Most of our partners have academic backgrounds, so we are not just practitioners but also scholars, with many still working at top Polish universities," Konarski says.

First starting as a boutique IP, TMT, competition, and data protection law firm, TKP grew in all directions and, nowadays, encompasses "almost 100 members, including administrative staff, divided into ten practices, operating in Warsaw and Krakow," Konarski says proudly.

Google, as Konarski puts it, had a difficult time managing its regulatory affairs across 19 jurisdictions in CEE, with the principal problem of developing a standardized approach. "For example, if they were to use Google Street View in Romania, Hungary, or Poland – what would the requirements be, how would they structure their operations, etc. – none of these questions was, seemingly, getting comparable answers, with one country having a 20-page long legal reasoning produced by a law firm, and the other having but a few sentences," he stresses. "These were the problems they were facing, and they contacted us to help them with standardizing the work of outside counsels and overall compliance," Konarski says. "Our cooperation with Google started seven years ago – with them approaching us," he continues.

"To be able to manage this work," Wasilewski chimes in, "we had to unearth high-profile expert law firms in CEE, those that would be able to work with us *and* be accepted by Google." To that end, TKP filtered the CEE countries by three criteria – EU member states, members of the Council of Europe, and others – and began their search.

"Choosing the correct law firm was not an easy task, and we had to do a lot of traveling, meeting each potential candidate firm and getting to know both it and its experts – on all levels," Wasilewski continues. "We built robust professional relations with these firms over all these years and haven't yet had a case of having to exclude anybody from the network." Moreover, he says that "even the department heads in the firms are still the same!"

Googling the Network

The network itself, Konarski says, numbers 15 law firms, some covering more than one jurisdiction. "In total, there are up to 1,000 professionals working within the network each year," he says. "and 83 lawyers accompanied by administrative staff are currently active on the project."

Constructing the network itself, TKP relied on Google's inputs. "Google's regional HQ in Poland is quite close to us, so we had the chance to cooperate closely with them from day one," Konarski says. "They had some ideas for who we could partner up with – which did help us choose our partners for the network."

"It is a pretty diffuse landscape," Wasilewski says. "Some firms are quite large and cover many markets, while others are almost boutique sized. As a result, our cooperation with each had to be well thought out." As Wasilewski puts it, having hundreds of pages of agreements with the firms would be "untenable," so TKP cooperates with them all based on letters of understanding.

"There is a huge amount of trust between all parties involved, built on the experience of each of the partners, as well as our relationship with them," Wasilewski says, adding that all the law firms within the network tend to meet up as frequently as possible and organize boot camps to transfer knowledge and experience more efficiently.

Running the Search

The way that the network itself functions is "like a legal proxy, in a way," Wasilewski says. "We receive a task from Google, and the first step we take is preparing it so that it could be sent to other law firms within the network. We prepare all of the accompanying materials and documentation and send it to our hub members for further processing," he explains. Afterward, relevant deadlines are defined – an internal one for the hub and an external one for Google.

"A few years ago, we moved completely to working via Google Workspace, completely cloud-based, which sped up our work greatly," Wasilewski says. "After they receive their tasks, the law firms get to work, with us all the while being able to monitor their progress. This gives us complete insight into each task, its history, projected deadlines, and ultimate completion."

When the tasks are completed, TKP goes over them and prepares a unified harmonized report for Google. "At that point, we stand by for any potential follow-ups and further clarifications, but our principal role is in creating a unified approach – be it for commercial and regulatory matters or even litigation," he says.

Indeed, Konarski adds that "Google faces a lot of claims" and that, with the help of TKP, it can "implement consistent approaches to each of these challenges, which is very important both for internal corporate policies and outside regulatory compliance requirements." Often, legal reasoning used in one jurisdiction can help with an ongoing matter in another, and intra-network cooperation between law firms is what breeds synergy.

TKP processes approximately 30 projects each month (or even more). "Currently, we have 31 pending litigation cases," Wasilewski shares. "From the start of 2022, we saw 18 new cases, whereas 16 were closed in the entire hub. In 2021, we had 15 cases that spanned more than ten jurisdictions and 13 that covered more than 15 jurisdictions." In total, TKP has 76 pending projects since the beginning of the year, some of which "are as simple as preparing a translation for a policy amendment, but some are quite challenging."

Harmonizing Search Results

Getting this massive amount of work to harmonize is no small feat. The way the process gets standardized is multifold. "Firstly, there are the boot camps we set up," Konarski says. "We usually discuss legal problems and share experiences and best practices."

Piotr Wasilewski, Partner, Traple Konarski Podrecki

"Together with our counterparts in Google, we take to discussing all of the process issues, like not delivering a task in time, handling invoicing, and the like," Wasilewski adds. "It is an open discussion process with Google, which includes not only us but our entire network."

Xawery Konarski, Senior Partner, Traple Konarski Podrecki

An additional way of unifying the process is working in shared documents. "By using cloud-based resources, all of our network members can have real-time insights into the work of their colleagues," Wasilewski says. "This allows them to cooperate more frequently and help each other out – which saves time and effort for all."

A Success Story that Keeps Growing

With the TKP-run CEE legal hub operating on Google's behalf going strong for seven years now, it is an objective assessment that it is a monumental achievement. "Hubs such as this are the future of how multinational companies will organize their legal services," Konarski says. "It enables such a strong transfer of knowledge and experience between all its members that it only gets stronger each day."

And while this "synergy exists in its raw form, it still requires a strong coordinator," he continues. "I believe that using a shared platform for work, creating standardized approaches to problem-solving, will define how legal work is done."

Indeed, the hub's operation was so successful that Wasilewski reports that Google wanted to apply the same approach to its African markets. "The African hub covers almost twice the size of what we do here in CEE. They had a chance to learn from our previous work and could hit the ground running, which is an amazing achievement," he says, adding that the hub in Africa has been operating for "almost four years now."

Ultimately, it's about the bottom line, and the hub approach "saves a lot of time and money for clients of such size," Konarski concludes. "This is the proper way of organizing legal work in a given region." ■

PATCH RELEASED: THE POLISH DEAL 2.0

By Teona Gelashvili

On January 1, 2022, a "historic tax reform" – as referred to by the Polish government – came into force, with major changes implemented into Poland's tax system. Just a few months later, another tax reform package, now known as the Polish Deal 2.0, was introduced. We spoke with Penteris Head of Tax Artur Plutowski and PwC Legal Partner Katarzyna Komorowska to learn what was the driving force behind the update and how it will impact the business sector in Poland.

Fixing Past Wrongs

"The first six months of the Polish Deal 1.0 being in force showed that the reform requires clarification in many respects," Komorowska starts. "The complexity of the tax rules implemented in version 1.0, in many cases, led to numerous difficulties in calculating the final amounts of taxes both for entrepreneurs and employees – taxpayers – as well as for employers as tax remitters." The Polish Deal 2.0, she says, "is another tax reform that introduces amendments to the act on personal income tax (PIT) and certain other acts. The declared purpose of this amendment is to eliminate faults and doubts arising from the Polish Deal 1.0."

Plutowski also highlights that the amendment was a result of hasty, inconsistent, and complex changes introduced by the original tax reform. "During the pandemic years, Poland became one of the unfortunate leaders with regards to the death rate in the EU, mainly due to the belated strategy and often chaotic organization of emergency healthcare," he says, adding that, "in order to reverse its declining support, the government introduced the Polish Deal 1.0, which was politically-driven, with the ultimate goal of securing a third term of office for the government." Consequently, he explains, this financial and social burden placed on businesses resulted in lower payslips for hundreds of thousands of taxpayers in comparison to 2021. The updated Polish Deal 2.0 aims "to reverse several unfavorable changes and introduce new mechanisms retrospectively, from January 1, 2022," he notes.

Face Value Benefits

As to the impact of the new tax reform, Plutowski and Komorowska are cautiously optimistic. Overall, "the main benefits of the Polish Deal 2.0 are associated with a significant simplification of regulations, the introduction of more understandable and transparent procedures," Komorowska says. Plutowski agrees, noting that it might still "have a positive impact on its 'target groups'," even though the scope of the Polish Deal 2.0 is rather narrow, as it only "addresses individuals, small businesses, i.e., sole proprietors, and some types of partnerships that settle tax obligations via PIT."

Both Plutowski and Komorowska feel that the Polish Deal 2.0 introduces some major improvements in different areas. According to them, the main positives are primarily related

> *In order to reverse its declining support, the government introduced the Polish Deal 1.0, which was politically-driven, with the ultimate goal of securing a third term of office for the government.*

Artur Plutowski, Head of Tax, Penteris

Katarzyna Komorowska, Partner, PwC Legal

to the reduction of the PIT rate for the first PIT bracket – from 17% to 12% – canceling the so-called "allowance for the middle class," maintaining the tax-free income at PLN 30,000 and the first taxation threshold at the increased level of PLN 120,000, reversing the preferential scheme of taxation for single parents on the terms applicable in 2021, and restoring the partial deductibility of health security contributions.

A Maze of Regulations

But the benefits highlighted above do come with a cost, with Plutowski, for example, pointing to the Polish Deal 2.0 "keeping the new taxes or tax-like burdens imposed on businesses by the original Polish Deal 1.0," such as the minimum tax, and "further imposing restrictions to debt financing, limitations on financing from related parties for capital transactions, depreciation disallowance for apartments acquired before 2022 for renting and/or sub-renting purposes, and new requirements for maintaining neutrality for restructuring transactions, such as M&As and share exchanges."

"There will still be a group of taxpayers who will not benefit from the amendment, and their monthly remuneration compared to what they received in 2021 will continue to be lower," Komorowska adds.

On top of that, according to Komorowska, "the new regulations will apply to the entire 2022, and the annual PIT settlement for 2022 will need to be prepared." She believes that "the PIT settlement for 2022 may turn out to be a real challenge, as a result of numerous and shortly introduced amendments to the PIT Act over the last couple of months." Ultimately, she says, "the correct calculation of employees' net remuneration and taxes in 2022 may require efficient navigation in the maze of complex regulations."

"But that is not all," Komorowska continues. "Companies should also start preparations for the year-round process of settling employee PIT in 2023. The scale of the changes is so wide that their effects may reach every group of individuals employed in the company." In this context, "it is worth considering PIT tax reviews and Social Insurance Institution (ZUS) settlements, the audit of payroll systems, and the training of teams responsible for payroll processes, in order to prepare the organization as effectively as possible for the PIT settlement for 2022," she notes.

With all that in mind, Komorowska says that most taxpayers are still likely to benefit from updated regulations, and "their monthly net salaries are expected to be higher compared to the period from January 1, 2022, to June 30, 2022." However, since the laws were only voted on by parliament very recently, "they still have to be carefully analyzed before we can speak with confidence about any positive impacts," Plutowski concludes. ■

POLISH MEDIA POLARIZED

By Andrija Djonovic

The Polish media market finds itself in an interesting position. Following a streak of market moves and reshufflings, the media landscape seems to have, to an extent, polarized. To get an insight into the market ins and outs, as well as expectations for the future, we reached out to Wiercinski Kwiecinski Baehr Partner Agnieszka Wiercinska-Kruzewska.

Lay of the Land

"It's worth mentioning that media that pursue a pro-government agenda are supported by large injections of funds from the state budget," Wiercinska-Kruzewska begins. Pro-government media outlets, she says, also benefit from "lucrative advertising contracts with state-owned companies." Looking at the long run, she feels that this will reflect in the quality of content served to the citizens of Poland and that the first symptoms of this "can already be clearly seen in the public television, where news broadcasts are focused on delivering one-sided messages, consistent with the current needs of the ruling party."

The media landscape is dominated by state-owned sources. For example, *Telewizja Polska-TVP* alone enjoys almost a 10% share of total viewership. Moreover, last year, state-owned oil company "Orlen acquired a stake in Polska Press, a group gathering the largest regional newspaper chain in the country," Wiercinska-Kruzewska reports, but the acquisition was not smooth. "The Ombudsman tried to intervene and challenged the decision of the President of the Office of Competition and Consumer Protection (OCCP) by questioning the validity of the assessment that the concentration would not threaten competition on any market," she explains. However, in June 2022, the courts dismissed the Ombudsman's appeal.

"One might be tempted to say that most of the local press in Poland is in government hands," Wiercinska-Kruzewska continues. This level of authoritative influence has already born consequences, for instance in the field of radio, where "political agenda-driven moves at public broadcaster *Polskie Radio* have resulted in mass departures of flagship journalists in 2019 and 2020," ultimately leading to a significant drop in listenership, she explains.

Important Moves

And the radio market was not immune to major moves. "In February 2019, Agora acquired 40% of Eurozet's shares, for PLN 130 million, while 60% was acquired by Czech fund SFS Ventures," Wiercinska-Kruzewska says. According to the acquisition agreement, Agora has a call option for the remaining shares, which it chose to exercise a few months later. After applying to the OCCP for transaction approval, however, Agora was initially denied.

"The OCCP conducted a two-stage proceeding that included an analysis of the markets in which both companies operate," she reports. The justification for the acquisition ban stated that "the combined companies together with the *RMF FM* would create a duopoly, with a 70% share in the radio market." Still, in May 2022, the "Court of Competition and Consumer Protection fully reversed the decision of the President of the OCCP which had prohibited Agora from buying a controlling stake in Eurozet," she says. While the verdict is not yet final, the OCCP plans to file an appeal. Wiercinska-Kruzewska says that Agora is the "publisher of one of the largest press titles in Poland, critical of the current ruling coalition." She adds that it was peculiar that the OCCP had opted for a straight block, instead of a more common "model of preconditions, the implementation of which by the acquirer is supposed to ensure the proper functioning of competition in the market." The final outcome is yet to be decided.

Further, Wiercinska-Kruzewska indicates that some global transactions could have reverberations in Poland as well. "In April 2022, Discovery and AT&T announced the completion of a transaction that resulted in the merger of WarnerMedia and Discovery." She reports that the merger creates an entity that comprises, among others, "the largest commercial broadcaster operating on the Polish market, namely the TVN Discovery Group." In late 2021, the Polish National Broadcasting Council sought to deny the renewal of two of TVN's channels, she says, but has recently announced that it would hold off until it could examine the new ownership structure, following the merger. The license renewal, however, was never in any question "from the perspective of both Polish and EU law interpretation, as confirmed by many experts. The actions of the regulator were a case of tardiness unfortunately dictat-


Agnieszka Wiercinska-Kruzewska, Partner, Wiercinski Kwiecinski Baehr

ed by political considerations, which was widely criticized at the national and EU level," Wiercinska-Kruzewska explains.

Trends and Drivers

Analyzing the trends in the Polish media markets, as well as their drivers, Wiercinska-Kruzewska stresses that there is a "disturbing phenomenon" of "far-reaching polarization" to be observed. "The focusing of newsrooms on the performance of the ruling party's agenda on the one hand, or on its criticism on the other, translates into worse-quality information on both sides," she says. "In this year's Reporters Without Borders media freedom ranking, Poland was ranked 66th, the lowest in the history of the ranking." Still, such polarization might have positive externalities. "Initiatives of completely independent media, financed by listeners, are developing," Wiercinska-Kruzewska indicates. "There are also developing initiatives of ambitious journalism delivered in the form of podcasts," which she trusts to be positive occurrences.

Furthermore, Wiercinska-Kruzewska points to the existing significant activity of the National Broadcasting Council in the digital sphere. The Polish national regulator is feeling "more confident" when it comes to regulating digital sources. "The implementation of the *Digital Services Act* and the *Digital Markets Act*, once adopted at the EU level, will bring further changes, which will require closer cooperation in an area that has so far been supervised by three independent bodies: the National Broadcasting Council, Office of Competition and Consumer Protection, and Office for Personal Data Protection," which she says is a good trend, "provided it is followed by good legislation."

Playing Favorites

Overall, it appears that the Polish media market is edging towards the creation of strong "market winds" favoring the government – in particular in the advertising sector. "In 2021, state-owned companies spent 7% more on advertising in the media than in 2020," Wiercinska-Kruzewska says. "The structure of total state-owned companies' spending indicates a weak correlation between the level of advertising spending and the market position of a medium, which clearly indicates the presence of non-market criteria for spending decisions."

While she reports that the largest state-owned advertiser is PKN Orlen – which allocated PLN 36.1 million for daily press advertisements – there is not a lot of room for those media that are critical of the government. "No resources were allocated for advertising by state-owned companies in *Newsweek* and *Tygodnik Powszechny* – titles critical towards authorities," she reports, while indicating the disproportions are "glaring" in other media as well, including radio and newspapers.

Continuing with media landscape disruptions, the Polish Sejm passed the so-called "Lex TVN" in December 2021, a piece of legislation seeking to "prevent the American company Discovery from owning a majority stake in the TVN Group," Wiercinska-Kruzewska reports. However, the proposed legislation is not yet in effect. "The rejection of the Senate's veto caused the bill to be sent to the President," she explains. On December 27, 2021, the President refused to sign the bill – as a result, the bill was ultimately blocked and is not being processed further," she says.

The Twisting Road Ahead

Looking to the future, Wiercinska-Kruzewska shares her hopes of "independent grassroots journalistic initiatives gaining the support of society and becoming more important in the process of shaping public opinion." She hopes that quality legislation will pass at both the EU and the national level, in particular regarding the illegal dissemination of copyright-protected content, hate speech and the protection of journalists, and a unified approach towards ownership of media with related companies outside the EU.

Making accurate predictions, however, is tricky. "The outlook for the media market in Poland over the next five years is difficult," Wiercinska-Kruzewska concludes. "One of the decisive factors is the outcome of the parliamentary elections, which are scheduled to take place in 2023 – we can already see how much politics can interfere with the media market." ■

MARKET SNAPSHOT: POLAND

THE LATEST ON POLISH REAL ESTATE

By Andrzej Tokaj, Senior Partner, and Konrad Pecelerowicz, Associate, Penteris

One might have hoped that, with the pandemic fading, the real estate market was bound to bounce back in 2022, despite interest rates rising since October 2021. And bounce back it did, at least in the first quarter, when investments in commercial real estate reached EUR 1.7 billion, including Google's landmark acquisition of a Warsaw office building for nearly EUR 600 million. The Russian aggression against Ukraine, coupled with growing cost pressures, created the current market conditions that will continue to shape the CEE real estate market for the foreseeable future.

Warehouse

New contracts accounted for nearly three-quarters of lease transactions in the last few months. Although demand for warehouses fell by 5% year-over-year, it is still higher than the pre-pandemic average. Vacancy rates have reached an all-time low of 3.3%. Growing demand for new warehouses is attributable to retail chains and logistics, and experts suggest that, as long as projects proceed according to schedule, the supply of new warehouses should rise by more than 20% in a matter of a year, exceeding 30 million square meters.

Warehousing continues to attract foreign investors and should grow further at a steady pace. Two years of COVID-19 and several months of the war in Ukraine highlight the need for shorter, well-thought-out supply chains, essential to harness this sector's growth potential.

Office

Experts believe that – with the advent of remote/hybrid work and growing cost pressures – demand for office space is bound to cool in the long term. Even so, the first quarter saw an increase in office space supply in Poland's regional centers, reaching approximately 250,000 square meters, which is nearly 20,000 more than last year. In the short/medium term, a steady supply of new office space can be expected, leading to an additional 200,000 square meters of offices available for lease on Poland's main markets before the year is over.

The war in Ukraine coupled with rising development costs have translated into a slight rise in office rental rates in prime locations. Cost factors and the reduced availability of premium office space are expected to lead to further increases.

Retail

In the first quarter, the total area of modern retail space in Poland exceeded 15.5 million square meters. Over 350,000 square meters of this is currently under construction, with opening dates scheduled for 2022 and 2023. It is worth noting that over half of retail space developments are located in smaller centers, in towns/cities with up to 100,000 inhabitants. This trend is likely to persist for the foreseeable future. There is also a positive feedback loop, with newly developed small retailers taking up less space, which means that they can be situated in closer proximity to prospective customers.

Residential

Over the last six months, foreign investor interest in the Polish market has become more prominent. Foreign investment funds are allocating some of their assets (previously invested in office and retail space) into residential projects for lease. Experts estimate that by the end of next year investment funds will have purchased, mostly from the primary market – as many as 23,000 residential units, and this could triple in subsequent years. The ratio of institutional leases to residential leases is still not exceedingly high, but this trend is gaining momentum.

In the short and medium term, a lower value and volume of transactions are to be expected. In the long term, with the Russian aggression seemingly contained to the territory of Ukraine, the reduced availability of new projects in the main segments of the commercial real estate market, coupled with increased demand, will stimulate investment in Poland. The office and retail real estate markets should gain traction.

We are already seeing signs of interest, not only from Western European investors but also from the Far East and the US, as well as CEE, which goes to show that the Polish market is becoming increasingly more competitive. For proof of foreign investor confidence, one only needs to look at the new office buildings being developed in Warsaw. The potential of all segments of the Polish real estate market – as seen in lease costs, demand forecasts, and attractive labor costs – means that we can be hopeful about the future of Polish commercial real estate. ■

PANDEMIC-INDUCED CHANGES TO RESTRUCTURING PROCEDURES IN POLAND

By Marek Miszkiel, Partner, and Mariusz Grochowski, Senior Associate, Act BSWW Legal & Tax

The legacy of COVID-19 looms large over the financial situation of many businesses across Poland. In order to stave off the pandemic's impact, a new type of restructuring was introduced into the Polish legal system – the simplified restructuring procedure. Businesses affected by the crisis were quick to use this solution, particularly because of its informal nature and the possibility of getting relatively strong (though temporary) protection from creditors, as well as the time necessary to restructure their business.

November 30, 2021, marked the expiration date of the period in which *the simplified restructuring procedure* could be applied. However, due to the popularity of this short-lived option, the Polish lawmaker used its basic assumptions to modify one of the types of restructuring proceedings – *the arrangement approval procedure*.

It allows anyone facing insolvency to enter into an arrangement with the creditors with little involvement from the courts, whose function basically comes down to approving the adopted arrangement. The arrangement may entail, for example, a reduction of the value of the claims, their division into installments, or their conversion into shares.

The debtor first enters into an agreement with a supervisor of the arrangement. Then, the supervisor determines the arrangement date, i.e., the day on which the claims covered by the arrangement are separated from the claims falling outside its scope. The arrangement covers personal claims that have emerged prior to the arrangement date.

The arrangement date also sets the timeframe for the entire procedure. An application to the court for approval of the arrangement has to be filed within three months of the arrangement date, meaning that this is also the time limit for the creditors' votes to be collected. If the required majority is reached, the arrangement is subject to approval by the supervisor and the court.

Unlike other types of restructuring proceedings, the arrangement approval procedure does not involve a ban on fulfilling the arrangement-related obligations. This means that, during the course of the procedure, the debtor can perform such obligations. In practice, this solution may substantially hinder restructuring, as the debtor cannot defend itself against creditors by claiming that it is barred from repaying the outstanding amounts covered by the arrangement, which tends to be the debtors' typical argument in other types of restructuring proceedings.

An important novelty introduced as part of the arrangement approval procedure, effective as of December 01, 2021, is the possibility to obtain special protection for up to four months. The supervisor can publish an announcement (in a dedicated register), specifying that the arrangement date has been set. Starting from the date of such an announcement, the debtor is protected from enforcement against the debtor's assets.

The lack of a ban on the repayment of arrangement-related debts and the broad legal protections against enforcement may practically mean that, on the one hand, the debtor can pay off the most pressing creditors, whereas, on the other hand, the remaining creditors may begin to make their attitude towards the arrangement or further cooperation dependent upon the debtor's payment of at least some of the amounts, which are supposed to be covered by the arrangement.

Additionally, starting from the announcement date, the debtor's business partners are prohibited from terminating any contracts that are essential for the debtor's business, like lease agreements for premises where the debtor conducts its business operations, licenses, or credit facility agreements. This allows the debtor to embark on negotiations with creditors without the risk of losing key agreements.

Summing up, the revamped version of the arrangement approval procedure, based on temporary solutions that worked well during the pandemic, may turn out to be favorable for struggling businesses that do not require fundamental organizational changes but are finding it difficult to reach an agreement with creditors. The *key advantages* are speed, very limited court involvement, and protection against enforcement and termination of key contracts. On the other hand, the absence of a ban on the repayment of arrangement-related debts may render negotiations with creditors more difficult.

We are about to find out whether the solutions that proved to be hugely popular in the time of the pandemic will continue to be so in the post-pandemic era. ■

AMENDMENTS IN THE POLISH CAPITAL MARKET

By Piotr Wojnar, Managing Partner, and Lukasz Swiatek, Senior Associate, Act BSWW Legal & Tax

With the *Public Offering Act* already being amended this year, two other important pieces of legislation are likely to impact capital markets in Poland in 2022 – the amendments to the *Commercial Companies Code* and the Crowdfunding Regulations.

The Public Offering Act

On May 30, 2022, the act amending the *Public Offering Act* entered into force. The modifications resulting from it apply predominantly to tender offers (for the sale or exchange of shares) of Warsaw Stock Exchange-listed companies.

The key change concerns the percentage threshold of the total number of votes held at the General Shareholders Meeting, above which the obligation to announce an offer for the sale or exchange of all remaining shares arises. The 33% and 66% thresholds have been replaced with a single threshold of 50% of total votes.

At the same time, the amending act introduces a new regulation that enables shareholders to announce a voluntary invitation with respect to all remaining shares, regardless of the number of shares already held. The use of the voluntary invitation eliminates the obligation to announce a mandatory tender offer after the shareholder has exceeded 50% of the total number of votes in a company.

This change is determined by market requirements as only a small fraction of the largest issuers in Poland exceed the 66% threshold. Additionally, after many years of discussions, voluntary invitations (which have been widely used across the EU since 2004) have finally been introduced.

The Commercial Companies Code

On October 13, 2022, the act amending the *Commercial Companies Code* will enter into force. It is about to introduce long-awaited regulations applicable to the operations of corporate groups. Moreover, there will be a number of regulations granting new rights to the supervisory board.

The amending act stipulates that companies operating within a corporate group can pursue the group's interests in addition to their own, as long as this does not violate the interests of creditors or minority shareholders. In order to execute an agreement between a parent company and its subsidiary – covering management of the subsidiary or transfer of profits – a resolution of shareholders needs to be adopted. The parent company will be given the power to issue binding instructions, while the subsidiary will be allowed to refuse them under specifically defined circumstances. Any liability for damages resulting from the performance of such binding instructions will be borne by the parent company.

Another change will involve the expansion of the supervisory board's powers, especially the right to review all the company's documents and obtain information, reports, or clarifications from employees and individuals holding managerial positions. Additionally, the so-called "business judgment rule" has been introduced in the *Commercial Companies Code*. Based on it, those who hold managerial positions are not liable for damage caused to the company as a result of their decisions, as long as they have not breached the duty to exercise professional due diligence.

In addition, a joint-stock company will be required to obtain the supervisory board's consent for any transaction between the company and its parent entity, subsidiary, or affiliate in case the total value of the transaction with the same company during a given financial year exceeds 10% of the company's total assets, as determined based on its most recent approved financial statements.

The Crowdfunding Regulations

The draft *Crowdfunding for Business Ventures and Borrower Assistance Act* is aimed at adjusting the Polish legal system to EU laws (more specifically, *Regulation (EU) 2020/1503*) regarding the operations of crowdfunding platforms, i.e., digital solutions made available online by a crowdfunding service provider for the general public. The Polish Financial Supervision Authority has been designated as the supervisory authority and the one that has jurisdiction to handle matters related to crowdfunding.

Additionally, it has been given the power to get involved in the course of the offering process, as well as to impose sanctions and corrective measures. Also, the draft act introduces the professional confidentiality obligation with respect to the crowdfunding platforms' services. The issuer, together with the service provider, will be responsible for ensuring compliance of the key investment information sheet with applicable laws. The act is scheduled to come into effect in July 2022. ■

OSTERMANN

OSTERMANN & PARTNERS LAW FIRM

Ulica grada Vukovara 284
10000 Zagreb
Croatia

+385 1 5599800
info@ostermann.hr

EXPERTS REVIEW: ENERGY

This issue's Experts Review section focuses on Energy. The articles are presented ranked by the share of energy from renewable sources in total production, according to 2020 Eurostat data. The article from Albania goes first, for a whopping 45% share of renewable energy, closely followed by Montenegro and Latvia. The articles from Turkey, Hungary, and Ukraine will wrap up the issue, all with under 15% on the scoreboard.

Country	Renewable sources (%)	
Albania	45.01	Page 66
Montenegro	43.77	Page 68
Latvia	42.13	Page 69
Bosnia and Herzegovina*	37.02	Page 70
Austria	36.54	Page 71
Croatia	31.02	Page 72
Serbia	25.98	Page 73
Slovenia	25.00	Page 74
Romania	24.48	Page 75
Kosovo	24.40	Page 76
Bulgaria	23.32	Page 77
Greece	21.75	Page 78
Czech Republic	17.30	Page 79
Poland	16.10	Page 80
Turkey*	14.12	Page 81
Hungary	13.85	Page 83
Ukraine*	7.44	Page 84

* 2020 Eurostat data not available. 2019 World Bank data used instead.

ALBANIA: INVESTMENT OPPORTUNITIES AND CHALLENGES IN THE ENERGY MARKET

By Jola Gjuzi, Partner, Kalo & Associates

The Albanian energy market is experiencing several developments reflective of regional and global events. Local and foreign investors' interest in renewable energy projects is surging. However, some questions remain open as to whether the government will be able to fully satisfy their expectations.

The parliament and the government are following their normal course of legal initiatives aimed at implementing the commitments under the *Energy Community Treaty*. This includes the legal and institutional reform for the establishment and functioning of the Albanian Power Exchange (expected to be functional by the end of 2022) as well as putting in place the balancing rules for all market participants. Yet, the continuous changes in rules and regulations remain a concern in terms of legal security.

Meanwhile, the government has taken concrete steps in promoting and awarding renewable energy projects (solar and wind) to interested investors through at least two schemes.

Under the first one, the Ministry of Energy and Infrastructure is launching tenders for awarding projects for the development, financing, operation, and transfer of solar or wind power plants. Winning bidders are offered free access to state-owned land, subject to selling part of the electricity produced to the public offtaker (currently Furnizuesi i Tregut te Lire SHA) for a maximum period of 15 years and against a competitive price resulting from the tender. For the rest of the capacity, the project developer is free to sell the electricity on the market. So far, two solar power projects have been organized and successfully awarded: the Karavasta Solar Project (140 megawatts) and the Spitalla Solar Project (100 megawatts). A previous one, the Akerni Solar Project (100 megawatts), has not received a green light due to controversies between the state and the winning bidder ending in arbitration. Currently, a tender for several onshore wind projects is in the pipeline, to be awarded to different developers in different locations in Albania. Each project may have a capacity between 10 and 75 megawatts, up to a total capacity per project of 100 megawatts. The prequalification deadline was set for June 13, 2022.

Under the second scheme, private investors, at their own initiative, may propose to the Ministry of Energy and Infrastructure the development and operation of solar or wind projects, whereby land rights are secured privately, and electricity is fully sold on the free market. A royalty fee is applicable. Within a few years, hundreds of applications have been filed with the Ministry of Energy and Infrastructure, but only some of them have been successfully processed. The rest are still pending evaluation. Questions have arisen as to whether they will ever be accepted, even if meeting the feasibility requirements. The limited grid and storage capacities are also worth mentioning. Still, interest has not decreased – on the contrary, it seems to be the better option of the two, given the high electricity prices over the last months.

At a quicker speed, the Albanian government has purported to mitigate the negative effects resulting from the global energy crisis and the Ukraine conflict. Emergent measures have been taken in response to the increased prices for energy, oil, and food. Following the government's announcement of an emergency in the electricity supply in Albania on October 8, 2021, investment projects by state-owned companies in the electricity market were suspended. Moreover, as of March 12, 2022, the government announced a "special situation" due to the accelerated reduction of oil and gas supply in the country and established a board – composed of governmental high officials and food trading industry players – to temporarily control and set up ceiling prices for oil, gas, and by-products. On May 18, 2022, the government also announced a "special situation" due to the accelerated price increase of raw materials, affecting the implementation of public works contracts awarded by means of public procurement procedures and entitling them to compensation for the price difference. It is uncertain whether the government will apply mechanisms to also address the concerns of investors in the energy sector having concessions or similar public contracts that are suffering changes in circumstances due to the increased prices of raw materials.

The Albanian market offers good opportunities, particularly for private investments on the free market, as electricity prices have risen to their highest levels. Beyond that, investors need to keep track of the continuous changes in legislation, as well as institutional actions to accommodate local and global developments affecting the sector. ■

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MONTENEGRO: ONGOING AND FUTURE ENERGY PROJECTS

By Jelena Vujisic, Senior Partner, and Olivera Brajovic, Senior Associate, Vujacic Law Office

According to *windeurope.org* data, Montenegro was at the top of the list of European countries in terms of the percentage of energy generated by wind farms on April 17, 2022. On that day, the two Montenegrin wind farms, Mozura and Krnovo, produced 45% of Montenegro's total electricity needs.

Could It Be Every Day?

Montenegro currently hosts the Krnovo wind farm, with an installed capacity of 72 megawatts, and the Mozura wind farm, with a capacity of 46 megawatts. They will soon be joined by the Gvozd wind farm, for an estimated 54 megawatts, while the 100-megawatt Brajici wind farm is also planned.

The undersea interconnection with Italy currently allows a bi-directional exchange of electricity between the two countries, with a capacity of 600 megawatts, to become 1,200 megawatts with the laying of a second cable in the next few years. This project will facilitate the development of power interconnections among European countries by enhancing power transmission efficiency. At the same time, it positioned Montenegro as a regional hub for power interconnectivity.

Montenegro has favorable climatic conditions with an average of 240 sunny days yearly and significant amounts of wind. By investing in solar and wind in the future, Montenegro could very quickly transform its electricity industry and realize the Brussels imperative of decarbonization relatively painlessly. And that is exactly the direction that ongoing and future projects in electricity infrastructure are taking.

Ongoing Projects Overview

1. The Briska Gora Solar Power Plant – the contract for the long-term lease of state-owned land for its construction was signed in December 2018. The investor is a consortium consisting of EPCG (the national energy company), Fortum, and Sterling & Wilson. The contract was concluded for a period of 30 years, with a EUR 200 million investment value. The investor has to project, construct, and manage a solar power plant with an installed capacity of 250 megawatts.

2. The Brajici Wind Power Plant – the 30-year contract for the long-term lease of state-owned land was signed in August 2020. Germany's WPD should invest EUR 100 million to project, construct, and manage a new 101-megawatt wind farm.

3. The Gvozd Wind Power Plant – the construction of WPP Gvozd represents the continuation of the second phase of construction of the WPP Krnovo plant, already a part of the Montenegrin production system. It is currently under development by EPCG and Austria's Ivicom. Based on preliminary data, the value is EUR 80 million for an installed capacity of 54.6 megawatts. A pre-qualification tender is currently underway, under EBRD rules.

4. The Komarnica Hydro Power Plant – the contract for the development of a conceptual design with a feasibility study and environmental impact assessment, worth EUR 1.3 million, was signed in 2018. The completion of these activities is scheduled for the middle of 2022. According to preliminary data, the project is valued between EUR 260 and 290 million, with an installed capacity of 155 megawatts and an annual production of about 210 gigawatts.

5. The Ecological Reconstruction of TPP Pljevlja – the ecological reconstruction implies the construction of the nitrogen oxides reduction, desulfurization, and wastewater treatment systems, the reconstruction of the inner ash and slag transport system as well as an auxiliary boiler room, etc. It will provide a heating source for the town of Pljevlja, while also addressing the current ecological issues. The project should last about two and a half years, or until October 2024. It will be financed by EPCG, with an estimated value of EUR 75 million.

Future Projects Overview

1. Small Scale Solar Plants – considering the potential of solar energy in the country, there are plans to develop such projects in the western part of Montenegro. The research phase is ongoing, and results should be available soon.

2. The Slano Floating Solar Power Plant – the floating solar plant on lake Slano would be the first one of this type in Montenegro. The plan is to construct a solar power plant with a 50-megawatt installed capacity. The investor is EPCG, with the project in its research phase.

3. The Velje Brdo Solar Power Plant – another potential project is that of Velje Brdo, near Podgorica. The existing spatial plan predicts building a solar power plant with a 50-megawatt installed capacity, with a possibility for extension. The planned location is owned by the state and the Municipality of Podgorica. ■

LATVIA: BIOFUELS – THE WRONG ENEMY

By Gatis Flinters, Partner, and Martins Tarlaps, Senior Associate, Cobalt

In March 2022, the European Commission announced that the blending proportion of biofuels, as applied by member states, may be reduced so that less agricultural land is used for the production of biofuel feedstocks. It was clear by then that Russia's unprovoked war in Ukraine would put pressure on the food and feed commodities markets.

The Latvian government was quick to seize this opportunity to make the blending of biofuels voluntary. However, the optional character of this obligation is an illusion and the intended short-term gains from this shift in regulation could eventually lead to long-term problems.

First of all, the government's proposal has nothing to do with easing pressure on food markets. Instead, the move is intended to reduce fuel prices at the pump. Indeed, blended fuel is more expensive. However, the current hike in fuel prices is due to high oil prices, and abandoning blending obligations will not fix this – biofuel makes up just 6% of the fuel price, compared to the approximately 40% related to fossil fuels and 53% related to taxes and duties. Actually, the latter would be an obvious tool for the government in adjusting fuel prices swiftly. However, the government has already stated that taxes and duties should remain intact.

Secondly, agricultural land use is mostly linked to first-generation biofuels. The advanced biofuels specifically promoted by the *Renewable Energy Directive* have significantly less effect on the food and feed commodities markets. Accordingly, a better-tailored approach could have been considered by the government, e.g., a reduction of the blending proportion at the cost of first-generation biofuels only. This would not only exclude unproportionate restrictions with respect to advanced biofuels having no impact on land use but would also allow maintaining at least partial greenhouse gas emission reductions under the *Fuel Quality Directive*.

Ignoring those considerations can potentially lead to an increase in fuel price at the pump, distorted competition, and even greater backwardness in reaching the binding targets set for Latvia by the *Renewable Energy Directive* and the *Fuel Quality Directive*.

The mandatory blending obligations have been seasonal for many years already. In reliance on this well-established order, the necessary volumes of fuel, biofuel, or a blend have been contracted and significant volumes of blended fuel are already in stock, ready to be delivered to gas stations. The respective volumes could differ from one retailer to another. Thus, some retailers may be in a position to switch to an unblended (cheaper) fuel sooner than others, and the latter would have to choose between losing clients due to uncompetitive prices or incurring immediate losses by selling blended fuel at a discount.

In addition, the government's proposal would increase the demand for fossil fuels in the regional market. Sanctions on Russia have already disrupted many supply chains, contributing to the recent price increase. The sudden increase in demand would drive fossil fuel prices even higher, and fuel could become more expensive at the fuel pump. Such a turn of events would leave the government with only one option – to reduce (at least, temporarily) fuel taxes and duties. But then the question is – why not do it now to avoid unnecessary turmoil?

The suspension of mandatory blending obligations could also increase fuel prices in the long run. The uncertainty created by the current decisions will likely force fuel traders to opt for short-term supply contracts, and that means more expensive fuel in comparison to that purchased under long-term agreements.

In 2020, Latvia was already well behind the 10% target for renewable energy in transport fuel consumption. The plan was to adopt the new *Transport Energy Law*, facilitating advanced biofuels and introducing a mass balancing system as a means to achieve biofuel targets. However, adoption of the law is significantly delayed, and the currently proposed suspension of the mandatory blending obligation will be yet another setback for environmental targets in transport. Moreover, at the end of the suspension, the respective targets will have to be reached in a shorter period, resulting in a noticeable fuel price hike.

It is obvious that the war in Ukraine has raised a number of issues for the Latvian government. The ever-increasing fuel and food prices must be addressed. However, attacking biofuels might not bring the expected relief and could create even more problems. Hopefully, the government will realize that it has more effective instruments to tackle those issues. ■

BOSNIA AND HERZEGOVINA: THE GREEN PIECE

By Davorin Marinkovic, Partner, Dimitrijevic & Partners

"Coal still matters" has been the predominant energy policy in Bosnia and Herzegovina over the past decades. It sounds very old-fashioned these days in Europe, but lignite (brown coal) is the most important energy resource in the country. The fact that almost 60% of the electricity generated in the country originates from coal-fired thermal power plants leads to the conclusion that Bosnia and Herzegovina heavily relies on coal.

Joining the *Energy Community Treaty*, combined with the European green agenda in general, did create something that might be described as renewable sources enthusiasm in the country a decade ago. This enthusiasm produced a wish list of a number of large-scale hydro projects that were expected to be constructed by now. But not much really happened. The only new facility of significance in the past decade was the new 300-megawatt thermal power plant.

The constant failure to meet the expectations of the Energy Community turned the enthusiasm among energy stakeholders into something that may be described rather as passive resistance. Decarbonization in this country was rather seen as a "first world problem" and, literally, as a threat to the national economy, as closing the thermal power plants would decrease the country's exports (where the export of electricity plays a significant part).

National plans included a number of new coal-fired thermal power plants with capacities of almost 2,000 megawatts, aiming to replace the existing ones, which are considered among the biggest European polluters. But the response from the Energy Community was "No. No. No." Building new coal-fired energy facilities nowadays is heresy, or at least inappropriate. A dissenting lawyer might argue that replacing old facilities with new coal-fired plants, with lower emissions, may fall under the definition of "decarbonization," because the ultimate result will be a reduction of the total emissions anyway. It sounds rather like a topic for law students' debate competitions, but definitely not grounds for a real discussion. In the meantime, the official policy is still silent about new thermal power plants and pretends to follow the (green) mainstream.

This practically means that the country is determined to make the green energy piece of total output bigger, by encouraging investments in renewables and energy efficiency projects. Magic words, such as the "improvement of the regulatory framework," are echoing through the corridors of power. Luckily, a number of international organizations have been present in the country and offered technical assistance for the improvement of local legislation by sharing best practices.

A new package of renewables legislation was created this year, introducing new concepts for local law practitioners such as prosumers, renewable energy communities, auctions – a plethora of new things for us to learn about in order to be able to guide clients through the countless impediments to the implementation of new renewables projects. No, this is not a matter of pessimism – but rather a call to continue with improving the environment for investments in general – as, in recent months, we have been witnessing an increased interest for foreign investments in renewables in Bosnia and Herzegovina.

Wind and solar projects have been catching the imagination of those investors, but it was similar earlier with the hydro projects, where not much actually materialized in the end. Indeed, that undisputable potential might be lost this time around as well, with investors still missing support along the lines of a one-stop shop that would allow them to avoid going around and dealing with different governmental departments on their own, ultimately discouraging them from engaging with the whole process to begin with.

Another *green piece* that deserves equal attention is on the other end: consumption. Or, to be more specific, energy efficiency. This area has been totally neglected by decision-makers and one politician's comment above all illustrated this: "Why should we save electricity? It's very cheap here."

Energy efficiency laws were introduced almost a decade ago, but the energy service company (ESCO) mechanism, as the most exciting part of this new framework, has been left totally unexplored. ESCOs were merely mentioned in those laws but the secondary legislation needed to allow contracting ESCO projects in public sector buildings, as well as tax legislation that will accommodate features of ESCO financing, have yet to be introduced. Consequently, there were no such projects so far.

All in all, there have been some improvements, but it will take much more *energy* to make this Bosnian green energy piece bigger. ■

AUSTRIA: THE LATEST NEWS ON HYDROGEN IN AUSTRIA AND THE EU

By Thomas Hamerl, Partner, CMS Vienna, and Co-Head of Energy & Climate Change, CMS RRH, and Marco Selenic, Associate, CMS Vienna

As early as November 2018, the Austrian government announced that it planned to develop a hydrogen strategy. But the Austrian energy sector had been left waiting ever since the formal kick-off in March 2019. In the meantime, the EU and several member states presented their hydrogen strategies. Finally, on June 2, 2022, the Austrian government revealed its own plan of action.

The Latest Hydrogen News from Brussels

Russia's invasion of Ukraine has not only caused suffering and trauma for millions but has also sent shockwaves through the entire European energy sector. Politicians all over Europe are questioning their countries' (in)dependence on/from Russian oil and gas, leading the EU to devise its *REPowerEU* plan.

The main pillars of *REPowerEU* are saving energy, producing clean energy, and diversifying Europe's energy supply. On the issue of hydrogen, *REPowerEU* foresees the creation of an EU Energy Platform to enable the common purchase of gas, LNG, and hydrogen. EU-wide hydrogen projects are supposed to be launched before the summer and the EU hydrogen targets for 2030 have been doubled. 10 million tons of renewable hydrogen should be produced annually in the EU by 2030, with another 10 million to be imported.

Further, two (long-awaited) consultations on delegated acts clarifying EU rules on renewable hydrogen have been launched. They try to clarify when hydrogen is categorized as "renewable." Once adopted, the delegated acts will complete the EU's overall proposal for a regulatory framework for renewable hydrogen (in the next renewable energy directive). However, they bear potential for discussion:

The most controversial topics may be the principles of *additionality* and *temporal correlation*. Simply put, after a transitional period, by 2026 only hydrogen produced using electricity from newly constructed, unsubsidized renewable energy plants will be classed as "green". This is to ensure that additional renewable electricity capacity is built, rather than using existing plants, and that hydrogen is not subsidized twice.

Temporal correlation – in the interest of grid operators – requires that electrolyzers produce hydrogen only when the electricity needed for hydrogen production can be generated almost simultaneously. Many experts say that this is stricter than necessary and may delay the development of the hydrogen industry significantly. It remains to be seen how the EU Commission will react to this criticism.

The Austrian Hydrogen Strategy

Numerous legal hurdles are complicating the implementation of hydrogen projects in Austria. These include approval procedures for industrial plants and zoning plans. A hydrogen project below the thresholds of the one-stop-shop environmental impact assessment needs permits from several regulatory authorities, making the process highly bureaucratic – not to mention the lack of experience of expert witnesses. Environmental impact assessment processes, however, are unfit for many hydrogen projects because they are designed for facilities posing more severe environmental impacts than electrolyzers do.

The strategy addresses many critical aspects like a quota for the sale of renewable gas, carbon dioxide pricing for non-EU emission trade, simplification of zoning and building permits, carbon contracts for difference, a statistical system for hydrogen production, and acknowledging the need for certification to make green hydrogen tradeable. Moreover, it defines the institutional capacities in federal ministries that will implement the strategy.

So, although there is a commitment to renewable hydrogen and a prioritization of certain areas (steel and chemical industries, mobility, and public transport), it is a strategy in the narrow sense and presents no specific measures that establish more legal certainty.

One of the most important factors for the success of hydrogen projects seems to be subsidization, because hydrogen produced in Austria from renewable sources is not economically viable. There is good news in that respect too. The *Austrian Renewable Expansion Act* introduced investment subsidies of up to EUR 40 million annually. Up to 45% of the direct costs for the construction of the plant may be subsidized. However, such funding is unavailable for plants built and operated by grid operators (although they are allowed to operate electrolyzers for conversion services) or that add hydrogen to natural gas in the public gas grid. In addition, the strategy foresees a EUR 125 million Austrian contribution to "Important Projects of Common European Interest" for the hydrogen value chain until 2026, and there is funding for projects to use renewable hydrogen in industrial plants under the *Transformation of the Economy* program.

So, it is positive that Austria finally has a pathway to integrate hydrogen into its energy transition ambitions. Its success, however, depends on implementation steps that still remain unclear. ■

CROATIA: CLEAN ENERGY TRANSITION – ARE WE ON A GOOD PATH?

By Mia Lazic, Partner, and Andrea Ruba, Senior Associate, Savoric & Partners

The strategic importance of the energy sector in securing a stable and sustainable energy supply is currently a hot topic across Europe. The global rise of energy prices, supply chain issues, and tackling climate change are some of the major challenges all European countries are currently facing. Croatia is no different. While tackling these global challenges, the Croatian energy sector has been undergoing major legislative and regulatory changes, especially in the field of renewable energy.

One of the particular challenges is achieving the national goal of using renewable energy for a minimum of 36.6% of the total gross energy consumption by 2030. Due to a significant stagnation in the development of renewable projects in the past five years, and taking into account the complexity and length of the development process, Croatia is on a tight timeline to increase its current share of approximately 28% in order to meet that target.

To facilitate the increase of renewable energy projects the Croatian government has introduced a number of legislative changes in 2021 and 2022, including enacting the new *Electricity Market Act* and the new *Renewable Energy Act*. These legislative changes have two major goals. First, to simplify the permitting process and ensure more active support for developers of renewable projects. Second, to facilitate transparency and stability in the process of development and in granting incentives.

As reaching renewable energy targets is possible only with significant private investments and financing, the government aims to ensure a more active approach of the Ministry of Economy and Sustainable Development, designated to act as the contact point for investors and actively provide guidelines during the licensing process. By the end of 2022, the Ministry of Economy and Sustainable Development and the Croatian Energy Market Operator (HROTE) are also expected to publish a comprehensive guide on licensing for the development of renewable projects, aiming to clarify the complex regulatory regime for future investors.

In terms of licensing, major changes were introduced in the process of issuing energy approval as one of the key licenses in the development process. Energy approval is now issued in a competitive public tender process facilitated by the Ministry of Economy and Sustainable Development. As the energy approval is now a first step in the licensing process, it assumes a higher initial investment cost for the new projects. However, it provides a more predictable timeline for project development and comfort to investors that the location subject to such approval will be secured for a period of up to five years.

Finally, in order to boost the development of new projects, it is particularly important to ensure a transparent and predictable incentive system. Although a new market premium incentive system was first introduced in Croatia in 2016, it took until March of this year for the first tender for larger capacity projects to be released. The huge time gap between the previous feed-in-tariff system (abolished in 2015) and the applicability of the new market premium system has caused a significant delay and regulatory issues for the projects that have commenced the development but were not able to apply for any kind of incentive. That resulted in a higher regulatory risk and the reluctance of investors and lenders in providing significant financing for the development of larger capacity projects.

The new regime for market premium incentives is expected to change that. Although a market premium is payable for the net quantities of supplied electricity based on sales generated on the market – and does not involve a guaranteed offtake of electricity by HROTE – the market has still seen an increased interest from investors in renewable projects.

The mentioned legislative changes and continuing effort of the Croatian authorities to provide proactive support to investors are certainly a step forward in accomplishing the renewable energy targets. However, there is still a long way to go in the transition to clean energy, from setting up the regulatory framework, to the completion of investments, and reaching commercial operations for the renewable projects. Providing efficient and timely support to investors, reducing the length of administrative procedures, and establishing a predictable and transparent public tender process will be crucial for Croatia to successfully move forward on the clean energy path. ■

SERBIA: THE ENERGY REVOLUTION

By Igor Zivkovski, Partner, Zivkovic Samardzic

While the world continues its endless battle against the COVID-19 consequences that are affecting all aspects of our social, economic, and political life, Serbian legislation is experiencing a revolution in the energy field. In April 2021, the National Assembly of the Republic of Serbia adopted two new laws – the *Law on the Use of Renewable Energy Sources* and the *Law on Energy Efficiency and Rational Use of Energy*, as well as amendments to the *Energy Law* and the *Law on Mining and Geological Research*.

The most significant novelty is the adoption of the *Law on the Use of Renewable Energy Sources*, which is an indication of Serbia's determination to achieve the green energy standards that have already come to life in EU countries. In relation to the *Energy Law*, which has previously regulated this area very superficially, the *Law on the Use of Renewable Energy Sources* marks a milestone and navigates Serbia towards the goals it promised to fulfill as a member of the Energy Community and, if implemented as predicted, may certainly advance the country's EU candidate status. The three main goals set by the *Law on the Use of Renewable Energy Sources* are (1) a decrease in the utilization of fossil fuels and an increase in the utilization of renewable energy sources in order to protect the environment, (2) the long-term decrease of dependence on energy-generating products, and (3) the creation of new workplaces and development of entrepreneurship in the renewable energy sources sector. It also introduces a new incentive for potential investors in the form of market premiums, which is expected to stimulate investments in renewable energy sources, from both domestic and foreign investors, and thus lead to a continuous increase in the share of renewable energy sources in Serbia's total gross energy consumption.

In February 2022, the Ministry of Mining and Energy of the Republic of Serbia (Ministry) published a document titled *Energy Security of the Republic of Serbia*. The document cites short-term and long-term plans and tactics for the improvement of the energy sector, including the establishment of a company called *Green Energy of Serbia*, as well as achieving decarbonization by the end of 2050. The document criticizes current power engineering, noting that Public Enterprise Elektroprivreda Srbije (PE EPS) has not built a new power plant in the last three decades. Its thermal production blocks are outdated and in bad condition, which often leads to power outages, not to mention that its management is subject to political currents and interests. Still, PE EPS is the most reliable support of Serbia's energy sector – its thermal power plants produce about 70% of the electricity in Serbia, while about 30% is obtained from hydroelectric power plants. In its document, the Ministry suggests building new, green power plants, installing solar panels in households and industries, and building pumped-storage hydropower plants and energy storage batteries, which would all eventually lead to a shutdown of coal power plants.

The global energy crisis is further fueled by the war in Ukraine. In this sense, it is important to mention that Serbia is almost completely dependent, with 90% of its natural gas being imported from Russia through the Russia-Ukraine-Hungary-Serbia interconnection. In January 2021, Serbia diversified its natural gas supply and is additionally supplied from Bulgaria through the Balkan Stream gas pipeline. The further diversification of routes and suppliers through interconnection with neighboring countries would help Serbia avoid a potential crisis.

Since there is great potential for renewable energy sources in Serbia in water and wind, more than half of a new investment plan drafted by the Ministry (EUR 35 billion) is planned for projects relating to hydropower plants and wind farms. PE EPS currently has 16 hydropower plants with many projects announced, including the construction of two reversible hydropower plants (Djerdap 3 and Bistrica) that could play a big role in the further development of wind parks and solar power plants. The construction of small hydropower plants is mostly obstructed but remains an important issue, much like in neighboring countries.

The energy consumption of Serbia is four times as high as the EU average, caused by a decaying and inefficient energy sector. If the new laws are implemented properly, increased green investments will bring economic development, new jobs, opportunities for new innovations, and an energy-efficient future. The transition to a green economy is also a chance for the recovery of the Serbian economy, and the new laws certainly point out the country's dedication to achieving these goals. ■

SLOVENIA: RENEWABLE ENERGY TREND DRIVES E-MOBILITY

By Dunja Jandl, Partner, and Tamara Kosi, Attorney at Law, CMS

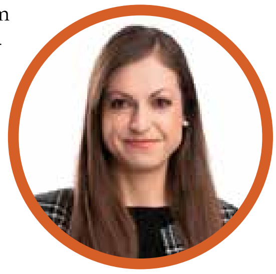
The requirement for an increase in the use of green energy will have a significant impact on the growth of e-mobility.

The European Union aims to increase the share of renewable sources of energy in line with the *European Green Deal* requirements, with a particular focus on the transport sector. To meet the targets of the *European Green Deal*, the European Commission set various goals to drive the transition to carbon neutrality. Replacing fossil fuels with renewable source energy and introducing at least 30 million zero-emission vehicles on Europe's roads by 2030 are some of the milestones toward the reduction of transport emissions by 90% by 2050.

In Slovenia, the transport sector has a great impact on energy consumption and, consequently, on the targets related to renewables in gross final energy use. The *Slovenian Development Strategy 2030* sets forth various strategies to ensure Slovenian energy security and the Slovenian internal energy market. Supporting the growth of e-mobility, renewable electricity production, and storage facilities are some of the objectives in the context of the development and management of the electricity distribution network in the Slovenian market.

In line with these objectives, in January 2022, the Government of the Republic of Slovenia introduced the *Slovenian Decree on Renewable Energy Sources in Transport*, determining the mandatory shares of energy from renewable energy sources for use in the transport sector. In accordance with the decree, the fuel suppliers need to achieve a mandatory energy share of renewable energy sources in the transport sector for each calendar year, which amounts to at least 10.1% in 2022, at least 11.2% in 2025, and at least 20.8% in 2030. These requirements will boost the electrification of the Slovenian transport sector and the deployment of renewable energy capacities.

In addition, the *Slovenian National Policy Framework* sets forth the targets for Slovenian infrastructure to reach 7,000 electric vehicle (EV) charging points by 2025. The number of EV charging points in Slovenia has increased significantly in the last two years. According to the *European Alternative Fuels Observatory Report* of the European Commission, the total number of publicly accessible AC charging points (AFIR categorization) has increased from 514 in 2020 to 5,313 in 2021, and the total number of publicly accessible DC charging points (AFIR categorization) has increased from 83 in 2020 to 247 in 2021. The Slovenian EV market share has increased rapidly in recent years as well, so that battery electric vehicles (BEVs) rose from 1,314 registered BEVs in 2018 to 5,574 registered BEVs in 2021, and plug-in hybrid electric vehicles (PHEVs) grew from 580 registered PHEVs in 2018 to 1,088 registered PHEVs in 2021. In 2018, there were 470 new registrations of BEVs, which increased significantly in 2021, reaching 1,679.



The set of recently adopted laws enables the commercialization of the EV charging market and boosts e-mobility in Slovenia. The *Slovenian Electricity Supply Act*, which entered into force on November 13, 2021, ended the restrictive control of electricity operators over charging stations. The electricity operator must enable the easiest possible connection of publicly accessible and private charging points for EVs to the electricity grid and must cooperate in a non-discriminatory manner with any person or entity that owns, develops, or operates charging points for EVs, including their connection to the grid. The electricity operator may not own, develop, or operate charging points for EVs or offer electric charging service, except in certain statutory exceptions – for instance if the electric operator owns charging points intended exclusively for its own use. In Slovenia, the owner or lessee of the EV charging point may freely choose the electricity supply provider, and is, pursuant to the *Slovenian Electricity Supply Act*, entitled to terminate the electricity supply contract without obligation to pay any penalties if electricity prices or the supplier's general terms and conditions change. The *Slovenian Act on Energy Efficiency*, which entered into force on November 17, 2021, supports the growth of e-mobility by determining that when constructing new non-residential buildings, and in the event of major renovations of non-residential buildings, the investor must ensure the installation of a certain statutory-determined number of EV charging points and the installation of electric cable lines for parking lots.

The synergies between renewable energy resources and e-mobility thus bring ample new opportunities, especially for the electricity sector. ■

ROMANIA: A FASTER TRANSITION TO RENEWABLE ENERGY – THE HIGHEST PRIORITY OF REPOWEREU

By Siranus Hahamian, Partner, and Ioana Chirita, Associate, Ijdelea & Associates

REPowerEU is about rapidly reducing the EU's dependence on Russian fossil fuels by fast-forwarding the clean transition and joining forces to achieve a more resilient energy system and a true Energy Union.

In the context of speeding up the transition to renewable energy so as to achieve the ambitious renewable energy and efficiency targets, we greatly welcome the Commission's Recommendation on permitting-related issues (Recommendation).

Understanding that bureaucratic permitting processes are a primary obstacle to achieving a competitive renewables energy sector, the Commission suggests: (1) faster and shorter deadlines for permitting procedures; (2) circumscribing the permit-granting procedures into a sole process; (3) designing a one-stop shop for granting permits for renewable energy projects; (4) introducing the *positive administrative silence* principle, where the lack of response by the competent authority within the legal deadline would mean acceptance, unless an express response is required by EU or national legislation; and (5) digitalizing permit-granting procedures.

A main step for materializing this Recommendation is the European Commission legislative proposal to correspondingly amend the relevant provisions of *Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources* and of *Directive 2010/31/EU on the energy performance of buildings* (Proposal).

The Proposal aims to limit lengthy and complex administrative procedures by establishing the following: (1) introducing the term "renewables go-to area" meaning those areas located on land or sea which shall be identified by the member states as being particularly suitable for the installation of renewable energy projects while observing also the environmental impact; (2) clear and faster deadlines for the permitting procedures; (3) the entire permitting procedure shall not exceed one year for projects in renewables go-to areas or two years for outside projects; (4) setting up a contact point to guide the applicant and facilitate the entire process, which will be conducted through the respective contact point.

The principles mentioned in the Recommendation, as well as those under the EU Proposal, are similar to the ones considered by Romania's Recovery and Resilience Plan (RRRP). Under the RRRP, the reform of the electricity market includes the simplification of licensing and authorization procedures for investments in renewable sources and shorter and mandatory administrative response deadlines accompanied by procedures for preventing unnecessary delays.

However, accelerating the progress of transition to renewable energy implies effective amendment of Romania's national legislation to meet the purpose. Although progress on legislative framing appears rather slow, several initiatives for improvement with a direct impact on the implementation and development of renewable energy projects are ongoing.

In this regard, it is worth mentioning the draft law amending and supplementing *Land Law no. 18/1991*, adopted by the Senate of Romania on February 2, 2022, currently registered with the Chamber of Deputies under *no. 22/07.02.2022* (Land Law Amendment). The Land Law Amendment mainly targets the following: (1) including electricity production facilities from renewable sources amid the exemptions that allow building on extra muros farming land; (2) the possibility of removing the land from the agricultural circuit, only in respect of the surface affected by the development; (3) the removal of the lands from the agricultural circuit will be done upon obtaining the construction permit. If adopted, the Land Law Amendment will automatically simplify and shorten the permitting procedures for developing renewable energy projects on extra muros farming land.

Also, amendments to *Energy Law no. 123/2012* are expected, with the competent bodies currently working on proposals to include therein simplified procedures for granting investment authorization licenses.

It remains to be seen how long it will take for Romania to harmonize the national legislation with the principles under the Recommendation. Starting with March 2023, each member state will have an obligation to provide the Commission with updated information on the implementation status of the Recommendation at a national level.

Based on the updates and feedback received from member states, within two years of the Recommendation's adoption (meaning in 2024), the Commission will assess whether further measures are required and review the proposed measures accordingly. ■

KOSOVO: THE STRUGGLE TO KEEP THE LIGHTS ON

By Ahmet Hasolli, Managing Partner, and Vjollca Hiseni, Associate, Kalo & Associates

Last year, more precisely in December, Kosovo endured a deepening crisis considered one of the worst in the last decade.

Multiple businesses and households struggled to keep their daily activities on course, since the Kosovo Energy Distribution System announced that it will introduce two-hour-long power cuts. However, in practice, these cuts lasted longer, sometimes for more than 14 hours straight in several neighborhoods.

It was also announced by the Kosovo Energy Corporation that, on December 14, the B2 unit of Kosovo B went out of operation. The power plant is responsible for producing half of the electricity consumed in the country annually. This situation sparked protest in the capital of the country, Prishtina, and several calls for the resignation of the Minister of Economy were made.

Background

Electricity generation in the country is entirely dependent on two aging lignite plants – Kosova A and Kosova B. Producing for more than 50 years, these two coal plants do not possess the capacity to adapt, support, or handle the demands of current developments in the country. In order to meet such demands, the Government of Kosovo is rehabilitating the Kosovo B power plant, which is more than 30 years old, to bring it in compliance with European Union Directives and to build a new, more efficient, lignite-fired power plant to replace the 45-year-old highly polluting Kosovo A power plant.

Kosovo has very large lignite resources, totaling 12.5 billion tons, which are claimed to be the second largest in Europe and the fifth largest in the world. Kosovo A and Kosovo B are supplied with lignite from the adjacent Sibovc Southwest and Sitnica mines. With lignite being the main source of producing energy, Kosovo has no oil or gas extraction and no gas import infrastructure, although it is interested in building a pipeline to connect to the Trans-Adriatic Pipeline.

Hence, Kosovo is highly dependent on coal for its energy demands – around 97%. The rest comes from wind farms and hydro-power plants. This has also allowed Kosovars to pay for much cheaper energy than almost all countries of the European Union and the Western Balkans.

Energy Sustainability in Kosovo

It is widely acknowledged that the energy crisis the country is facing now is due to the lack of a clear vision for the future of energy. The fact that Kosovo depends mostly on the import of energy makes it hard for the country to establish sustainability in this area.

In the long run, Kosovo has several targets. Among them, it had a renewable energy target of a 25% share in the final gross consumption of energy by 2020, according to the Energy Community Treaty. In 2017, it achieved a 22.9% share of renewable energy, putting it on track to meet its target. However, this was mostly achieved by the household use of wood biomass, not by investing in renewable energy.

Depending for a long time on the Kosova A and Kosova B, in 2005, the government proposed the construction of a new power plant – Kosova C – later referred to as Kosova e Re. In 2017, the government signed a EUR 1.3 billion contract with American company Contour Global for the construction of this power plant, which would be put into operation in 2023. However, in 2018, the World Bank decided to withhold its support for the project, as it was based on coal and, in March 2020, Contour Global withdrew from the project citing the political crisis in the country as a reason.

For the time being, two other major projects are announced in the energy sector – mainly in solar energy. The German ambassador announced that his country is expected to invest EUR 60 million in solar energy in Kosovo. Details of the investment were not yet provided. Further, during his stay in the US, Prime Minister Albin Kurti announced that the Millennium Challenge Corporation anticipates investing around USD 200 million in the energy sector in Kosovo.

Considering the slow steps with which investments are being carried out in the energy sector, it is unlikely that the energy infrastructure will be improved over the next couple of years. As a result, the government will need to develop alternative solutions, as another winter comes around, in order to avert a new crisis. ■

BULGARIA: ENERGY AND INFRASTRUCTURE ATTRACT INVESTOR ATTENTION

By Kostadin Sirleshtov, Sofia Managing Partner and CEE Head of EPC, CMS

A combination of policy support for and decreasing investment costs in renewables, the nuclear energy revival, and major nearby discoveries of natural gas in the Black Sea leads to the unprecedented interest of investors in Bulgaria.

In the field of renewables, Bulgaria is among the leading destinations attracting investments these days, with a 20 gigawatt-peak pipeline dominated by wind and photovoltaic projects. The combination of the newly adopted *EU Recovery and Resilience Plan for Bulgaria* and the newly launched *REPowerEU* plan – to rapidly reduce dependence on Russian fossil fuels and fast forward the green transition – act as further catalysts of these investment plans, combined with the somewhat unique *no tender* (*first come-first served*) policy of the recent Bulgarian governments. Renowned foreign investors such as Solarian Holdings and Enery (acquiring operational solar projects), MET (acquiring operational wind projects), and many others have recently closed deals in Bulgaria and continue with their acquisition focus. Furthermore, greenfield wind and solar opportunities are attracting international attention and we are expecting some landmark deals to close in the coming months. Leading producers of equipment such as Chint/Astronergy, Risen, Huawei, and the like are particularly active in Bulgaria. The new amendments to Bulgarian legislation – allowing for up to five-megawatt own-need rooftop projects to be constructed without the necessity of long administrative procedures or construction permits – will allow for both households and industrial investors to undertake the rapid deployment of off-grid projects. Green hydrogen is also on the horizon, and the initial changes to legislation towards its support have entered into force.

In the field of nuclear energy, Bulgaria is well placed to provide a platform for investments in zero-carbon emissions technology providing base-load electricity in a sustainable manner. With ongoing projects for Unit 7 of the Kozloduy NPP and Units 1 and 2 of the Belene NPP, Bulgaria is expected to add three new nuclear units in the years following 2030. Furthermore, Bulgaria is also considered a key market for developers of Small Modular Reactors. Therefore, alongside established producers such as Westinghouse, EDF, and the like, we see a growing interest from SMR companies such as NuScale, Rolls-Royce, and Mitsubishi.

Recent discoveries of and policy support measures for natural gas in the Black Sea have led to an increased interest in energy investments in the upstream oil & gas field. Undoubtedly, the Sakarya field in the Turkish section of the Black Sea, with its over 500 billion cubic meters of proven reserves, led to companies like TotalEnergies and OMV Petrom recently extending their exploration rights to the Han Asparih block with the Bulgarian government. It is expected that, in coordination with the EU Commission, the new Bulgarian government will launch two new tenders offshore Bulgaria, which are expected to attract major investors following the unlocked potential of the Romanian discoveries. Furthermore, the Vratsa East block in Bulgaria is the largest onshore oil & gas block in Europe and provides an additional hope for indigenous production. Bulgaria recently introduced the requirement of licenses for gas traders and these procedures have been streamlined by the independent Energy and Water Regulatory Commission.

The interconnectivity of both the electricity and natural gas networks between Bulgaria and its neighboring countries will also keep both Transmission System Operators (TSO) from the region and investors busy in the coming years. Particularly in the context of the ongoing war in Ukraine and the deployment of more renewables, the importance of interconnectivity and the security of natural gas and electricity supplies is reaching unprecedented levels. Both through EU funding (Projects of Common interest and similar) and from TSOs' own funds, these projects will continue with a special focus on the ICGB gas interconnector between Bulgaria and Greece (expecting its commercial start in 2022) and the new major electricity interconnectors with Greece and Romania.

The energy infrastructure will add new types of projects to the investors' mix, such as battery storage, floating solar, agrivoltaics, SMRs, and geothermal – in parallel with the more traditional biomass, PV, and onshore wind investments. Bulgaria is also testing billion-sized challenging projects, such as offshore wind, following the 2020 EU strategy on the matter. Such projects need special legislative changes and experience within leading jurisdictions, which specialized teams of lawyers are providing for the benefit of both the investors and the host government. ■

GREECE: PUBLIC PROCUREMENT IN THE ENERGY SECTOR – HOW DOES IT WORK IN GREECE?

By Panagiotis Drakopoulos, Senior Partner, Drakopoulos

Public procurement in Greece by entities operating in the energy sector is regulated, mainly, by *Law 4412/2016 on Public works, supplies, and services contracts – Transposition of Directives 2014/24/EU and 2014/25/EU*. Public tenders are conducted via the National System of Electronic Public Procurement and the award of public contracts must comply with the general principles of the *Treaty on the Functioning of the European Union*, namely equal treatment, non-discrimination, mutual recognition, proportionality, and transparency.

The current legislative and regulatory framework on public procurement sets out, inter alia, specific restrictions, conditions, and thresholds for entities operating in the energy sector. In principle, the provisions of the law apply to entities incorporating a public element, including contracting authorities, public undertakings, or entities operating on the basis of "special or exclusive rights granted by a competent authority of a member state." Entities that fall within the scope of the applicable law need to engage in activities of a certain nature, including "(1) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport, or distribution of gas or heat; and (2) the supply of gas or heat to such networks," and operate within specific predetermined thresholds: "(1) EUR 431,000 for supply and service contracts as well as for design contests; (2) EUR 5,382,000 for works contracts; (3) EUR 1 million for service contracts for social and other specific services."

The main challenges in the implementation of the applicable framework first arose when the public procurement sector recently stopped being dominated by merely public entities or entities clearly falling within the scope of the law and gradually switched to accommodating private or recently privatized entities. Although the classification of an entity as public or private can be easily made based on objective criteria such as a lack of state ownership and/or control of management, the law requires further assessment – namely whether an entity may still fall under the category of *contracting entities*, according to article 224 paragraph 1(b) of *Law 4412/2016*, as an entity that "operates on the basis of special or exclusive rights granted by a competent authority of a Member State."

The Greek Council of State ruled, in *Decision 1076/2019*, that the transfer of special or exclusive rights to an entity shall affect the exercise of the activity in question only to the extent that the ability of other entities to carry out the same activity, under comparable conditions, is significantly affected to the point of being excluded, with the consequence that competition is not functioning. On the other hand, the entity pursuing that activity is not considered to be a contracting entity where those special or exclusive rights have been transferred to it by means of a procedure in which sufficient publicity has been ensured and the grant of those rights has been based on objective criteria. That is because granting special or exclusive rights following an open and non-discriminatory tendering procedure in which all the operators concerned took part, without exclusion and discrimination, has the effect of ensuring that the relevant market is open to effective and undistorted competition. Hence, the grant of special or exclusive rights by means of a procedure open to genuine competition precludes the subsequent award of contracts by the concessionaire on the basis of criteria that are not of a purely business and economic nature and, therefore, such contracts do not constitute public contracts to which EU law rules apply.

Once it is clear that an entity does not fall within any of the aforementioned categories and can therefore be considered to be a private entity, the key matter is to what extent such an entity is free to apply its own rules and procedures related to procurement or if it should abide by the generally applicable European and national law principles.

An initial and rational approach would advocate that, in such cases, private autonomy and the general principle of freedom of contracts would prevail. However, setting a predetermined regulatory framework for procurement should be driven by the rules of good corporate governance, also taking into account that said entities are required to publish their respective rules and regulations online and carry out a regulated economic activity related to a public utility.

In light of the above, it is highly recommended that private entities adjust their internal procurement regulations so that they are complementary to the applicable rules for public procurement, by widely adopting the spirit, the principles, and even the wording of the respective legislation. ■

CZECH REPUBLIC: ECJ CLOSES STATE COMPENSATION GATEWAY FOR SOLAR POWER PLANT OPERATORS

By Tomas Sequens, Partner, and Jiri Dycka, Junior Lawyer, Kocian Solc Balastik

Although the intensity of solar radiation in the Czech Republic is not particularly significant, the state has extensively subsidized the construction of solar power plants in order to meet its commitments to the European Union regarding the financing of renewable energy sources. In 2009 and 2010, the Czech Republic experienced a solar boom when solar power plants were built on a large scale. Financial support for solar power plants, however, has undergone radical changes since then.

Solar Power Plant Operators Sue the Czech Republic

In this context, there has been a recent proliferation of solar power plant operators seeking compensation from the Czech state for alleged damages on the basis that Czech authorities incorrectly transposed into domestic law *Directive 2012/19/EU, on waste electrical and electronic equipment* (WEEE Directive). The number of applications to initiate proceedings in similar cases in the Czech Republic has grown to 230, with alleged damages amounting to CZK 2 billion.

The solar power plant operators claim that the Czech state caused them harm when, under Czech law at the time, they were liable for the waste management costs associated with solar panels. Since that is inconsistent with the WEEE Directive, which placed the financial burden on panel manufacturers, not on the operators, the argument was that it is the manufacturers who should bear the waste management costs of solar panels placed on the market after August 13, 2005.

While the common practice of the lower courts was to rule in favor of the operators, the Supreme Court of the Czech Republic referred the matter to the European Court of Justice (ECJ) for a preliminary ruling that reversed this practice.

Findings of the ECJ

The ECJ first concluded that it is possible to classify solar panels as electrical and electronic equipment within the meaning of the WEEE Directive and, thus, the obligation to finance the waste management costs of solar panels placed on the market after August 13, 2005, should be borne by the manufacturers of the panels.

However, according to the EU legislation which existed before the WEEE Directive was adopted, member states had had the choice of requiring the waste management costs to be borne either by the current or previous waste holders, or by the manufacturer or distributor of the panels. When a member state chose to burden subjects other than panel manufacturers – i.e., differently from the WEEE Directive that came afterward – the WEEE Directive affected situations that had been established before it entered into force.

It was concluded that the new rule thus breaches the principle of non-retroactivity of legal acts as it changed a previously established situation where it altered (subsequently and unforeseeably) the allocation of costs. Manufacturers of solar panels were legitimately able to rely on the allocation of those costs that was provided for in the legislation existing at the time, and thus the new rule denies those manufacturers any real possibility of taking appropriate steps following the legislation's entry into force. In other words, manufacturers of solar panels were unable to foresee, when designing the solar panels, that they would subsequently be required to bear the waste management costs of such solar panels.

Since the WEEE Directive infringes the principle of legal certainty, the ECJ declared the WEEE Directive invalid to the extent it retroactively imposes on manufacturers the obligation to finance the waste management costs relating to the management of solar panels placed on the market between August 13, 2005, and August 13, 2012.

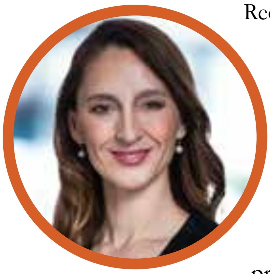
The Supreme Court of the Czech Republic has already ruled on the basis of the ECJ's judgment, by reversing the lower courts' judgment in favor of the Czech state. According to the press release, it will take a similar approach to other similar cases. It can be assumed that the lower courts will follow the Supreme Court's decision.

Gateway Closed

For a while, a gateway was open for operators of solar power plants to recover the waste management costs associated with solar panels. However, that gateway was closed following the intervention of the Supreme Court of the Czech Republic and the ECJ, which did not accept the operators' arguments and thus did not require panel manufacturers to retrospectively and unforeseeably bear the costs of recycling the panels at the end of their operational life. Thus, based on the legal position taken by the ECJ, the actions by the Czech solar power plant operators were, in the end, unsuccessful. ■

POLAND: RECENT DEVELOPMENTS ON THE ENERGY MARKET

By Agnieszka Koniewicz, Partner, Penteris



Recent global events, in particular the Russian aggression against Ukraine and subsequent restrictions on the supply of fuel (including coal, oil, and gas), have negatively impacted not only the Polish but the global energy market.

At the beginning of this year, all energy consumers in Poland experienced a price hike in energy and fuel tariffs. This was mainly the result of adjusting tariffs to the costs of production and distribution, as well as necessary investments. The increase in electricity tariffs for households was above 35%, while in gas tariffs, over 50%.

Additionally, the war in Ukraine affected the Polish energy market causing further price hikes. Since the beginning of the war (February 2022), the price of fuel at petrol stations has increased by more than 35% – the highest increase in Europe. The price of coal has increased even more, which negatively impacted power plants and electricity pricing. The average price of electricity for the first quarter of 2022, based on bilateral contracts, was over PLN 460 per megawatt-hour (i.e., EUR 100 per megawatt-hour). The current average electricity price since the beginning of 2022 is around PLN 700 per megawatt-hour (i.e., EUR 150 per megawatt-hour), with the most recent prices (as of May 2022) landing above PLN 1000 per megawatt-hour (i.e., EUR 220 per megawatt-hour). The above circumstances, combined with a rise in the price of the carbon dioxide allowance, will result in further increases of electricity prices – the forecast for 2023 is that the consumer tariff on electricity will rise by more than 50%.

These high prices of fuels and electricity most certainly impact the entire economy negatively, including production, logistics, and transportation and, thus, contribute to rising inflation.

The current energy crisis has once again demonstrated the need for the continuous development of the energy sector and its decarbonization and modernization. Breaking off the supply of energy resources by Russia, in response to the involvement of countries in the region in supporting Ukraine, has forced us to search for alternative sources of energy. New possibilities of importing energy resources are opening up – through, for instance, the Baltic Pipe – and attention has also been drawn to the importance of renewable energy sources, which will make it possible to achieve full energy independence.

The Baltic Pipe will constitute an alternative to Russian gas by connecting Scandinavian suppliers with Poland and other European markets. From 2023, it is expected that it will transport 1.1 million cubic meters of gas per hour. The role of the (recently expanded) LNG terminal in the coastal town of Swinoujscie may also significantly increase. The booked capacity for 2022 will reach 6.2 billion cubic meters, while from 2024 it will rise to 8.3 billion cubic meters.

In relation to renewable energy sources, the Polish government has launched a new tender for offshore wind projects. The energy sector also expects a reduction of certain restrictions, imposed some years ago, on the development of onshore wind farms by the so-called *Distance Act*, imposing restrictive distance requirements, eliminating the majority of pre-developed projects from the market, and blocking almost 97% of the potential area. In April 2022, the Polish government disclosed that it intended to accelerate work on the amendment to the *Distance Act*, to decrease distance requirements and, thus, support onshore wind project development. The draft of the amendment is expected to be submitted to the Polish parliament in June 2022, with the intention of being adopted and coming into force by the end of 2022.

The boom in the development of solar power plants will also continue. However, the main factor which might negatively affect the development of renewable energy is the limited grid capacity, alongside balancing issues. The electricity system and network require a huge investment to allow for the connection of new renewable installations. Since 2021, certain grid operators have started to reduce the number of granted grid connection conditions and reject the execution of final grid connection agreements, based on various unjustified reasons. Therefore, if the Polish government wants to effectively support the development of renewable energy sources, the issues relating to the improvement of the electricity network must be addressed.

The above factors will lead to a significant acceleration of the energy transition process in Poland and Europe. These processes overlap with legislative changes relating to RES, which may be important for the growing popularity of this form of energy generation. And they will also affect consumer behavior, including investments into more energy-efficient devices, cars, buildings, and other power-saving solutions. ■

TURKEY: LIBERALIZATION OF THE ELECTRICITY MARKET AND THE ROLE OF ANTITRUST INTERVENTIONS

By Metin Pektas, Partner and Head of Antitrust, Public Policy, and Compliance, Nazali Tax&Legal

The Turkish electricity market has been under a liberalization process since 2001. Specific steps had been taken during the 1980s, 1990s, and 2000s but the main amendment to the legal framework for the creation of a competitive electricity market was the enactment of the Electricity Market Act No. 4628, which was brought into force in 2001. As a result, the integrated structure of the electricity market was to be unbundled, following the privatization of distribution activity in accordance with a specific timetable.

Electricity distribution and electricity sales transactions were rearranged with the privatization of the regional distribution companies that carried out both activities. After the rearrangement in 2013, regional distribution companies were divided into electricity distribution companies and incumbent retail companies. Distribution companies, which are natural monopolies, were assumed to function as regional independent system operators, with no electricity sales to end consumers. The retail level was liberalized and opened to competition. Incumbent retail companies were established as separate bodies to supply/sell electricity at a retail level. These companies were entitled both to function as last resort suppliers, with national tariffs announced by the Energy Market Regulatory Authority (EMRA), as a public service obligation, and to supply electricity with competitive prices to end-user customers with national tariffs.

The liberalization process was accelerated upon the enactment of Act No. 6446, which came into force in 2013, replacing Act No. 4628. Act No. 6446 constitutes the primary legal basis for the establishment of organized electricity markets, the energy exchange, and the EPIAS (Electricity Markets Operating Corporation) as the market operator. This led to the rendering of the day-ahead market and the intraday market as well as balancing power in the market, ancillary services market, and the derivatives markets. The Turkish Competition Authority (TCA) has not touched these markets.

The energy policy for electricity generation, on the other hand, is not framed with the prioritization of liberalization, even though a significant number of publicly owned power plants are privatized. Rather, Turkey's energy policy towards generation focused on supply security, market predictability, sustainability, and technology development and innovation. The main objectives established are based on certain themes: (1) adding an additional 10,000 megawatts in capacity to the system for each source within ten years, in both wind and solar energy, (2) the continuation of work on the establishment of nuclear power plants in three different areas, (3) the establishment of an additional 5,000 megawatts of domestic coal-based installed power, and (4) bringing the level of coal reserves to approximately 3.5 billion tons.

During the privatization and liberalization of electricity distribution and retail, the EMRA built the regulatory framework to ensure a competitive functioning of the markets. Together with the EMRA, Turkey's TCA antitrust watchdog was also very active during this process. Both authorities were in close collaboration, whereby the TCA provided significant inputs to the regulations designed by the EMRA from a competition law perspective and towards the elimination of market entry barriers. The TCA also conducted a number of antitrust investigations against distribution companies and incumbent retailer companies, some of which faced huge fines. Regarding the behavior of distribution companies, the authority simply focused on situations where these companies leveraged incumbent retailers – which are sister companies – by providing customer data and positive discrimination in distribution operations such as metering, connection, and maintenance. As for the incumbent retailer companies, the authority was concerned with the activities that complicated customers' switching to competitors. These antitrust interventions disciplined the anti-competitive behaviors of companies and also provided valuable insight toward continuing the process of regulatory design.

Since 2019, the TCA has been silently keeping an eye on the industry. The key concern nowadays is whether the French competition authority's EDF decision will trigger a case or not. In that decision, the French watchdog fined EDF for using customer data and certain commercial infrastructure dedicated to the management of customers on a regulated tariff with the objective of maintaining its market share in the electricity retail sector and strengthening its position in the related gas and energy services markets in France. In addition to the fine, the authority mandated EDF to allow access to infrastructure for alternative electricity suppliers requesting access and to separate its subscription process for customers interested in offers at a regulated price and customers interested in offers at market prices. ■

HUNGARY: AN EXTRA-PROFIT TAX BURDEN FOR RENEWABLE ENERGY PRODUCERS

By Adam Mattyus, Partner, and Alekszej Dubalar, Senior Lawyer, Lakatos Koves and Partners

The Hungarian government has introduced an extra tax of 65% on particular turnover of energy producers from renewable sources.

Legislative and Regulatory Background

The introduction of an extraordinary tax by government decree is permitted by the state of emergency that the Hungarian government introduced in May 2022, as a result of the war in Ukraine. However, it is important to emphasize that the extra tax *only applies* to renewable energy producers that have switched to or started selling their electricity on the open market, instead of through a government-sponsored purchase scheme.

In Hungary, there are three state support systems to encourage investments in renewable energy: *KAT*, *METAR-KAT*, and *METAR Premium*. Through these state subsidies, the investor has been guaranteed that the electricity generated by the renewable power plant would be purchased at a fixed – so-called mandatory – purchase price for the long term. However, due to the recent significant increase in electricity prices, the sale of electricity on the market (i.e., outside the state subsidy scheme) has become much more profitable and, as a result, many electricity generators have left the state subsidy system and started selling electricity on the open market. In addition, due to high market prices, a number of new projects eligible for government subsidies did not start accessing the government subsidy scheme and sold their electricity on the market.

Who Pays?

According to the new government decree, entities that exit the state subsidy system in 2022 or 2023 and those entities that start their commercial activities in these two tax years – but do not conclude the agreement required to receive *KAT*, *METAR-KAT*, or *METAR Premium* – are required to pay an additional tax. Producers that ceased participating in the state subsidy system before 2022 are not subject to this extraordinary tax.

The law appears to be retroactive to the beginning of 2022 with respect to exiting the government subsidy system, but does not apply to power plant units smaller than 0.5 megawatts or power plants generating electricity using solid biomass.

The tax base on which this extraordinary tax of 65% is payable is the difference between the mandatory purchase price and the actual market price.

The electricity producer is required to establish and pay this extraordinary tax before the 20th day of the month following the relevant month, in accordance with a form prepared by the Hungarian tax authority. For each month of the period from January 1, 2022, to July 1, 2022, the special tax shall be determined, declared, and paid by the producer by September 20, 2022. The tax liability in question only applies to 2022 and 2023.

Given that the sale of electricity outside the state aid system is subject to the so-called "Robin Hood income tax," with a tax burden of 31% for several years, any contemplated exit from the state aid system, together with the new extra-profit tax, results in an extremely heavy tax burden. The new tax type is also particularly disadvantageous in relation with an amendment that entered into force on January 1, 2022, according to which it is prohibited the return to the state subsidy system within 12 months for producers that had previously left the *KAT* or *METAR-KAT* systems and switched to selling on the open market. At the time, the amendment was introduced to avoid significant speculation associated with frequent switching between state-subsidized and market sales. It now also prohibits producers from returning to the state aid system for 12 months to avoid this tax on "extra profits." And, with an even more recent amendment, a producer that leaves the state subsidy system after May 31, 2022, cannot return to this system at all. ■

UKRAINE: THE POST-VICTORY RECONSTRUCTION

By Oleksandr Kurdydyk, Partner and Co-Head of Energy, and Kateryna Soroka, Senior Associate, Kinstellar

Historically, Ukraine has been known as a country with a good investment climate, particularly in the energy sector. The country's high feed-in tariff rates, general digitalization, well-established and simplified regulatory procedures, and the availability of alternative suppliers for works and services, among other factors, have contributed to a large influx of investors in new green energy projects in Ukraine.

The large-scale and aggressive war of the Russian Federation against Ukraine, which first began in 2014 and further escalated in 2022, has led to an increasing number of human losses and widespread material destruction. Power plants and power lines, airports, ports, schools, hospitals, roads, residential buildings, state and municipal buildings – literally all types of buildings and facilities that unfortunately are or were in the zone of active hostilities, or that simply became targets of rocket fire from the side of the Russian Federation – require at a minimum repair or are, in many cases, beyond repair.

In our opinion, the key features of the post-war reconstruction of Ukraine will be its timing and the socially crucial need to provide fast and substantive results. From the state's point of view, projects should be implemented where and to the extent required by the state, based on dialogue with the communities concerned and considering their individual needs (for projects of a local nature) at the preparatory stage. At the same time, the implementation of large-scale reconstruction of infrastructure is impossible without attracting private financing. In this case, public-private partnerships appear to be the right mechanism to achieve a cumulative effect.

In view of the above, the Ukrainian government is considering changes to the legal framework of public-private partnerships (PPPs).

To this end, the start of public discussions on this issue has recently been announced, according to which the following main legislative and procedural changes are being discussed by the Ukrainian government: (1) introduction of a simplified preparation procedure for reconstruction PPP projects; (2) the term of reconstruction projects under the umbrella of the refreshed PPP regime will be limited to 15 years; (3) all PPP tenders will be administrated through an electronic procurement system, developed with support from the European Bank for Reconstruction and Development; (4) a dedicated PPP agency will provide technical support to tender commissions; and (5) a special procedure for engaging advisors for the preparation of reconstruction projects will be introduced.

Further, the Ukrainian state guarantees and assurances for investors may also include: (1) a simplified procedure for obtaining antimonopoly clearance in relation to potential state aid provided by the state of Ukraine to investors; (2) no land tax payable by an investor during the term of a PPP agreement; (3) a simplified procedure for taking land plots for the implementation of reconstruction projects; (4) no environmental impact assessment would be required in the context of reconstruction projects; (5) assignment of "protected" status to expenses from the Reconstruction Fund; and (6) establishment of an insurance fund in a suitable and "safe" jurisdiction, to provide PPP reconstruction investors with insurance covering military risks (e.g., MIGA).

To start the legislation framework change, the government has prepared a draft law on amendments to the *Law of Ukraine on Public-Private Partnership*. The draft law introduces a procedure for the formation of the list of state reconstruction PPP projects and a list of local reconstruction PPP projects. Projects included in both lists should be prepared for tender in accordance with a simplified procedure and in the shorter term.

The draft also provides rather short procedural terms for each stage of the private partner selection process. In general, it is expected that the simplified tender preparation procedure and selection of a private partner will take between seven and 11 months, in contrast to the usual procedure that lasts for 20 months. The draft also provides for a commissioning fee payable to the private partner out of the funds received from various donors or the state budget, subject to the private partner reaching agreed KPIs. Lastly, according to the draft, tenders will be conducted using the so-called electronic trading system, which is expected to be developed and launched with support from, and based on the experience of, the EBRD. ■

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