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CEE Legal Matters

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

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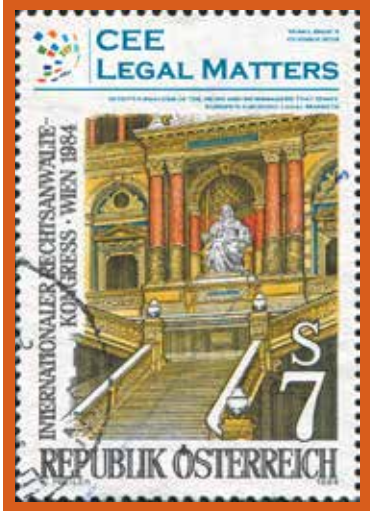

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Letters to the Editors:

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

Editorial: Our Focus, and Yours

Inevitably as David and I consider possible covers for each issue of the CEE Legal Matters magazine I propose a stamp… and he vetoes it. This time, as evident by the image of the 1984 stamp showing Lady Justice wielding a golden Sword in the Austrian Hall of Justice that graces the front of the issue, I won out. David agreed with me that, aside from simply looking groovy, it's thematically representative both on Austria (our Market Spotlight) and on dispute resolution (Experts Review).

Speaking of themes … focus is something that's been on our mind a great deal, in fact. Late this past Sunday night (pushing into Monday) working diligently with David to prepare this issue for the printer, I realized that 5 e-mails – two from General Counsel and 3 from Partners in firms in the region – had all arrived between 10 pm and 12 am that evening. I contacted the five lawyers for permission to include a screen-shot of the inbox in the issue. Only two responded positively: Markus Piuk requested only that we not share it with his wife, who might object to his working hours (Schoenherr readers now have new leverage – Sorry Markus!); and Hugh Owen explained that he's O.K. with it as long we do not fear that the subject line of his email (suggesting edits to his guest editorial) might harm our perceived editorial independence (thank you for the consideration, Hugh!).

(The other three, who preferred not to have the picture shared, had valid reasons for objecting, ranging from concerns about revealing their personal e-mail addresses to potentially scaring associates by revealing the type of work-commitment expected from a partner … but I'm getting distracted).

The reason I refer to the late-Sunday-night-arriving emails is not only that they vividly demonstrate the work ethic, rigor, and responsiveness that the professionals we interact with possess. They didn't have to write on Sunday evening at 11 pm, after all – nothing they wrote couldn't have been written the next day. It is also their dedication; their focus arises from a whole-hearted passion for what they do. It is that passion that led one of our contributors to this issue to turn around an article in less than 48 hours, after writing it up on a tablet on a flight, or another to schedule a weekend meeting with us during a brief 24-hour stop in Prague between his home in Zagreb and his meetings in Asia, or another to ignore the (for this editor irresistible) urge to simply sleep through a long-haul transatlantic flight in order to get her edits on an interview back to us over the weekend. The lawyers we work with have the same passion for their work that we do for ours (we were also up at midnight on Sunday, after all). And we believe that focus, passion, commitment, and enthusiasm are reflected both in their contributions to this issue, and in ours.

Because in all seriousness: this issue is our best yet. The Market Spotlight – did I mention it falls on Austria? – is our largest yet. Articles on the absence of Anglo-Saxon partners in Austria, on the accusations leveled at the newly-extended training period for young lawyers in Slovakia (complete with a useful comparative guide to training requirements across CEE), a summary of a fascinating senior-partner round-table on Law Firm Marketing in Vienna, a review of the effect of Western sanctions on law firms in Moscow, and much more. Really. Read it, and tell me it's not our best yet.

We know you're busy too (our Across the Wire Summary of Deals describes the 154 CEE deals we've learned about and reported on since our last issue, and as we continue to expand our sources of information, that number will surely continue to grow in coming months). So – after reading this issue carefully, from cover to cover – get back to work, make those deals happen, hire new lawyers and teams, and continue to make these legal markets the most exciting, challenging, and dynamic in the world.

But first, get some sleep!

Radu Cotarcea, Managing Editor

**Correction: In our previous issue we mistakenly identified Kocian Solc Balastik co-founding partner Martin Solc as the Czech firm's Managing Partner. In fact, Dagmar Dubecka is the firm's Managing Partner. We apologize for the error.

Guest Editorial:
CEE Weathers Siberian Chill

The M&A news coming out of Western Europe and the US at the moment is good. In fact it's very good; maybe, after the ice age of the past 6 or 7 years, we are seeing a thaw.

There was a consensus in C&SEE that things were improving significantly around May/June, with considerably more deal flow then, both active and soon to come online. But at the beginning of the summer the cold Siberian winds began blowing in the dark clouds from the Ukraine conflict, and as a result of Russian sanctions, some existing and planned projects seemed to go on the back burner. Potential clients and deals have been affected by the chill, either because of sanctions affecting certain entities (with the "who's next" factor affecting others), or simply because possible Russian buyers are, in some instances, less welcome than they were before.

For these and other reasons, and in the face of uncertainty and the wave of bad news, many investors simply preferred to go on holiday and "wait and see" on the Ukraine situation.

But those Siberian headwinds have not proved insurmountable. The sanctions on Russia have also brought some positive side-effects for the non-Russian CEE markets, and many funds that were once allocated towards Russian and CIS investment have been diverted westward.

As a result, the pipeline once again seems very strong this autumn, especially when compared to this time last year. Pricing is still tough, and it's still a very competitive market, but we are able to start being a little more selective.

So what can we do to blow on the sparks of the nascent recovery? First, potential clients affected by the sanctions should have a clear understanding of how they are affected and what kinds of transactions are affected or unaffected. In-house counsel can work with external counsel to anticipate the questions that will need to be answered to ensure compliance with the sanctions, so everyone can move forward on engagements with confidence.

Second, in order to sustain an "appetite" for deals, sellers should prepare themselves much more in advance for a sale. Some sellers don't want to spend money preparing for a sale "because so many processes fail anyway," but they should: (1) put in place good corporate governance much earlier (if not already there); (2) organize a properly populated data room; (3) consider carrying out some vendor due diligence to identify missing documents and to be better prepared to fix issues or have contingency planning in place. They may consider making available a vendor due-diligence report to bidders; (4) prepare a sensible and balanced SPA; (5) check the regulatory position of the bidders to identify the bidder most capable of navigating to a quick closing; and (6) monitor the bidders' progress on arranging financing. Sellers wanting to be truly organized can also consider arranging stapled financing or stapled warranty and indemnity insurance package.

These are just a few examples. The more we can do collectively to remove uncertainty and obstacles to a smooth closing, the better.

There are obviously still plenty of challenges to deal with, and the Ukraine crisis had a very unfortunate timing, coming as it did just as things started to look brighter. Nevertheless it does seem that a combination of the flow of funds, the pent-up demand from several years of relatively low deal-making, and the more sustained good news from the US and Western Europe could be the warm winds that eventually will blow away some of the clouds that have briefly reappeared.

The opinions in this article are personal and do not necessarily reflect the views of Allen & Overy.

Hugh Owen, Partner, Allen & Overy

On The Move

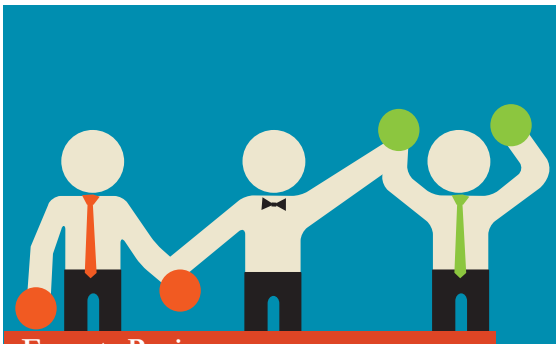
Davutoglu and Bener in First-Ever Turkish Law Firm Merger (Page 12)

Bristling in Bratislava:

Newly-Extended Trainee Period in Slovakia (Page 25)

The Sort-of Welcome Mat

Why Are There So Few Anglo-Saxon Partners in Vienna? (Page 32)



Experts Review

CEE Experts Review Round-up on Arbitration (Page 60)

Legal Ticker: Summary of Deals and Cases

Full information available at: www.ceelegalmatters.com

Period Covered: August 11, 2014 - October 13, 2014

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
12-Aug	Schoenherr; Hausmaninger Kletter	Schoenherr advised Laakman Holding on the increase of its participation in the C-QUADRAT Investment fund company from 9.4% to 18.4%. The sellers were represented by Hausmaninger Kletter.	N/A	Austria
18-Aug	Herbst Kinsky	Herbst Kinsky advised the Raiffeisen Holding Group and the UNIQA Group on the sale of 25 percent and one share shares in STRABAG SE to Rasperia Trading Ltd.	EUR 122.76 million	Austria
18-Aug	Fellner Wratzfeld & Partner	Fellner Wratzfeld & Partner advised UniCredit Bank Austria on its acquisition of Immobilien Holding, which was wholly owned by Immobilien Privatstiftung.	N/A	Austria
25-Aug	Fellner Wratzfeld & Partner	Fellner Wratzfeld & Partner has advised the HANNOVER Finanz private equity company on its acquisition of IS Inkasso Service Group.	N/A	Austria
26-Aug	Herbst Kinsky	Herbst Kinsky advised institutional investor Constantia Industries and early stage Austrian/US venture fund Initial Factor Speed Invest regarding their 7-digit USD investments in bitmovin.	N/A	Austria
28-Aug	Brandl & Talos	Brandl & Talos advised Century Casinos on its decision to terminate its listing on the Vienna Stock Exchange due to low trading volume.	N/A	Austria
1-Sep	Herbst Kinsky	Herbst Kinsky advised Flatout Technologies in a financing round.	EUR 200,000	Austria
4-Sep	Fellner Wratzfeld & Partner	Fellner Wratzfeld & Partner advised WEB Windenergie on what the firm describes as the first issue of a hybrid bond by an Austrian wind energy provider.	N/A	Austria
5-Sep	Schoenherr; Dorda Brugger Jordis	Schoenherr advised the lender syndicate of bauMax on the sale of the "Sammlung Essl" art collection to a company controlled by the Haselsteiner Group. The purchasers were represented by Dorda Brugger Jordis.	EUR 100 Million	Austria
5-Sep	Dechert; Herbst Kinsky	Dechert represented Allergophama in its recently announced exclusive licensing agreement with S-TARget therapeutics. Herbst Kinsky represented S-TARget.	N/A	Austria
12-Sep	CHSH	CHSH Cerha Hempel Spiegelfeld Hlawati advised IMMOFINANZ in connection with the issuance of bonds exchangeable into BUWOG shares.	EUR 375 million.	Austria
23-Sep	Herbst Kinsky	Herbst Kinsky advised Marinomed Biotechnologie on the sale of its anti-viral eye drop program to Nicox.	EUR 5.3 million	Austria
26-Sep	Fellner Wratzfeld & Partner	Fellner Wratzfeld & Partner advised Wienerberger on the complete takeover and related complex financial restructuring of the Tondach group.	N/A	Austria
19-Sep	Kavcic, Rogelj & Bracun; Wolf Theiss	Wolf Theiss advised MAHLE in its acquisition of the Slovenian car parts manufacturer Letrika, conducted as part of Slovenia's ongoing privatization process. The consortium of sellers – consisting of the state-owned BAMC, the Slovenian State Holding, Modra zavarovalnica, NLB, Alpen Invest, and Triglav skladi – was represented by Kavcic, Rogelj & Bracun.	EUR 108 million	Austria; Bosnia; Slovenia
23-Sep	DLA Piper	DLA Piper advised Blackstone on the acquisition of a pan-European portfolio of 18 logistics assets from SEB Investment.	EUR 275 million	Austria; Hungary
6-Oct	Clifford Chance; Dorda Brugger Jordis; Freshfields	Freshfields advised UniCredit Bank Austria on the sale of its 16.35% stake in CA Immo to the O1 Group, the parent company of O1 Properties. Dorda Brugger Jordis and Clifford Chance advised the O1 Group.	EUR 295 million	Austria; Russia
21-Aug	Glimstedt	The Glimstedt Belarus team advised participants in "SocStarter" – a project dedicated to the development of social entrepreneurship in Belarus.	N/A	Belarus
17-Sep	VMP Vlasova Mikhel & Partners	VMP Vlasova Mikhel & Partners advised EBRD on a loan to Belarusian commercial bank MTBank for on-lending financing of medium and small businesses.	USD 5 million	Belarus
3-Oct	Sorainen	Sorainen Belarus acted as local counsel for the Eurasian Development Bank on a loan to the "Vasily Kozlov" Minsk Electrotechnical Plant.	USD 15 million	Belarus
3-Oct	Sorainen	Sorainen Belarus is advising the European Bank for Reconstruction and Development on the grant of a loan to the Minsk Soft Drink Factory.	EUR 10 million	Belarus
6-Oct	Sorainen	Sorainen Belarus advised the Nordic Environment Finance Corporation on a loan to Keramika, a producer of bricks, blocks, and drainage pipes from burnt clay.	EUR 500,000	Belarus
3-Oct	Kambourov & Partners	Kambourov & Partners advised WITTE Automotive Bulgaria, a subsidiary of Germany's WITTE Automotive, on the opening of its new auto part manufacturing plant in the city of Ruse, in Bulgaria.	N/A	Bulgaria
3-Oct	Dorda Brugger Jordis	Dorda Brugger Jordis is advising bauMax on its restructuring measures in Eastern Europe, including the sale of bauMax Bulgaria to local investor Haedus and the sale of the company's Romanian sites to the French Adeo Group.	N/A	Bulgaria; Romania
15-Sep	Mamic, Peric, Reberski Rimac	Zagreb-based Mamic, Peric, Reberski Rimac advised the EBRD on a loan to SG Leasing, a Croatian subsidiary of Societe Generale Splitska Banka, to expand lease financing for equipment, light commercial vehicles, trucks, and trailers.	EUR 20 million	Croatia
19-Sep	Glinska & Miskovic	Glinska & Miskovic served as local counsel for the EBRD's loan to Atlantic Trade and its subsidiary Atlantic Multipower.	EUR 10 million	Croatia
19-Aug	Allen & Overy; Arthur Cox; Kinstellar; Linklaters	Kinstellar, A&O, Linklaters, and Arthur Cox advised on NET4GAS's optimization of its capital structure, including corporate bonds and bank loans amounting to approximately EUR 1.12 billion.	EUR 1.12 billion	Czech Republic

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
20-Aug	Kinstellar	Kinstellar advised South Korea's Hyundai Mobis on the negotiation and conclusion of an investment agreement with the Government of the Czech Republic in support of a new automotive headlight plant in the Mosnov industrial zone in the Novy Jicin district.	EUR 145 million	Czech Republic
20-Aug	Kinstellar	Kinstellar's analysis of the Prague government's anti-corruption strategy and a proposal for further steps was taken on board by the Municipality of Prague.	N/A	Czech Republic
28-Aug	Kocian Solc Balastic; White & Case	White & Case and Kocian Solc Balastik advised on PointPark Properties' acquisition of a Czech logistics portfolio from two funds controlled by Tristan Capital Partners and VGP.	EUR 523 million	Czech Republic
28-Aug	Dvorak Hager & Partners	Dvorak Hager & Partners successfully arbitrated two matters for Avalon Business Center, a member of the Expandia Group, in the Czech Republic.	N/A	Czech Republic
29-Aug	Dentons	Dentons advised Starwood Capital Group on its acquisition of a portfolio of three prime office complexes from the Ghelamco real estate developer.	N/A	Czech Republic
3-Oct	Kocian Solc Balastik	Kocian Solc Balastik achieved a significant victory for Delta Pekarny before the European Court of Human Rights, which ruled that a dawn raid carried out by the Czech Competition Authority was unlawful.	N/A	Czech Republic
13-Oct	Dvorak, Hager & Partners	Dvorak, Hager & Partners successfully represented PSP Engineering in arbitration proceedings at the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic, as well as in the subsequent judicial review of the decision.	N/A	Czech Republic
20-Aug	Norton Rose Fulbright; Weinhold Legal	Weinhold Legal and Norton Rose Fulbright advised Tauron, a major Central European energy company, on the creation of a joint venture with ArcelorMittal.	N/A	Czech Republic; Poland
16-Sep	Gleiss Lutz; Simpson Thacher	Gleiss Lutz and Simpson Thacher advised TRW Automotive Holdings Corp. on the sale of its outstanding shares to Germany-based ZF Friedrichshafen.	USD 13.5 billion	Czech Republic; Poland; Romania; Slovakia; Turkey
16-Sep	White & Case	White & Case advised industrial real estate company Prologis on the acquisition of an international property portfolio.	N/A	Czech Republic; Poland; Slovakia;
4-Sep	CMS; Dentons	CMS advised Landesbank Baden-Wurttemberg on the sale of its Czech subsidiary, LBBW Bank CZ, to Expobank, represented by Dentons.	N/A	Czech Republic; Russia
18-Sep	Wolf Theiss	Wolf Theiss advised Erste Group Bank on financing to the Russian hotel group Gleden Invest for the latter's acquisition of the five-star Prague Augustine Hotel.	N/A	Czech Republic; Russia
12-Aug	CMS	CMS advised Dixons Retail on the sale of its ElectroWorld operations in the Czech Republic and Slovakia to Slovak electronics retailer NAY.	N/A	Czech Republic; Slovakia
11-Sep	Squire Patton Boggs	Squire Patton Boggs is representing the Slovak Republic in an ICSID arbitration dispute brought by Euro-Gas and Belmont Resources.	N/A	Czech Republic; Slovakia
14-Aug	Glimstedt	Glimstedt Estonia convinced the Supreme Court of Estonia to hold as unconstitutional a law regarding limits on the compensation of legal expenses.	N/A	Estonia
18-Aug	Sorainen	Sorainen advised Nordea on the transfer of its Baltic banking business – operated by Nordea Bank Finland in Estonia, Latvia and Lithuania – to Swedish parent company Nordea Bank.	N/A	Estonia
20-Aug	Lawin	Lawin is representing Ladee Pharma in three extensive patent disputes against Bayer – the first of which was recently resolved by the circuit court in favor of Ladee Pharma.	N/A	Estonia
29-Aug	Sorainen	Sorainen Estonia advised Gasum Energiapalvelut on the sale of its Estonian business Gasum Eesti to Alexela Energia, part of the Alexela Group.	N/A	Estonia
1-Sep	Sorainen	Sorainen Estonia advised Apollo Cinema on its purchase of Solaris Cinema from Solaris Property Partners.	N/A	Estonia
8-Sep	Sorainen	Sorainen Estonia advised Rimi Eesti Food in a sale and leaseback transaction of its logistics center and headquarters building to East Capital Baltic Property Fund II, managed by East Capital.	EUR 13.4 million	Estonia
8-Sep	Tark Grunte Sutkiene	Tark Grunte Sutkiene advised Schottli Keskkonnatehnika on a management-buyout transaction.	N/A	Estonia
9-Sep	Tark Grunte Sutkiene	Tark Grunte Sutkiene is advising Riigi Kinnisvara in the bankruptcy proceedings of the Facio construction company.	N/A	Estonia
17-Sep	Sorainen	Sorainen advised Nordea Pensions Estonia on taking over the management of all pension funds currently managed by ERGO Funds.	EUR 65 million	Estonia
17-Sep	Sorainen	Sorainen Estonia advised Stratasys in its acquisition of GrabCAD in an all-cash transaction.	N/A	Estonia
29-Sep	Tark Grunte Sutkiene	Tark Grunte Sutkiene advised on the sale of the Flora office building in Tallinn to Lumi Capital and Estonian private investors.	N/A	Estonia
1-Oct	Varul	Varul represented rally athletes Kaspar Koitla and Andres Ots in a dispute with the Estonian Autosport Union.	N/A	Estonia
9-Oct	Glimstedt	Glimstedt is advising a consortium made up of Vivitta Estonia and five other members, along with the European Commission, on its promotion of entrepreneurship "in the field of Future Internet."	N/A	Estonia
9-Oct	Lawin	Lawin acted as legal counsel for Outdoor Life Group Holding on its acquisition of 40% shareholding in Aktsiaselts Lasita Maja.	N/A	Estonia
27-Aug	Lawin	Lawin advised Orkla, the Norwegian consumer branded-goods company, on the acquisition of 100% of the shares of NP Foods.	N/A	Estonia; Latvia; Lithuania

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
17-Sep	Ilyashev & Partners	Ilyashev & Partners secured four merger clearances from Ukraine's Antitrust Committee for the PZU Group, following its Q2 acquisition of four insurance companies in Poland and the Baltics from Royal & Sun Alliance Insurance.	N/A	Estonia; Latvia; Lithuania; Poland; Ukraine
7-Oct	Sorainen	Sorainen advised Shiner Macost in its acquisition of Premia's ice cream and frozen products business in the Baltic States and Russia.	EUR 27 million	Estonia; Latvia; Lithuania; Russia
13-Oct	Lawin	Lawin advised MIH Allegro, a subsidiary of Naspers Ltd., in the sale of its classifieds business in Estonia and Lithuania to Eesti Meedia.	N/A	Estonia; Lithuania
26-Aug	Papapolitis & Papapolitis	Papapolitis & Papapolitis acted for Intracom Holdings in the sale of its shareholding participation in Hellas Online to Vodafone Greece.	EUR 73 million	Greece
25-Sep	Drakopoulos	Drakopoulos advised SPDI on the acquisition of an income-producing logistics park in Greece and the acquisition of an office building in Romania.	EUR 21 million	Greece; Romania
5-Sep	DLA Piper; Sarantitis; Reed Smith	DLA Piper and Sarantitis advised the shareholders of Weidenhammer Packaging Group on sale of all of their shares in the company to the Sonoco Products Company. Reed Smith advised Sonoco Products.	N/A	Greece; Russia
17-Sep	CMS	CMS Hungary advised E.ON on the sale of combined-cycle power stations in Debrecen and Nyiregyhaza to Dalkia.	N/A	Hungary
29-Sep	Kinstellar; Linklaters	Linklaters and Kinstellar advised existing and incoming senior lenders on the structuring and refinancing of debt facilities for the Budapest Airport.	EUR 1.4 billion	Hungary
6-Oct	White & Case	White & Case persuaded an arbitration tribunal at the World Bank's International Centre for Settlement of Investment Disputes to reject all claims brought by Vigotop Limited against Hungary under the Cyprus-Hungary Bilateral Investment Treaty.	EUR 300 million	Hungary
7-Oct	DLA Piper; Grama Schwaighofer Vondrak; Freshfields; Oppenheim	DLA Piper and Grama Schwaighofer Vondrak advised Vienna Capital Partners on its acquisition of a major part of the Hungarian operations of Ringier AG and Axel Springer SE, which were represented by Freshfields from Vienna and Oppenheim from Budapest.	N/A	Hungary
29-Sep	Wolf Theiss	Wolf Theiss advised Pivovarna Union on the sale of 57.63% of its shares in the Birra Peja brewery in Kosovo to the Devoli Group beverage producer.	N/A	Kosovo; Slovenia
11-Sep	Tark Grunte Sutkiene	Tark Grunte Sutkiene advised the insolvent BAB bankas Snoras on the sale of an A class office building in Riga	EUR 10.5 million	Lativa
20-Aug	Fort; Lawin	Lawin's Riga office advised the international digital media company IAC on the acquisition of the popular social networking website Ask.fm, which was represented by Fort.	N/A	Latvia
25-Aug	Sorainen	Sorinann is representing both KIA Auto and Tallinna Kaubamaja in appealing the Latvian Competition Council's conclusion that the companies are improperly restricting warranty rules to the Administrative Regional Court of the Republic of Latvia.	EUR 96.1K	Latvia
4-Sep	Baker & McKenzie; Lawin; Tark Grunte Sutkiene; White & Case	White & Case and Lawin advised ABB on the sale of its Full Service business unit to Nordic Capital Fund VIII, which was represented by Baker & McKenzie and Tark Grunte Sutkiene.	N/A	Latvia
6-Oct	Spilbridge; Sorainen	Spilbridge is representing the Commercial Port in Venspils, Latvia, in disputes with external shareholders involving attempts to "reshuffle various assets in relation to the Baltic Coal Terminal." Sorainen is opposing counsel.	N/A	Latvia
4-Sep	Freshfields; Borenius	Freshfields Bruckhaus Deringer advised Credit Suisse Securities (Europe) Limited on the Rule 144A/Reg. S inaugural high-yield bond offering by the 4finance group. Borenius acted as Latvian, Finnish, and Lithuanian counsel to 4finance Group.	USD 200 million	Latvia; Lithuania
4-Sep	Lidings	Lidings was engaged to advise Actelion, a large Swiss biopharmaceutical manufacturer, and Grindex, a leading Latvian pharmaceutical company.	N/A	Latvia; Russia
14-Aug	Lawin	Lawin advised the Israeli venture capital fund Entree Capital on an investment in the Lithuanian mobile-payments company UAB WoraPay.	EUR 400,000	Lithuania
26-Sep	Lawin	Lawin advised MP Bank on the sale of MP Pension Funds Baltic to the INVL Fondai company, managed by AB Invalda LT.	EUR 3.3 million	Lithuania
3-Oct	Motieka & Audzevicius	Motieka & Audzevicius concluded a settlement on behalf of the Linas Agro Group in a shareholder dispute within ZUB Eriskiai.	N/A	Lithuania
8-Oct	Lawin	Lawin advised the shareholders of Alita in the sale of all their shares to Mineraliniai vandenys, a company controlled by MG Baltic.	EUR 19.5 million	Lithuania
8-Oct	Fort	Fort's Vilnius office represented Capital Mill on the acquisition of the Grand Office building in Vilnius.	N/A	Lithuania
8-Oct	Baker & McKenzie; Lawin	Lawin advised Merck on the Lithuanian part of a global sale of the Merck Consumer Care business to Bayer. Baker & McKenzie advised on the deal globally.	N/A	Lithuania
13-Oct	Sorainen	Sorainen advised OpusCapita on the acquisition of Norian Group, a provider of accounting and related services.	N/A	Lithuania
28-Aug	Sorainen	Sorainen assisted Flazm Interactive Entertainment in officially registering in Lithuania.	N/A	Lithuania; Russia
12-Aug	Studnicki Pleszka Cwiakalski Gorski	SPCG advised PGNiG on carve-out from the company of its retail gas trade unit and its in-kind contribution to the company PGNiG Obrot Detaliczny.	N/A	Poland

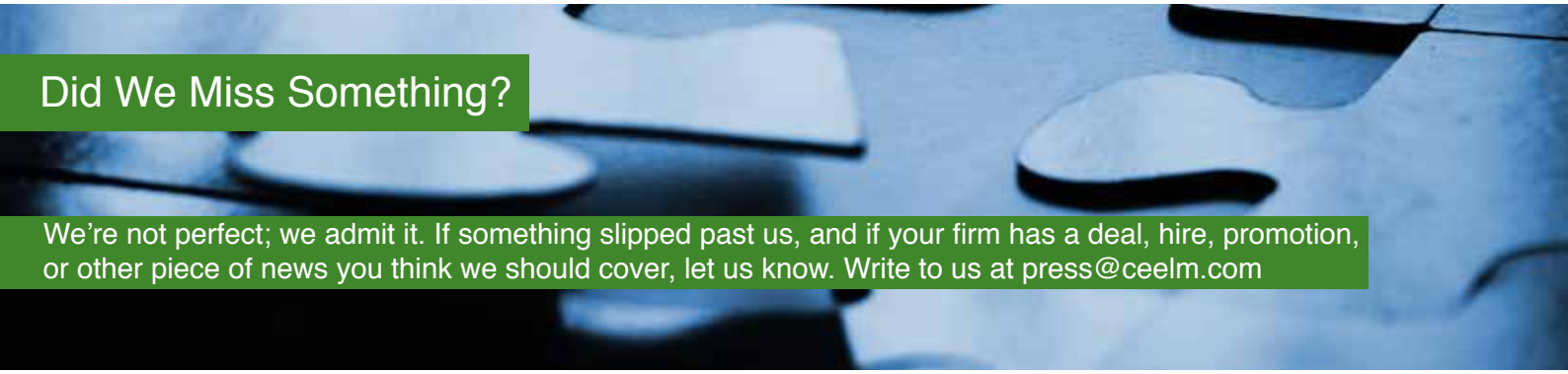
Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
20-Aug	Domanski Zakrzewski Palinka	DZP advised Korona Pomorska on the acquisition of Ozen Plus from Skystone Capital (formerly BBI Zeneris).	N/A	Poland
20-Aug	Studnicki Pleszka Cwiakalski Gorski	Studnicki Pleszka Cwiakalski Gorski successfully represented Termo Organika in a trademark dispute with Austrotherm, a Polish competitor.	N/A	Poland
26-Aug	Domanski Zakrzewski Palinka	DZP obtained the successful resolution of a dispute involving the claims of the Polish Hunting Association – DZP's client – relating to real estate at ul. Nowy Swiat in Warsaw.	N/A	Poland
26-Aug	Domanski Zakrzewski Palinka	DZP advised a consortium of Polish and Spanish companies on an agreement with the Poznan Agglomeration Waste Management Inter-Municipal Association for the collection of mixed and green municipal waste and for management of separately collected waste in the Poznan agglomeration.	N/A	Poland
29-Aug	Greenberg Traurig	Greenberg Traurig advised private equity investor Amstar on a purchase, made in combination with the Polish development company BBI Development, of the luxury Zlota 44 residential tower located in the city center of Warsaw.	N/A	Poland
4-Sep	Dentons	Dentons advised Lotos Petrobaltic in procuring financing for its B8 Oil Field Exploration Project in the Baltic Sea.	EUR 430 million	Poland
5-Sep	Greenberg Traurig	Greenberg Traurig advised on the final agreement between PGE and KGHM, TAURON, and ENEA, concerning their acquisition from PGE of 30% of the shares in PGE EJ 1, responsible for building and operating Poland's first nuclear power plant.	EUR 311 million	Poland
8-Sep	Gessel	Gessel advised the AVALLON MBO FUND II on the acquisition of a 100% stake in MPS International from MPS Holding.	N/A	Poland
10-Sep	CMS	CMS in Poland advised Asbud on the acquisition of the Karolkowa business park.	N/A	Poland
15-Sep	Studnicki Pleszka Cwiakalski Gorski	SPCG provided advice to Bank Peako in connection with the extension of a construction credit facility, investment credit facility, and revolving credit facility.	N/A	Poland
17-Sep	Greenberg Traurig	Greenberg Traurig advised BNP Paribas in the acquisition of control of Bank Gospodarki Zywnosciowej.	EUR 1.1 billion	Poland
17-Sep	White & Case	White & Case advised Jastrzebska Spolka Weglowa on the acquisition of an organized part of the enterprise of Kompania Weglowa, including the Knurow-Szczyglowice coal mine.	PLN 1.49 billion	Poland
22-Sep	Hogan Lovells	Hogan Lovells advised a consortium of investors on their equity investment in the mobile virtual network operator Virgin Mobile Central and Eastern Europe.	EUR 40 million	Poland
23-Sep	Domanski Zakrzewski Palinka	Domanski Zakrzewski Palinka advised PGE EJ 1 on the selection of AMEC Nuclear UK Limited as a technical advisor and contract engineer.	N/A	Poland
24-Sep	Linklaters; Reed Smith	Linklaters and Reed Smith acted for one of W. P. Carey's managed non-traded REITs on the sale-leaseback of an office/R&D facility with Nokia Solutions and Networks.	EUR 9.7 million	Poland
24-Sep	Gessel	Gessel advised Polski Bank Komorek Macierzystych on its acquisition of a 100% stake in Diagnostyka Bank Komorek Macierzystych (which had Diagnostyka as its majority shareholder) while Diagnostyka acquired a small stake in PBKM.	N/A	Poland
26-Sep	Kochanski Zieba Rapala & Partners	Kochanski Zieba Rapala & Partners is providing advice to the Institute for Analysis and Rating – established by the Warsaw Stock Exchange in June of this year – with respect to all aspects of its activity.	N/A	Poland
6-Oct	Greenberg Traurig	Greenberg Traurig advised UBS, Deutsche Bank, London Branch, and Dom Maklerski BZ WBK in the accelerated book-building process, in a transaction concerning the sale of 2% of the shares of Bank Zachodni WBK by Banco Santander.	167.7 million	Poland
7-Oct	FKA Furtek Komosa Aleksandrowicz	FKA Furtek Komosa Aleksandrowicz served as special Restructuring Documentation counsel for PKO Bank Polski and Bank BGZ on a Restructuring Agreement and Support Agreement with two members of the PAMAPOL group.	N/A	Poland
7-Oct	Studnicki Pleszka Cwiakalski Gorski	SPCG represented ING TFI before the President of the Office of Competition and Consumer Protection regarding the company's takeover of the management of the Fundusz Wlasnosnosci Pracowniczej mutual fund from Legg Mason TFI.	N/A	Poland
9-Oct	Greenberg Traurig	Greenberg Traurig prepared the notification to the Anti-Monopoly Office of the acquisition by KGHM, TAURON, and ENEA each of 10% of PGE's shares in the special purpose company PGE EJ 1.	N/A	Poland
13-Oct	Studnicki Pleszka Cwiakalski Gorski	Studnicki Pleszka Cwiakalski Gorski advised companies from the JAWO group in connection with a joint venture agreement with Ajinomoto Frozen Foods.	N/A	Poland
24-Sep	Arzinger	Arzinger acted as Ukrainian counsel to the EBRD in connection with its financing of expansion plans for the Soufflet Group.	EUR 20 million	Poland; Romania; Ukraine
12-Aug	Allen & Overy	Lawyers from RTPR Allen & Overy counseled the EBRD on its EUR 10 million loan to SC Raja SA Constanta.	EUR 10 million	Romania
4-Sep	Vilau & Mitel	Vilau & Mitel advised STRABAG on the acquisition of Bank of Cyprus assets related to Societatea Companiilor Hoteliere Grand, the owner of the JW Marriott Bucharest Grand Hotel.	N/A	Romania
24-Sep	Biris Goran	Biris Goran successfully defended Aversa Manufacturing against charges brought by the Romanian Authority for State Assets Management regarding the alleged unlawfulness of the adjudication of Aversa assets in a 2013 auction.	N/A	Romania
29-Sep	Traila, Stratulat, Almasan, Albuescu	Traila, Stratulat, Almasan, Albuescu advised World Class Romania on its takeover of World Class Timisoara, its 3 year-old franchisee in the Romanian west.	N/A	Romania

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
2-Oct	VASS Lawyers	VASS Lawyers successfully challenged the decision of APA Canal S.A. Galati to withhold information with a "public nature" on a public acquisition contract to "extend and rehabilitate water and waste water systems in the towns of Tecuci and Targu Bujor, including the rehabilitation of wells in Galati."	N/A	Romania
10-Oct	Voicu & Filipescu	Voicu & Filipescu reported that the Romanian Competition Council has issued a non-objection decision on the economic concentration operation resulting from the OTP Group's acquisition of 100% of the shares of Millennium Bank, a member of Banco Comercial Portugues.	EUR 39 million	Romania
18-Aug	Alrud	Alrud assisted in the arrangement of the third public offering (SPO) of QIWI plc shares.	N/A	Russia
20-Aug	Goltsblat BLP	The IP practice of Goltsblat BLP is representing the International Federation of the Phonographic Industry on behalf of Sony Music Russia, Universal Music Russia, and Warner Music UK on claims against the Vkontakte social network.	RUB 51.6 million	Russia
25-Aug	Alrud; Davis Polk & Wardwell; Slaughter and May	Alrud is advising the Shire biopharmaceutical company on Russian-law related aspects related to its proposed combination with AbbVie. Slaughter and May is advising Shire on EU law matters and Davis Polk & Wardwell is advising Shire on US law matters.	USD 52 billion	Russia
26-Aug	Liniya Prava	Liniya Prava was selected by the Tender Commission at the Saint Petersburg Investment Committee to render legal support regarding the construction and operation of a sports and wellness center and the reconstruction, construction, and operation of a building in a maternity hospital, both in St. Petersburg.	N/A	Russia
28-Aug	Kachkin and Partners	Kachkin and Partners was selected by the Committee for Economic Development and Investment in the Leningrad Region to provide "comprehensive support services" for the creation of the "Regional Center for Medical Rehabilitation."	N/A	Russia
4-Sep	Akin Gump	Akin Gump advised the O1 Group investment company on the sale of shares in O1 Properties Limited by subsidiary Centimila.	USD 200 million	Russia
10-Sep	White & Case	White & Case advised EuroChem on a project financing from a syndicate of international and Russian banks in connection with its Usolskiy potash project.	USD 750 million	Russia
11-Sep	Fremm; Kachkin & Partners	Kachkin & Partners, working with the Fremm firm, successfully persuaded the St. Petersburg City Court that the Architecture and Art Rules of Nevsky Prospekt and surrounding areas adopted by the Committee for Architecture and Urban Planning of St. Petersburg were unreasonable and "unduly prejudiced" its client's rights.	N/A	Russia
15-Sep	Debevoise & Plimpton	Debevoise & Plimpton was selected to offer legal advice in support of the first phase of the road map for the privatization of Aeroflot.	N/A	Russia
17-Sep	CMS	CMS advised Achmea Group on the sale of 100% of the shares in its Russian subsidiary, Insurance Company Oranta.	N/A	Russia
18-Sep	AstapovLawyers; Baker & McKenzie	AstapovLawyers and Baker & McKenzie successfully represented Canon Russia in a dispute with Russian retailer Fotosintez involving claims of abuse of rights in a surety agreement.	N/A	Russia
26-Sep	Akin Gump; Fried Frank; Hogan Lovells; Skadden Arps	Skadden Arps, Akin Gump, Fried Frank, and Hogan Lovells played various roles in United Capital Partners' sale of a 48 per cent stake in social media site VK.Com Limited to Mail.Ru Group Limited.	USD 2.07 billion	Russia
30-Sep	Vegas Lex	Vegas Lex advised the Russian Federal Road Agency on the negotiation and execution of a concession agreement with RT-Invest Transport Systems for the introduction of a tolling system.	N/A	Russia
2-Oct	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners has successfully defended the interests of Cortem-Goreltex, a major Russian manufacturer of explosion-proof equipment, in a dispute involving "the protection of business honor, integrity, and reputation."	N/A	Russia
3-Oct	Goltsblat BLP	Goltsblat BLP provided legal support to Dogus Avenue, an exclusive franchisee of the Crate & Barrel global home-furnishings brand, in launching its retail business in Russia.	N/A	Russia
6-Oct	Herbst Kinsky	Herbst Kinsky advised Flatout Technologies in a financing round.	EUR 1.3 million	Russia
10-Oct	Egorov Puginsky Afanasiev & Partners	Egorov Puginsky Afanasiev & Partners provided legal support to the Formula 1 Russian Grand Prix, which was run on October 12 at the Sochi Autodrom.	N/A	Russia
10-Oct	Nektorov, Saveliev & Partners	NSP persuaded the Federal Tax Service of the Republic of Karelia in Russia that the VAT refund obtained by the Onega Tractor Plant was lawful.	N/A	Russia
25-Sep	KPD Consulting	KPD Consulting supported SB Sberbank of Russia in is acquisition of an office building in the central business district of Kiev.	N/A	Russia; Ukraine
25-Sep	Cleary Gottlieb Steen Hamilton; CMS; Grischenko & Partners; King & Spalding	Grischenko & Partners announced that it and King & Spalding represented Ukraine in a UNCITRAL arbitration against Tatneft, represented by Cleary Gottlieb Steen Hamilton. CMS Senior Partner Olexander Martinenko acted as an expert witness on matters of Ukrainian law in the arbitration.	USD 112 million	Russia; Ukraine
20-Aug	BDK Advokati	BDK Advokati advised Resource Partners on its acquisition of World Class, the Serbian arm of the European gym and fitness chain, with two clubs in Novi Sad.	N/A	Serbia
27-Aug	Asters	Asters advised Eustream on Ukrainian law matters related to the reverse gas supply to Ukraine from the Slovak Republic and the subsequent preparation of transactional documents executed by Eustream with Ukrtransgaz and NAK Naftogaz Ukrainy.	N/A	Slovakia; Ukraine
9-Oct	AstapovLawyers	AstapovLawyers has advised the KVV Group on its potential acquisition of the debt of Slovakia Steel Mills.	EUR 168 million	Slovakia; Ukraine

Date covered	Firms Involved	Deal/Litigation	Deal Value	Country
9-Sep	Jadek & Pensa; Schoenherr	Schoenherr advised the consortium of shareholders of Aerodrom Ljubljana – headed by the Republic of Slovenia and the Slovenian Sovereign Holding – on the privatization of Slovenia's primary airport in Ljubljana. Jadek & Pensa represented purchaser Fraport.	EUR 177.1 million	Slovenia
1-Oct	Rojs, Peljhan, Prelesnik & Partners	RPPP advised Hypo Alpe Adria Internationalon the transformation of its Balkan network in preparation for its expected sale by year's end.	N/A	Slovenia
28-Aug	Kinstellar; Linklaters	Kinstellar and Linklaters advised Deceuninck on the acquisition of 81.23% of the shares of Pimas Plastik Insaat.	N/A	Turkey
8-Sep	Osborne Clarke	Osborne Clarke advised Wirecard Group on its acquisition of all shares in Turkish Micro Edema Sistemleri Iletisim San.ve Tic., operating as 3pay.	EUR 26 million	Turkey
9-Sep	Eversheds; Herguner Bilgen Ozeke	Eversheds in London and Herguner Bilgen Ozeke in Istanbul have advised the EBRD on a loan to Vestel Elektronik Sanayi ve Ticaret.	EUR 50 million	Turkey
18-Sep	Pekin & Pekin	Pekin & Pekin has advised on the acquisition of 40% of shares in Istanbul Sabiha Gokcen Airport by TAV Havalimanlari Holding.	EUR 285 million	Turkey
14-Aug	Avellum Partners	Avellum Partners announced that it acted as Ukrainian legal counsel to Ferrexpo in connection with three export financing credits, including a USD 14.5 million credit provided by Private Export Funding Corporation to Ferrexpo's Ukrainian subsidiary Ferrexpo Yeristovo Mining and a USD 15.8 million credit provided by PEFCO to Ferrexpo's Ukrainian subsidiary Ferrexpo Belanovo GOK.	USD 30.3 million	Ukraine
27-Aug	Integrites	Integrites is representing Farmak in a dispute involving claims by the State Property Fund of Ukraine and the State Prosecutor's Office of Ukraine that the pharmaceutical company's purchase of the Smuglyanka recreational complex in the Odessa region was invalid.	N/A	Ukraine
1-Sep	Baker & McKenzie	Baker & McKenzie provided advice on English and Ukrainian matters related to the EBRD's new syndicated facility for Nibulon, Ukraine's leading grain trader.	USD 130 million	Ukraine
2-Sep	CMS; Harneys	CMS advised ING and UniCredit as coordinators and lenders Citibank, BNP Paribas, Natixis, Rabobank, Arab Bank, and Banque de Commerce et de Placements on a pre-export financing for Kernel Group.	USD 400 million	Ukraine
4-Sep	Avellum	Avellum Partners acted as Ukrainian legal counsel to Ferrexpo (acting through its Ferrexpo Yeristovo Mining subsidiary) in connection with the acquisition of an electrified railway and a power line.	EUR 364,000	Ukraine
8-Sep	Ilyashev & Partners	Ilyashev & Partners persuaded the Kiev Circuit Administrative Court to bar the Registrar of Companies from making any changes to the records of Antonov – the Ukrainian government-owned aircraft producer – that would result in dismissing Dmytro Kiva as chief executive officer and/or board member and appointing Sergiy Merenkov in his place.	N/A	Ukraine
8-Sep	AstapovLawyers	AstapovLawyers is representing the KVV Group in a potential acquisition of the "Liepajas Metalurg," steel mill.	EUR 80-100 million	Ukraine
23-Sep	AstapovLawyers	AstapovLawyers successfully represented Delta Bank in a dispute against an unnamed "Ukrainian tycoon," who owns a "significant" group of agricultural companies in Ukraine.	USD 71 million	Ukraine
26-Sep	Integrites	Integrites is representing the Samsung C & T Corporation in a large commercial dispute between it and an unnamed company, which Integrites reports is "the largest manufacturer of transformer equipment in the CIS and Europe."	N/A	Ukraine
3-Oct	Lavrynovych & Partners	Lavrynovych & Partners acted as legal counsel on Ukrainian law issues related to the provision of a loan to Ukraine by Canada.	EUR 141.4 million	Ukraine
7-Oct	Asters	Asters provided legal advice to Eli Lilly and Company on Ukrainian merger control law issues related to the company's USD 5.4 billion acquisition of Novartis's Animal Health business.	N/A	Ukraine
8-Oct	Integrites	Integrites advised KUK Ukraine on the elaboration of its system of license agreements and related tax matters, vesting KUK Ukraine with the right to use the intellectual property objects of the parent company.	N/A	Ukraine
8-Oct	AstapovLawyers	AstapovLawyers became an official legal partner of the Ukrainian Tennis Federation, providing legal support to the Federation on ongoing matters.	N/A	Ukraine
9-Oct	Engarde	Engarde obtained a successful judgment for three Kiev-resident shareholders of Oledo Petroleum against the director of the company at the British Virgin Islands Commercial Court.	N/A	Ukraine

Full information available at: www.ceelegalmatters.com

Period Covered: August 11, 2014 - October 13, 2014



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

Davutoglu and Bener in First-Ever Turkish Law Firm Merger

The Turkish legal market is, if not "over-lawyered," at least populated by an unusually large and ever-growing number of smaller firms led by lawyers with significant international and cross-border experience. As a result, complaints about downward fee pressure are more common than in many other markets, and the competition for clients is unusually fierce.

Speaking on the subject last winter, several well-known experts predicted a consolidation of the market. Kenan Yilmaz, the Chief Legal Counsel at Koc Holding, suggested that the market is in a "transition period," and said of the many smaller firms that, "eventually some of them will be eliminated, and some of them will unite." Ismail Esin, the Managing Partner of the Turkish firm associated with Baker & McKenzie, mirrored this analysis, predicting that "most probably some law firms will be forced to come together, to merge, to survive." And Cem Davutoglu, the owner of Davutoglu Attorneys at Law – one of the firms fighting to establish itself in the crowded market – said of the smaller firms that, "they're inevitably going to merge at some point."

Davutoglu's prediction, it turns out, was perhaps not entirely theoretical, and his choice of pronoun perhaps disingenuous, as the former White & Case Partner combined his eponymous boutique with the larger and more established Bener law firm on September 1. Davutoglu's entire team – with the exception of Partner Eda Cemali, who remained independent – was subsumed into Bener, which grew to over 50 fee earners. The merger may well constitute the first-ever merger of two established firms in the Turkish legal market.

Davutoglu says he and Erim Bener first became acquainted while working on a bank acquisition transaction over a decade ago, and the possibility of joining forces was raised and tabled several times over the intervening decade. His decision that the time for the merger had come, Davutoglu says, followed from his analysis of the market: "I think it was a decision based on the thought that, in a market where competition is getting stronger every day, consolidation and forming larger and stronger firms offering a wider scope of services with more senior and specialized attorneys would create a difference."

Davutoglu says that he is not concerned about no longer seeing his name on the charter, as "I believe in synergies and success in bigger structures with better capabilities." Both he and Bener have high expectations about the merger, Davutoglu says, as they have received positive feedback from the market and clients, and "you can sense the vibrant energy of our colleagues in the firm." As for the exact nature of the partnership, Davutoglu would say only that at Bener he operates under "a hybrid structure of fixed income and income based on revenue generated."

Finally, when asked about the significance of this first ever merger, Davutoglu refers to the changing nature of the market itself. "Things are moving fast in Turkey," he says. "Magic Circle firms are coming in, old firms with a big presence are still losing blood, etc., and the clients are becoming more sophisticated in terms of hiring legal counsel and closely watching developments in the market." As a result, he says, "I think consolidation is inevitable across the spectrum of small, mid-sized, and large law firms."

Magnusson Cuts Ties to Latvia and Belarus Offices

Magnusson International cut its ties and formal affiliation with its Riga and Minsk offices on August 16, 2014, though it maintains its offices in Sweden, Germany, Ukraine, Russia, Denmark, Lithuania, Estonia, Norway, and Poland.

In an exclusive conversation with CEE Legal Matters, Senior Partner Per Magnusson explained that the Riga and Minsk offices "did not live up to the standards that we set forth," and although the firm reports making attempts to improve upon the performance of the lawyers in those offices, the firm's partners felt they had no choice but to end the relationship. Asked about what would happen with the firm's clients, Magnusson was sanguine. "Clients tend to go where they go," he said. "This will play out naturally."

The firm's primary goal, Magnusson explained, is to make sure that there is no disruption to the affairs of the firm's international and institutional clients. To that end, Magnusson stated, "in the short term we have people in place that can work under our supervision." The firm is also already "very active" in finding long term solutions in Belarus and Latvia, and Magnusson reports ongoing discussions with potential replacements. He hopes to have the process completed before the end of the year. Still, he cautions, "given this experience, we want to be very diligent about finding the right team."

DLA Piper Merges with Haskovcova & Co. in Czech Republic

DLA Piper merged with the Czech Haskovcova & Co. law firm on September 1, 2014. As a result of the merger, a total of two partners and seven lawyers joined the Prague office of DLA Piper. Haskovcova & Co.'s, former Managing Partner, Thu Nga Haskovcova, is now the Country Managing Partner of the international firm. The second partner addition, Petra Sabatka, will head the office's Litigation & Regulatory group.

Krzysztof Wiater, DLA Piper's CEE Regional Managing Partner stated: "This merger is a strategic move for both firms. The overarching goal is to channel the strengths of both previously existing firms into a newly established partnership, offering a full range of first-class services to our clients in the Czech Republic and throughout the CEE region." And according to a DLA Piper press release, "Prague is a key part of the firm's presence in the CEE region, delivering quality legal services to both local and international clients in areas such as mergers and acquisitions, real estate, general corporate law, finance, labour law, intellectual property and technology, and competition law." Following the merger, the firm will also offer tax advisory services.

Haskovcova added: "This is a monumental step for us. We are delighted at the prospect of this new venture, and I am confident that DLA Piper Prague will become a more competitive player in the CEE legal market." The merger follows the exit from Prague of two international firms earlier this year: Norton Rose and Hogan Lovells. Difficult market conditions were cited as the reason for the exits.

Dentons Takes Maritime Team From Ersoy Bilgehan in Turkey

Balcioglu Selcuk Akman Keki ("BASEAK") – the Turkish arm of Dentons – has announced that a team of four lawyers from maritime law specialists, Ersoy & Bilgehan, has agreed to join the firm. New BASEAK Partners Gulistan Baltaci and Semih Sander bring two associates with them.

Baltaci specializes in asset finance, securitizations, banking/finance, maritime, admiralty and aviation matters, and litigation. She focuses primarily on ship and aviation finance, and sale and purchase transactions. According to a BASEAK press release, she also has significant experience "in the negotiation and enforcement of asset finance contracts, restructuring and bankruptcy proceedings, structuring of private loans as well administrative and civil litigation. She frequently works on franchising and intellectual property transfer contracts, including satisfaction of various licensing and authorization requirements. She represents a wide range of clients from P&I Clubs, ship charterers and airlines to lessors, financiers, insurers and regulatory bodies."

For his part, Sander works on high-profile international trade, banking/finance, project finance, litigation, and maritime projects. His core practice includes shipping and admiralty matters, acting for ship owners, P&I Clubs, charterers, cargo interests and handling cargo damage, loss, shortage and contamination claims, oil pollution claims, collision, salvage, and general average claims. The firm reports that he "has been involved in a number of major casualty cases, including collisions and fires on board vessels, which made the headlines in national press. He also has notable experience in the negotiation, drafting and securitization of finance contracts pertaining to projects in transportation and real estate sectors as well as inter-company loans and loans extended for international sale and purchase of goods. Sander represents a number of major British, German, Swedish, Swiss and Turkish banks."

Barlas Balcioglu, the Office Managing Partner and Head of the Banking and Finance and Real Estate practices at BASEAK, said: "We are delighted to have Gulistan and Semih join our legal team. Their wealth of experience coupled with their impeccable reputation in maritime law matters in Turkey will complement and strengthen our existing practice and help us provide a broader range of legal services."

Tark Grunte Sutkiene and Baltic Legal Solutions Merge in Lithuania

Eugenija Sutkiene, Managing Partner, Tark Grunte Sutkiene, Lithuania

The Vilnius office of Baltic Legal Solutions is merging with competitor Tark Grunte Sutkiene ("TGS") in what TGS describes as "the biggest transaction in the history of the Lithuanian legal services market." The merger agreement was signed by Eugenija Sutkiene, who will continue in her role as Managing Partner of TGS Lithuania, and BLS Lithuania Managing Partner Gintautas Bartkus, who will become TGS's Chairman of the Board in the country.

TGS's Lithuanian office will almost double in size as a result to more than 90 lawyers, making it one of the largest law firms in the Baltics. Combined, according to TGS, "the merging legal teams worked on M&A deals worth LTL 10 billion and advised clients on financing agreements with a value of LTL 20 billion in 2010 – 2014. Currently, they are handling over 1,000 lawsuits with a total value of LTL 7 billion."

Gintautas Bartkus, Chairman of the Board, Tark Grunte Sutkiene, Lithuania

In addition to Bartkus, former Baltic Legal Solutions Partners becoming Partners in Tark Grunte Sutkiene include Valentinas Mikelenas, Gytis Kaminskas, Dainius Stasiulis, Gediminas Lisauskas, Iraida Zogaite, and Robert Degesys.

The complicated process of integrating IT, practice group assignments, and internal harmonization of procedures and billing is expected to be completed by the end of 2014. For the time being the team is spread across 3 different premises: the BLS office, the TGS office, and a second office nearby housing the TGS litigation team. The three offices will be combined into one, however, when the firm moves into its new Vilnius office in the spring.

In an interview with CEE Legal Matters, Sutkiene explained that the tie-up makes strategic sense, noting: "We were very strong in transactions, in insolvency, in banking, while they were more serious and stronger in litigation, real estate, and the practices of both firms complemented each other very much." In addition, according to Sutkiene, "in order to compete with the largest firms we were lacking in critical mass, and we were growing fast, but we understood that it's better to merge and extend our practice groups and add new ones, and really compete in real terms."

The two offices come from similar backgrounds (BLS is the former Ernst & Young legal team in Lithuania, while TGS's team traces its history back to McDermott Will & Emery), and Sutkiene says that's one of the reasons the partners decided the tie-up made sense. "We're both arriving from the corporate culture, and we have the same values, and our organizations were very similar, so I don't believe there will be a cultural clash."

On a personal level, Sutkiene and Bartkus have known each other for over 20 years, and she says the two have long been on "really good terms." As a result, she said, though she hadn't previously been planning a major tie-up, "after a few coffees, we started to think 'why not?'"

YUST Opens Office in St. Petersburg

On September 1, 2014, the YUST Law Firm opened a new office, in St. Petersburg, where it now operates as "YUST Isakov, Afanasiev, Ivanov." The office is led by Partners Vyacheslav Isakov, Sergey Afanasiev, and Mikhail Ivanov.

YUST was founded in 1992, and – in addition to its new St. Petersburg office – also has offices in Moscow and Kiev. According to a statement released by the firm, "the decision to open another representative office is due to the growing demand for quality legal services in the northwestern region of Russia. The new office will allow law firm YUST more quickly and comprehensively to provide professional assistance to our clients."

Vilau and Three Partners Split Off from Vilau & Mitel in Romania

Following a mutual agreement by Dragos Vilau and Sorin Mitel, founding partners of the Vilau & Mitel law firm, to end their association, Vilau and Partners Iuliana Dejescu, Ionut Lupsa, and Andrei Stefanovici have started a new law firm: Vilau si Asociatii. According to a statement released by Vilau si Asociatii, their team is made up of 22 experienced lawyers, with a service offering covering corporate/M&A, energy, banking, IP, TMT, real estate, competition, PPP and European funds, and litigation and arbitration. The new firm's partners explained their goal: "Through Vilau si Asociatii, we wish to quickly set a new standard of professionalism, value, and success on the business law market. The experience acquired by the four founding lawyers, the manner in which we collaborated professionally over the years achieving remarkable results, as well as the potential of the local and regional market have motivated us to take our professional development to a new level. We thank our previous colleagues and wish them success going forward."

Before splitting off from Vilau & Mitel, Vilau coordinated the litigation side of the business, with Sorin Mitel managing the consultancy side of the business. Vilau & Mitel firm was founded in 2003, when Dragos Vilau and Sorin Mitel left Musat & Asociatii, the firm led by Gheorghe Musat.

Interlegal Law Firm Formalizes Tie With Istanbul Partner

Interlegal, the Ukrainian shipping and transport firm, has formalized its ties with Mehmet Dogu's shipping boutique in Istanbul. Dogu thus becomes Interlegal's fifth partner, and the first located outside of Ukraine.

Interlegal, which was founded in Odessa in 1995, claims to be "the first law firm to start practicing in all Black Sea countries."

Dogu, who manages his six-lawyer eponymous law firm in Istanbul, has specialized in Shipping and Maritime Law in Turkey for over 25 years. He explained that his team has been working comfortably with Interlegal as correspondents for a long time, referring clients and sharing business, but that he and Interlegal Partner Arthur Nitsevych agreed to formalize the relationship to leverage his reputation in Istanbul with Interlegal's international brand and capabilities. Dogu notes that he'll continue to operate primarily under the Dogu Law Office brand in Turkey, however, as the Interlegal brand is still relatively unknown in that country.

Dogu explains the new arrangement with Interlegal in unsurprisingly enthusiastic terms: "I am very happy to work with them because I find them quite competent in Ukraine and the Black Sea area, and I expect very good things in the future."

Summary Of Partner Lateral Moves

Date covered	Name	Practice(s)	Firm	Moving From	Country
5-Sep	Wolfram Huber	Banking/Finance	PHH Prochaska Havranek	Rautner Huber	Austria
3-Oct	Philipp Strasser	Insurance; Litigation/ Dispute Resolution	Vavrovsky Heine Marth	Grassner Lenz Thewanger & Partner	Austria
6-Oct	Matthias Wahl	Corporate/M&A; Labor; Real Estate	N/A	Schoenherr	Croatia
1-Sep	Ivo Barta	Corporate/M&A	BODAKH	White & Case	Czech Republic
3-Sep	Peter Valert	TMT/IP	Havel, Holasek & Partners	DLA Piper	Czech Republic
15-Sep	Jiri Tomola	Banking/Finance	Dentons	White & Case	Czech Republic
15-Sep	Pavel Siroky	Real Estate	CHSH Kalis & Partners	Noerr	Czech Republic
16-Sep	Ladislav Smejkal	Criminal Law; Litigation/ Dispute Resolution; Labor	Dentons	White & Case	Czech Republic
8-Oct	Kaido Kunnapas	PPP/Infrastructure; Tax; TMT/IP	LMP Law Firm	MAQS	Estonia
8-Sep	Daniel Martin	Litigation/ Dispute Resolution	ACI Partners	Avornic si Partenerii	Moldova
1-Sep	Ewa Szlachetka	Corporate/M&A	Eversheds	Gessel	Poland
10-Oct	Pawel Hincz	Corporate/M&A	Wiercinski Kwiecinski Baehr	Greenberg Traurig	Poland
10-Oct	Piotr Grabarczyk	Banking/Finance	Wiercinski Kwiecinski Baehr	Weil Gotshal & Manges	Poland
17-Sep	Dragos Vilau	Corporate/M&A	Vilau | Associates	Vilau & Mitel	Romania
17-Sep	Iuliana Dejescu	Corporate/M&A; Private Equity	Vilau | Associates	Vilau & Mitel	Romania
17-Sep	Ionut Lupsa	TMT/IP	Vilau | Associates	Vilau & Mitel	Romania
17-Sep	Andrei Stefanovici	PPP/Infrastructure	Vilau | Associates	Vilau & Mitel	Romania
4-Sep	Muge Koyuturk Tansel	Banking/Finance	Gen Temizer Ozer	Fiba Group	Turkey
9-Sep	Gulistan Baltaci	Transportation/Logistics	BASEAK (Dentons)	Ersoy & Bilgehan	Turkey
9-Sep	Semih Sander	Transportation/Logistics	BASEAK (Dentons)	Ersoy & Bilgehan	Turkey
11-Sep	Selen Gures	Corporate/M&A	Ozbek Attorneys at Law	Cerrahoglu	Turkey
15-Sep	Haluk Bilgic	Banking/Finance	Bilgic Avukatlik Ortakligi (Chadbourne & Parke)	Ozdirekcan Bilgic Dundar (Gide Loyrette Nouel)	Turkey
23-Sep	Zumrut Esin	Competition	Esin Attorney Partnership (Baker & McKenzie)	N/A	Turkey

Full information available at: www.ceelegalmatters.com

Period Covered: August 11, 2014 - October 13, 2014

Summary Of New Partner Appointments

Date Covered	Name	Practice(s)	Firm	Country
8-Sep	Sonja Hebenstreit	Competition; TMT/IP; Life Sciences	Herbst Kinsky	Austria
8-Sep	Mario Steinkellner	Corporate/M&A; Real Estate	Herbst Kinsky	Austria
11-Sep	Clemens Grossmayer	Corporate/M&A	CMS	Austria
3-Oct	Andreas Seling	Competition; TMT/IP	Dorda Brugger Jordis	Austria
3-Oct	Stephan Steinhofer	Litigation/Dispute Resolution	Dorda Brugger Jordis	Austria
23-Sep	Veiko Viisileht	PPP/Infrastructure	Glikman Alvin & Partnerid	Lithuania
14-Aug	Ana Maria Andronic	TMT/IP	Biris Goran	Romania
29-Aug	Omer Erdogan	Banking/Finance	Guner Law Firm	Turkey

Summary Of In-House Appointments

Date covered	Name	Company	Moving From	Country
25-Sep	Josef Holzschuster	Phillips	HP	Czech Republic
25-Sep	Gabor Antal	Teva Pharmaceuticals	Kinstellar	Hungary
9-Sep	Pawel Stykowski	InterRisk	CMS	Poland
19-Sep	Aykut Dincer	Colgate-Palmolive	CEVA Logistics	Turkey
22-Sep	Murat Caglar	Halkbank	BTA	Turkey

Other Appointments

Date Covered	Name	Firm	Appointed to	Country
3-Oct	Alexander Goretsky	Revera Consulting Group	Accepted into the database of arbitrators by the Russian Arbitration Association	Belarus; Russia
8-Oct	Giedre Rimkunaite-Manke	GLIMSTEDT	Local representative of ITechLaw for Lithuania	Lithuania
10-Sep	Leszek Koziorowski	GESSEL	Supervisory Board of Tauron	Poland
2-Sep	Rene Schob	Mazars	Managing Partner of the the firm's Romanian office	Romania
6-Oct	Vladimir Golitsyn	N/A	President of the International Tribunal for the Law of the Sea (ITLS)	Russia
9-Oct	Julia Romanova	Chadbourne & Parke	Head of Dispute Resolution in Moscow	Russia

Full information available at: www.ceelegalmatters.com

Period Covered: August 11, 2014 - October 13, 2014

Legal Matters: The Buzz

The Buzz

In the "The Buzz" we offer our readers in each issue a short summary of the major and relevant topics of interest in Central and Eastern Europe, provided by those best positioned to know: law firm partners and legal journalists/commentators on the ground in each CEE country.

Austria

"Moving on, cleaning up, and trickling down"

One of the growing trends in the Austrian market is that of younger partners leaving renowned larger firms to establish their own boutiques. This is not a new phenomenon, according to Martin Eckel, Partner and CEE Head of Competition, EU & Trade at TaylorWessing e|n|w|c, rather something that has been increasing over the last 2-3 years. Eckel pointed out that it tends to happen most often within arbitration practices, with both Schoenherr and Wolf Theiss registering recent departures. Eckel further explained that it makes sense for arbitration to be the main practice area of spin-offs due to the increased potential conflicts of interest in a large firm. Departures, of course, are not limited to that practice area, however, as two lawyers left TaylorWessing in August to launch their own IP/IT boutique (named "Geistwert" – tr. "BrainValue").

In terms of buzzing client work, nationalized Hypo Alpe Adria is likely at the top of most lawyers' list. All starting with a set of guarantees for Hypo's liabilities made by the Carinthia Province, the bank's series of refinancing needs has created a scenario where, because Austrian political sentiment precludes the bank from going bankrupt and has resulted in legislation effectively voiding certain liabilities of the bank and the underlying guarantees by Carinthia, many investors stand to lose a huge part of their investments. This has sent, according to Eckel, a "huge shockwave for investors, in particular in the case of large insurance companies," which are now engaging lawyers, not only from law firms – though many of them in the country have some form of a mandate related to this – but also from academia to help draft opinion statements to see whether claims against the state can be brought. (For more on this subject see page 45)

Lastly, compliance focus is a growing trend in Austria (as it is across CEE). Due to the increased level of fines, and because of the double level of liability towards fines in cartel cases (at both European and country levels), Eckel points to a trickle down in compliance focus beyond the traditionally heavily regulated sectors like life sciences and finance, as developments like the Bribery Acts – both the UK and Austrian – still resonate within the market.

Czech Republic

"Too many departures to not raise questions"

The primary subject that lawyers in the Czech market that we spoke to brought up was the perceived outflow of lawyers from the White & Case office in Prague. While the office is still very active on big-ticket deals (the last one reported on the CEE Legal Matters website, on September 16, involved the sale of an international property portfolio), the firm has had a number of notable departures since the beginning of the year, including Partners Jiri Tomola and Ladislav Smejkal in September, Ivo Barta in August (joining fellow White & Case alumni Jakub Dostal and Petr Kuhn, who had left the firm at the beginning of the year), and the firm's highly-regarded Chief Operating Officer for Central & Eastern Europe and EMEA Director of Strategic Projects, Richard Singer. As this issue went to print, White & Case lawyer Ivo Janda, was made partner in the Prague office. Nonetheless, in light of the recent withdrawals of two international firms – Norton Rose and Hogan Lovells – from the market, the buzz about such subjects is understandable.

On the deal side, Karel Muzikar, Managing Partner of Weil, Gotshal & Manges, explained that, while there is enough work in the country to keep lawyers busy, the market is small and there is little prospect for a deal similar in size to, for example, last year's Telefonica acquisition. "At the very least, I would say there is no huge M&A deal that anyone is holding their breath over at the moment," he commented. What does seem to be a hot topic based on feedback from the market is the international arbitrations such as the one filed by CEZ several years ago against the Albanian Government, which is now coming to an end.

The New Civil Code, which used to be THE buzzword in the country, is back in the spotlight with ongoing debates in the political sphere over the extent to which the code should be amended now that its effects have become observable, a debate that seems to be, at least to some extent, politically fueled. On this Muzikar commented: "Personally, I do believe that some changes need to be made immediately – at least to the provisions that we can clearly see do not work, but going deeper than addressing these specific instances and implementing major changes less than a year into the Code coming into force seems hasty. I believe we need to give it more time to settle down."

Bosnia and Herzegovina

"Exciting internationally funded projects in an otherwise relatively small market"

PPP/Infrastructure work has the Bosnian market excited, especially due to the legislative reforms meant to facilitate such projects, according to Emina Saracevic, Managing Partner at Saracevic & Gazibegovic Lawyers. Following up on the BH Law on Public Procurement introduced in May 2014 (to be implemented in November 2014), which aims to synchronize the country's approach in the field to EU directives and which facilitated access to the market to foreign investors, the Federation part of the country now has a new Company Law in parliamentary proceedings. Saracevic explained that the new law will reduce the minimum start-up capital for limited-liability companies and reaffirm the principle of allowing foreign companies to open up local branches instead of forcing them to set up a business entity. The country is also aiming to improve its investment climate with a new piece of anti-corruption legislation adopted in 2014.

At the same time, the last months have seen the opening of a central portion of the new Corridor 5C road network, which – at a value of EUR 310 million (excluding VAT) – will add to the current total of 124 km of highway. Another exciting move in the market follows the recent Agrokor expansion (which made it the largest retailer in the country), as the local retailer Bingo seems set to compete in acquisitions and is already in negotiations to purchase Interex, part of the Intermarche Group, in the country. If these deals go through and receive relevant competition clearances, Bingo will become the second largest retailer in the country.

International funding has also sparked other projects that are keeping lawyers busy, ranging from the latest EUR 785 million Tuzla TPP project (financed by Chinese investors), an ongoing EUR 600 million Stanari TPP plant (being built by China's Dongfang Electric Corporation and financed by EFT Group), as well as major construction work in Sarajevo (financed by investors from the Middle East), which will add an additional 69,000 square meters of shopping/business/hotel space in the capital and create one of the largest video billboards in Europe.

Things stand to pick up even further in the market after the general elections on October 12, with the opposing parties pushing for different privatizations relevant to railways, telecom, and energy sectors.

Greece

"Privatizations grinding to a halt but real estate showing promising signs"

While most authorities point to privatization as being the most important element of Greek economic revitalization, most such projects seem to have grounded to a halt, noted Cleomenis Yannikas, Partner at Dryllerakis & Associates. Both the process of obtaining regulatory approval and various court procedures have caused significant delays in several privatization projects. There has also been an increased sensitivity by the European Commission on old state-aid cases related to many privatization undertakings, which creates extra hurdles.

More optimistic signs are registered in real estate. Recent years saw the sector struggle due to a radical decrease in prices and a general feeling of pessimism leading to hesitation among potential investors (made all the worse by the difficulty of obtaining financing from hurting banks). Yannikas pointed to several potential investors examining the market – primarily in the leisure/tourism sector – in the past couple of months, looking to capitalize on both the low prices and the perceived improved financial situation in the market. The only question is to what extent perceived political risk (including the rumors of a potential snap election) will discourage them from stepping in.

The market is also closely monitoring developments related to Real Estate Investment Companies, which are working as the investment vehicles for high-profile real estate. Following some further improvements in their legal framework, they are expected to play a main role in the sector.

Hungary

"Uncertainty over how to be an attorney of trust and a new approach to the banking problem"

According to Kinga Hetenyi, Managing Partner of Schoenherr's Budapest office, one of the topics Hungarian lawyers are buzzing about is the relatively new Whistleblowing Law (Hetenyi notes that the last American Chamber of Commerce meeting on the topic in late August had representatives from around 10 firms). Although effective since January, several questions about its implementation remain unanswered. Specifically, the new law created a framework in which a company can appoint an outside law firm as its "attorney of trust," which firm would then be engaged to administer whistleblowing complaints.

The external counsel would then both have a filtering role and potentially be involved in the resulting investigation. According to Hetenyi, one of the interesting implementation aspects is that there are a number of companies who have set this up, and the new law makes it mandatory for the representing firm to register with the bar association in such a capacity, but the list made publicly available so far only includes one firm – hers. Aside from that, the law expects the firm to act "in the interest of the whistleblower," which, according to Hetenyi, creates a weird situation where you might have to act against the interests of your client.

The banking industry is still in the spotlight (see previous issue's Buzz for Hungary). According to Gergely Szaloki, Attorney at Law at Schoenherr's Budapest office, with minor exceptions from small companies, all claims filed against the state following the July Act have succeeded. Now, a new law is about to be adopted (it's awaiting only the President's signature) which will require banks to recalculate debts, installments, interest rates, etc., while also empowering the Central Bank to supervise the whole process, which is due to be completed by the end of the next summer.

Montenegro

"Hard compromises, or lack of them, spring potential new deals"

One of the hottest topics at the moment in Montenegro is the potential reshuffling of the shareholders' structuring in the Montenegrin national energy provider, Elektroprivreda Crne Gore. When the company was privatized five years ago, 43.7 per cent of the company was sold to IA2A. Despite its minority shareholding, the agreement stipulated that the Italian company would have management rights. These rights, however, expire at the end of this year, meaning that a new arrangement needs to be negotiated – and it appears one may not be achieved. Should that happen, the Croatian power utility company HEP is seen as a likely purchaser of A2A's shares.

Also in the energy sector, one of the most eagerly awaited projects is the underwater cable that connects Montenegro and Italy (a deal originally closed in 2011/2012). The problem in the implementation of the deal stems from the Italians' decision to change the route to an area that is shallower but is controlled by Croatia, which until recently has refused to approve the work. A potential compromise seems to be near which would re-start the project, and firms in the country are excited to see the deal progressing.

Another project likely to commence in late October is a new highway meant to link the Montenegrin coast to the Serbian border, construction on which is likely to begin shortly after the deal itself is completed. At the moment it is considered highly likely that the construction will be performed by the Chinese-owned CRBS and financed by the Chinese Exim Bank. The deal is expected to reach a total value of EUR 800 million.

Moldova

"Pledging to increase credit access"

According to Roger Gladei, the Managing Partner of Gladei & Partners, while law firms in Moldova have been generally busy the last couple of months, the Moldavian market has not registered any major acquisitions or litigations that could qualify as "truly newsworthy."

In terms of legislation, however, the scene is slightly different, as the market is buzzing over the recent amendments to the Law on Pledge which were published on August 8 and are due to come into effect within a three-month period. It is, according to Gladei, "one of the main reasons [his] phone line is kept busy."

According to Gladei, the core objective of the draft law is increasing access to credit through a number of tools: (1) expanding the type of assets which can be made an object of movable charges; (2) expanding the regime of publicity and priority among creditors beyond movable pledge to other financial instruments with a similar purpose, including financial leasing; (3) removing creditors' monopoly over pledges by expressly allowing for second-ranking movable pledges; and (4) streamlining the process of recovery of secured loans to prevent bottlenecks at the stage of enforcement and encourage creditors to accept movable charges to a larger degree. One of the revolutionary changes in terms of recovery and enforcement is that parties now have the option to resolve such disputes outside of court, a solution that, unlike in many countries (Romania has had it since 1999), was not previously available in Moldova.

Poland

"Market recovering or simply fighting for every penny."

Among the big events that will shape the Polish legal landscape are the changes which will soon take place within the Arbitration Court of the Polish Chamber of Commerce. These changes will represent, according to Marcin Aslanowicz, Partner at Baker & McKenzie, "a fundamental change similar to the ones undertaken by the London Court of International Arbitration." Other potential legal updates frequently discussed in the market include potential changes in the Rules of Civil Procedure, but Aslanowicz believes they are unlikely to come into play in the next two or three years.

While Aslanowicz reports that there are no real "spectacular or ground-breaking" litigations or arbitrations ongoing in the market, he did mention that a trend can be identified in the increase in volume of such cases. In his view, the fact that economic agents "are not afraid to take on the risk and considerable potential costs of such litigations" (which often take two or three years in the Common Courts) is a positive sign of market recovery. He admitted that not all agree with him, as some see the increase in litigation as a sign that the market is in full recession with everyone willing to "fight for every penny," but he feels that this analysis ignores the length of process and expense that a trial involves.

In other practices such as PPP/Infrastructure or M&A, the feeling in the market is that they are at a relatively stable but low level in terms of volume with no real signs that a spike will appear anytime soon.

Romania

"New Insolvency Code and two parliamentary debates to keep an eye on."

According to Stan Tirnoveanu, Partner at Zamfirescu Racoti & Partners, the Romanian market is primarily talking about two legislative updates. The first, the new Insolvency Code, was introduced on June 26 (published on June 25 in the Official Gazette), but, as a result of the slow summer period and the time it took for its implementation to really begin resonating in the market, it has truly been in the spotlight in the last couple of months. Tirnoveanu pointed out that as recently as early October training teams were put together by the National Institute of Magistracy (INM) and the National Institute for Training of Insolvency Practitioners.

The new code has three main goals: (1) to enhance the predictability and transparency of the insolvency procedure; (2) to create a series of mechanisms that would facilitate reorganizations and restructurings; and (3) to eliminate several loopholes that were leveraged in the past (such as, for example, the possibility of changing a company's seat to move proceedings to a different court and circumvent creditors). According to Tirnoveanu, one of the main benefits of the new code is that it addresses groups of companies, allowing for one member to more easily enter reorganization procedures without creating a domino effect. In the same realm, the Romanian Senate is currently debating the introduction of insolvency mechanisms for private individuals, as the country is, according to Tirnoveanu, the only EU member (aside from the recently-joined Croatia), not to cover this in its codes. Unfortunately, he believes, the current draft lacks a thorough feasibility study and in its current form has a number of implementation pitfalls that have yet to be taken into account.

Also in the parliamentary debates category, there are ongoing discussions on a banking normative act, which seems like it might draw on the Hungarian model to solve foreign currency debt problems (See Hungary Buzz in previous issue).

Russia

"Every transaction here needs to be thoroughly tested through the lens of the sanctions ..."

It may come as no surprise that the one big topic on everyone's mind in the country is still the sanctions imposed by the US, EU, and several other jurisdictions, which target both a number of Russian companies and a number of Russian individuals. As Alan Kartashkin, Partner at Debevoise & Plimpton in Moscow pointed out, this is not a new topic, as the first round of sanctions was announced back in March of this year. What is new, according to him, is that the latest round of sanctions introduced at the end of July and expanded around the middle of September has a "profound effect on business in Russia."

While the original round of sanctions, according to Kartashkin, primarily targeted individuals, the "September Round" saw the US Treasury Department expand sectoral sanctions programs, which affect businesses directly, especially in the defense, finance, and oil and gas sectors of the economy. Not only have the preexisting restrictions on financing loans with maturity of over 90 days to the large Russian state-owned banks, oil and gas, and defense companies been expanded to include loans with maturity over 30 days, but the list of companies subject to such restrictions was further expanded. The oil industry has also taken a considerable blow with the introduction of Directive 4, which prohibits the export of equipment, services, and technology that could be used for Arctic offshore, shale, and deep-water projects and is applicable not only to state-owned oil and gas companies but also to several private oil companies.

Another characteristic of the "September Round" is that, "this time around, the EU and the US have acted in a very coordinated fashion." The EU and US announced the two sets of sanctions on the same day and are generally consistent in their scope and application. The one principal distinction is that EU sanctions do not target private companies, but other than that, according to Kartashkin, they have been far more uniform than in the past.

Such limitations, especially since sanctions cover not only listed entities but also their 50 per cent subsidiaries has created what Kartashkin calls a "nightmare in terms of compliance" in the market. Indeed, the legal community is benefiting from the resulting "spike in compliance activity" but, he says, it is outweighed easily by reductions in transactional work. (for more on the Russia sanctions see page 22)

Serbia

"Demands: Decrease Taxes! Amend the Notary Public law! The Minister of Justice should resign!"

The Serbian legal market is marked at the moment by repeated protests and a strike initiated by the Belgrade Bar Association. The main grievances of lawyers, according to Milan Lazic, Partner at Karanovic & Nikolic, revolve around the increase at the beginning of the year in the flat tax payable by lawyers and a new Notary Public law that stipulates that notaries, who did not exist in the country until its introduction, will be granted a considerable set of responsibilities (including the certification and drafting of real estate contracts) previously possessed by lawyers. There has also been a call for the resignation of Minister of Justice, Nikola Selakovc.

Lawyers in Belgrade were inspired to launch a 15-day strike, from June 18 to July 2, which was joined for three days by lawyers from across Serbia. While talks with the Ministry of Finance were initiated soon after the raise of the flat-tax due by lawyers in February and a solution was promised by the end of June, the Minister of Finance resigned this summer without an agreement having been reached, leading to the current impasse.

As our publication goes to print the Executive Board of the Serbian Bar has announced that the Minister of Justice is, effective immediately, not acceptable as a negotiating party.

Lawyers' protest in Belgrade (*novosti.rs*)

Slovakia

"Compliance is the name of the game"

In a field that Tomas Rybar, Partner at Cechova & Partners, describes as "both bureaucratic and creative, although not the sexiest in the legal industry," compliance has made a strong mark in the Slovak market in the last two months (and, frankly, the year as a whole). Implementing compliance programs in the direction of data security has kept many lawyers in the field busy. At the same time the market is preparing for the introduction of a new Whistleblower Act, which will require, again, considerable compliance efforts. While the new act will force companies with more than 50 employees to set up a system to protect whistleblowers, there will be a considerable challenge for international and large Slovak companies (most of which tend to have foreign shareholding anyway) to synchronize their existing programs with the new requirements. This will not only give work to compliance lawyers but other practices as well, Rybar believes, such as, for example, labor lawyers, who will need to find the balance between offering the required protections and not allowing it to become an "abused popular job preservation mechanism."

Although this issue will have an impact across industries, the life sciences sector is in the spotlight both due to a self-regulated Disclosure Code at an EU level for all value transferred to healthcare professionals, and because it seems likely that Slovakia will adopt this disclosure requirement into law, meaning it will impact those that have not opted into the self-regulation approach anyway. Slovak legislators are also in advanced stages of adopting a withholding tax on transfers to healthcare providers and professionals, against the background of a government claim that they are not the most "diligent tax payers."

Aside from these issues, the market has registered corporate/M&A activity primarily within the energy industry, marked mainly by a substantial list of shareholding shifts. PPP/Infrastructure work might also gain some traction with a new beltway envisioned around Bratislava, and the tender is likely to commence soon. This, according to Rybar, will be one of the biggest projects of its kind in the upcoming years, and the first one after a long break.

In addition, many lawyers talked about the new trainee requirements (see page 25).

Slovenia

"Privatizations … bidders … mandates ..."

The Slovenian market is relatively quiet on the legislative update front, and – in light of recent elections and the new Government having been formed only at the end of September – that is unlikely to change before the end of the year, according to Uros Ilic, the Managing Partner of ODI Law Firm.

In terms of legal work, the two practice areas keeping lawyers busy are restructuring – which has been a buzz practice for the last 4-5 years in the market and is still leading the tables in terms of volume – and privatization. The latter has seen a reboot this year with 4 big state-owned companies already sold: Helios (coating production), Fotona (a laser technology company), Letrika (automotive industry), and Ljubljana Airport. The Slovenian Government announced it is aiming to close several of the remaining 12 companies to be privatized by the end of the year, including Telekom Slovenije, a deal that is estimated to have a value 6-7 times larger than that involving the Ljubljana Airport.

Despite having doubts over how realistic it is to expect a closing of more of these privatizations by the end of the year, Ilic explained that the push is an encouraging development for law firms: "Whether a deal closes by the end of the year or in February/March, they keep the whole market busy on a rolling basis because in reality, all big law firms in the market have some form of a mandate from a number of potential bidders, which can include up to 10 per company to be privatized."

Ukraine

"Draconian solution of the Ukrainian National Bank to bring the Hryvnia afloat"

"The Ukrainian market was shaken up by an extraordinary resolution of the Management Board of the National Bank of Ukraine on September 22," Yulia Kyrpa, Partner at Aequo, told CEE Legal Matters. According to Kyrpa, the resolution greatly restricted the ability to purchase foreign currency and for foreign investors to receive dividends or to sell their shares.

The extraordinary measure came as a result of the National Bank's attempts to put the breaks on the skyrocketing inflation and devaluation of the local currency. The restrictions mean an individual is limited to purchasing USD 200 of foreign currency (with an exception for cases where the person needs more to pay back a loan), and requires Ukrainian exporters to sell 75% of their foreign currency. Due to its sudden implementation, Kyrpa also explained that it raised considerable challenges for exporters expecting payment on invoices with delayed payment terms. It has led to several companies having to resort to court judgments in order be able to process payments, which, in itself, is cumbersome and complicated to achieve.

The temporary solution is set to expire on December 2, 2014 and the general feeling is that it will not be renewed – but the bank has the option of extending it if the Hryvnia does not stabilize.

Thank you!

We thank the following for sharing their opinions and analysis:

Yulia Kyrpa - Partner - Aequo

Marcin Aslanowicz - Partner - Baker & McKenzie

Tomas Rybar - Partner - Cechova & Partners

Alan Kartashkin - Partner - Debevoise & Plimpton

Cleomenis Yannikas - Partner - Dryllerakis & Associates

Roger Gladei - Managing Partner - Gladei & Partners

Milan Lazic - Partner - Karanovic & Nikolic

Uros Ilic - Managing Partner - ODI Law Firm

Viktor Prjla - Lawyer - Prlja-Zilovic Law firm

Kinga Hetenyi - Managing Partner (Budapest) - Schoenherr

Gergely Szaloki - Attorney at Law - Schoenherr

Karel Muzikar - Managing Partner - Weil, Gotshal & Manges

Stan Tirnoveanu - Partner - Zamfirescu Racoti & Partners

Feeling the Pinch: Law Firms in Russia Assess the Effect of Sanctions

The sanctions imposed on Russia by the European Union and the United States following the Russian annexation of Crimea and its continued support of the separatists in Eastern Ukraine have had a major impact on the Russian economy.

The ruble has weakened to record lows, the economy is projected to grow only 0.5 percent this year (and even less next year), Russia's stock market is down about 3 percent this year (while up about 9 percent globally), and reports suggest that as much as EUR 9 billion has left Russia in capital flight since the crisis in Ukraine began.

The weakening economy and decrease in foreign investment impacts the large law firms in Moscow significantly. Law firms are conservative and careful by nature, and perhaps nowhere more so than in Russia – so information about law firm revenues, profits, and lawyer utilization is kept very close to the vest.

Still, rumors fly about law firms which may be struggling, others (generally Russian) which may be profiting by the arrival of Russian clients forced to walk away from the international law firms, and some in the middle keeping an even keel.

To try to get the facts behind the rumors, CEELM reached out to the leading Russian and international law firms in Moscow with a simple question: How are the sanctions affecting your day-to-day business? We promised to publish their answers in full, without any editorializing or shaping into a preconceived narrative.

Did we expect them all to participate? Of course not. But a number did (one on an anonymous basis). We appreciate their candor and the time they spent preparing their responses.

Sergei Voitishkin, CIS Managing Partner, Baker & McKenzie

We had to stop working for several Russian clients who were sanctioned, and several clients withdrew from certain Russian projects because of the US and EU sanctions. Several Western clients (mostly those who were considering entering the Russian market for the first time) decided not to proceed with their projects in Russia. Our capital markets and finance practices have been affected as Russian clients cannot raise funds in Western markets.

On the other hand there is a considerable amount of work related to the introduction of the sanctions and their impact on current projects being implemented by our clients.

However, generally, if we look at all practice groups in the Russian offices, we have not yet seen a drop in hours. The work structure has not really changed (other than the drop in capital markets and financing deals) and it is business as usual for our other practice groups, including corporate and M&A, which are all reasonably busy.

Sergey Aksenov, Managing Partner, Lidings

The sanctions have certainly affected legal business in Russia. Besides the fact that this is a hot topic for general discussion at business seminars, conferences, and client meetings, you can feel the overall circumspection of both Russian and international business communities. On the other hand, in recent history we have repeatedly passed through similar stages – in both 2008 and in 2012, for instance – and I believe that the political component of the current situation itself does not really have as much impact on legal business as might it might seem at first glance.

Indeed, as a law firm advising specifically foreign companies in Russia, we have not seen any dramatic reduction in the frequency of legal assistance requests. The firm's current clients continue to develop their ongoing projects in areas not affected by sanctions. Moreover, the sanctions themselves have created an additional demand for legal advice among businesses. In particular, we are experiencing a significant increase in litigation and dispute resolution cases because the reduced number of investment projects and initiatives in the banking and finance area ultimately results in more disputes.

It is also expected that after a number of foreign companies affected by sanctions exit the Russian market their competitors from other countries (not just China and India, but also Brazil and Argentina, for example) will try to fill their niche. Lidings already has a broad base of clients from the Asia-Pacific region and South America, and we expect more large businesses from those regions to enter the Russian market in the nearest future.

Andrey Novakovskiy, Managing Partner, Liniya Prava

The war is the worst thing we could ever imagine. The war with Ukraine is a disaster. Russia and Ukraine have always been like sisters and the war is a human, historical catastrophe, which none of us could even imagine in our worst dreams.

This idea is not connected with business. In fact, our financial results are good despite the war. The sanctions have 2 sides. The 1st is that we feel less competition from international law firms, and much of the work done by them before has started flowing to us. We observe this change particularly with major Russian entities which have come under sanctions. And this is good for us. From the other side, we see a decreasing volume of legal work in investment and M&A as a whole. And this is very bad.

The balance in our case is mostly due to the new area of practice we started developing a few years ago, i.e. PPP. The Russian central and regional governments are constantly putting their efforts towards creating infrastructure like roads, airports, sea ports, utilities, etc. These activities are protected from war and sanctions' influence as they are the main priority of the state.

So, compared with previous year we feel much better, as our turnover is 1.5 times what it was in 2013.

Alexander Ermolenko, Partner, FBK Legal

Actually we do not see a great impact on the economy from the sanctions at the moment. I would say this is pretty normal, because such measures never have an immediate effect. At the same time I can not say we see no consequences. Regarding our clients, mostly international, we see that some major activities in Russia have been paused for an uncertain period of time. Not really because of the sanctions, but mainly because of the uncertainty about the whole economic situation. To restart these projects anew will take months of time and thousands of euros. For instance the results of due diligence procedures are becoming outdated, so they will need to be reinitiated from the very beginning in a few months. As far as I can judge, the changing of this situation for better or for worse depends a lot on the political situation. At the moment we don't see any lay-offs or mandatory vacations, etc. So I'd say we don't feel much discomfort at the moment, but surely we will in the near future if no good political news comes. If nothing changes for the better, those law firms who focus on international clients will face difficulties. Those ones who work mostly with Russian big business and state companies probably will keep their positions.

Vladislav Zabrodin, Managing Partner, Capital Legal Services

In terms of law firms operating in Russia, there are two main results related to the sanctions: (1) new limitations that foreign legal services providers face and a potential decrease in the volume of work they will be able to do for major Russian companies and individuals that were included in the sanctions lists; and (2) an expansion of the market on account of new clients from Southeast Asia and China.

Certain foreign companies operating on the market were faced with the question of whether they could provide legal services to companies exposed to sanctions and to companies held directly or indirectly by persons included on the sanction lists. There has been an indication of some staff reductions taking place at some foreign law firms. I should say however that some of the international law firms are seeking mechanisms that would enable them to retain the ability to work with such clients. In any case, the opportunities for law firms from countries which have not imposed sanctions on Russia – and for local law firms – to work for major Russian clients have increased.

In terms of strategy, the possibility of replacing European and US clients with those from Asia is low at the moment, due both to the lack of a large-scale presence on the Russian market, and a different approach, culturally speaking, to rendering legal services. At the same time, we can definitely say that clients from Asia, particularly from China, have become greater in numbers and their need for legal services has grown.

Capital Legal Services has been present on the Russian market since 1999 and during this long period we have seen a number of external challenges, including the global economic crisis of 2008, which hit Russia rather hard. As a result, we have acquired vast expertise and developed methods of dealing with complicated market circumstances. We are certainly ready for the sanctions to affect our plans and our clients' projects pertaining to M&A and development, especially those of our foreign clients with a cautious approach, who sometimes postpone large-scale initiatives until things get better. At the same time, the sanctions have not adversely affected our work thus far, since our clients are mostly major – and stable – companies with a long-term and solid position on the Russian market.

We have not had staff reduction or unscheduled vacations and we intend not only to implement our strategy as planned, but also to develop new practice areas in order to avoid consequences of the sanctions on our business. As a practical note, we opened an office in Finland, moved to a new spacious office in Moscow, and we are soon moving to a more comfortable office in St. Petersburg.

Managing Partner, International Law Firm (Identity withheld by request)

The interesting thing is, the worst part of the year for us – and, from what I've heard, this was similar across the market – was the first two months of this year. Even before Crimea happened. Things just … stopped. Which was odd, because last year was fairly decent, and we saw some good activity. But at the beginning of this year there was just nothing happening. It would be absurd to say that things are "great" … but for whatever reason, things have not been as bad since Crimea as they were before then.

So in fact, believe it or not, for whatever reasons, our utilization is actually quite a bit higher than it was in the first half of the year. It's a lot higher actually. That doesn't mean we're at 100% capacity and making record profits. It simply means that we have a couple of deals that are keeping us kind of busy. We're definitely not laying anybody off or cutting hours.

Ultimately, we're really just in a wait-and-see mode, and trying to continue business as usual. We're in the market, looking for work, pitching for deals, and working on the deals we have. And I've been somewhat surprised that we've been seeing just as many pitch opportunities as we did before. So perhaps clients are trying to realign their business somehow and find other opportunities, domestic or otherwise. I wouldn't have been surprised to see a complete freeze, but that's not what's happened.

For foreign clients there certainly have been things that they put on hold, but other things have gone forward. Still, it's probably not shocking that most of what we've seen, and most of the pitches we've been seeing, have been for Russian clients. It's usually not for new deals where there is a Western investor. It's usually for deals where either it's a domestic deal, or where it's outbound.

Bristling in Bratislava: Newly-Extended Trainee Period in Slovakia

The question of how much additional training fresh law school graduates require before qualifying as fully competent attorneys is one different countries answer differently. And a number of lawyers in Slovakia are not happy with the recent changes their country's Ministry of Justice has made to the training requirements for the country's law school graduates.

Not all jurisdictions require a trainee period for would-be lawyers. In the United States, for instance, graduates from accredited law schools require only a passing grade on the bar exam. Once that is obtained, young lawyers are considered competent to spread their professional wings and fly as far as their abilities can take them (landing once in a while to obtain mandatory continuing legal education credits).

A different regime exists in much of CEE – including in the Slovak Republic, where, on January 2, 2013, the Ministry of Justice extended the mandatory 3-year trainee period to 5 years, tying it with Austria and Latvia for the longest in the region (**see summary on page 27**).

In making the change, the Ministry of Justice referred to a purported decline in quality among current trainees and the need to extend that process to ensure sufficient time was invested in preparing them for a career in private practice. Many believe the decision to extend the period was made at the urging of and for the benefit of senior Slovak attorneys, however, who were alarmed by the tide of new lawyers graduating from the large number of law schools in the country. And it's been pointed out that, in addition to decreasing competition, the extended trainee period will provide significant savings for attorneys able to pay trainee wages for two years longer than before.

The change was not made without dissent. A current trainee at an international law firm in Bratislava remembers about his fellow students at the time the change was proposed that "everyone was really upset." A petition drive was organized in protest, eventually generating enough support to trigger a statutory right to be heard. The Slovakian Anti-Monopoly authority was reportedly also concerned. The Slovakian Ministry of Justice listened to all objections, then proceeded as planned.

Radoslava Zemlickova, now a trainee with Vasil & Partners, was fortunate enough to

From the point of view of those young people I think it's not very fair because 5 years will bring them to the age of 29, if they graduate from the law school at the age of 23 – or some of them maybe later because they're not so fast – so now you have people at the age of 30, where they want to establish families, they want to have their lives already, and a five year trainee-ship is quite a lot for that. Compared to the rest of Central Europe it's quite a lot.

– Tatiana Prokopova, Managing Partner of Squire Patton Boggs

finish her education at the Pan-European University Faculty of Law in Bratislava before the law changed and is therefore not bound by the new law requiring a five-year traineeship. Still, she's also fuzzy on the justification for the change. "I'm not quite sure why they changed it, really," she says. "The official explanation was that the legal trainees were not prepared to work independently even after the three-year legal trainee period, but from my point of view their ability may be proved by the final exam without any need for an extension of the legal trainee period."

It's not only trainees who find the justifications put forward for changing the law by the Ministry of Justice unconvincing. Tatiana Prokopova, Managing Partner at Squire Patton Boggs in Bratislava, understands the concern the old guard felt at the growing number of young lawyers in the country but rolls her eyes at their reaction. "I think they were feeling that there are plenty of young law firms spread around the country," she says. "You just walk around and on every street you have a law firm, so it seems like there are plenty of them, and young advocates opened their own practices – but that's a market. I don't see that you can change the market by extending the training period. It's an artificial interference, not a natural one."

There's little debate that the new regime works to the advantage of those who employ trainees and who now have an extra two years before they have to increase compensation to "attorney" levels. Still, though an employer of trainees herself, Prokopova feels that mere financial interest is an inapropriate justification for delaying others' careers. She says, "From the point of view of employers it's nice, but as a person, as somebody who also had to be a trainee at some point, it's not very fair."

Like Prokopova, White & Case Associate Veronika Pazmanyanova graduated before the new law went into effect, and thus needed only three years as a trainee. And like Prokopova, Pazmanyova does not want to see the door closed behind her. She says, "I appreciate the efforts of the Slovak Bar Association to establish a higher standard of legal services, but I don't necessarily agree with their methods; I think the market should be more open."

Pazmanyanova notes that under the new rule lawyers may be around 30 before finishing their traineeship – and they'll have to wait another 3 years before obtaining the right to employ trainees of their own. This can be especially problematic for young female lawyers also wanting to have children, she believes, calling it "really an obstacle." Especially because, as Pazmanyova points out, trainees' wages are low – and only go up when that traineeship ends. She's too polite to point fingers, saying only, "I'm not sure who benefits from this, but it's certainly not the trainees."

Of course, not all salaries are the same, and the fortunate few lawyers land more comfortably than others. "I'm very lucky," Pazmanyova, at White & Case, admits, "because I'm working for a great law firm, and when I was a trainee, I didn't feel less of a lawyer compared to the attorneys. In our firm you are treated like an associate whether you're qualified or not. Also your paycheck is fair. But this is not the case for most smaller law firms."

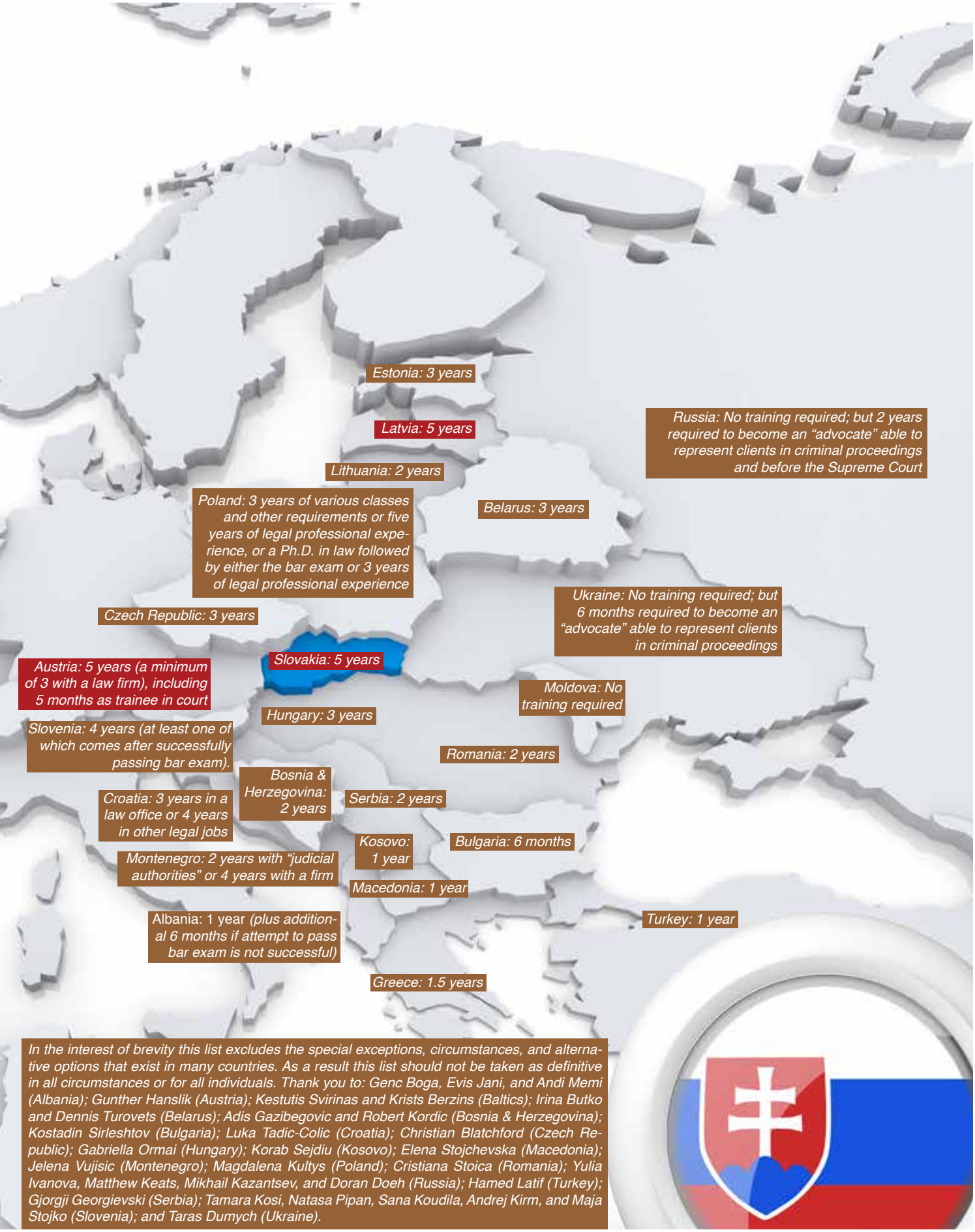
Editors note: Repeated attempts were made to contact both the President and the Secretary of the Slovakian Bar for comment. Those attempts were not successful.

David Stuckey

Some people believe that more lawyers would bring the standards down. But I think it would increase the competition and raise the standards. Being a good attorney is about trying and delivering, and being very careful but also very diligent. Hopefully, more competition will be an incentive. On the other hand, I don't believe that artificially prolonging the trainee period will have a significant impact on young lawyer development.

– Veronika Pazmanyanova, Associate at White & Case

Mandatory Trainee Requirements in CEE



In the interest of brevity this list excludes the special exceptions, circumstances, and alternative options that exist in many countries. As a result this list should not be taken as definitive in all circumstances or for all individuals. Thank you to: Genc Boga, Evis Jani, and Andi Memi (Albania); Gunther Hanslik (Austria); Kestutis Svirinas and Krists Berzins (Baltics); Irina Butko and Dennis Turovets (Belarus); Adis Gazibegovic and Robert Kordic (Bosnia & Herzegovina); Kostadin Sirleshtov (Bulgaria); Luka Tadic-Colic (Croatia); Christian Blatchford (Czech Republic); Gabriella Ormai (Hungary); Korab Sejdiu (Kosovo); Elena Stojchevska (Macedonia); Jelena Vujisic (Montenegro); Magdalena Kultys (Poland); Cristiana Stoica (Romania); Yulia Ivanova, Matthew Keats, Mikhail Kazantsev, and Doran Doeh (Russia); Hamed Latif (Turkey); Gjorgji Georgievski (Serbia); Tamara Kosi, Natasa Pipan, Sana Koudila, Andrej Kirm, and Maja Stojko (Slovenia); and Taras Dumych (Ukraine).

2014 CEE Corporate Counsel Handbook: A General Counsel Perspective on Working with External Counsel

In our previous issue we reviewed the role of General Counsel/Heads of Legal in CEE as reflected in the CEE Corporate Counsel Best Practices Handbook (see CEELM Issue 1.4. "Insights Into the World of General Counsel in CEE"), based on a survey of 695 General Counsel throughout the region. In this article, we will summarize the Handbook's findings relating to the relationship between in-house counsel and external counsel.

Picking External Counsel

The first question we asked was, if there is a need for external assistance, what are the main criteria used by General Counsel/Heads of Legal in picking the law firm they will instruct? We asked our respondents to rank among 5 criteria: legal knowledge of individual lawyer; flexibility on fee systems; brand reputation/track record of firm; fee rates; and trust/track record from working with individual lawyer.

Based on the results, it appears the main focus of General Counsel tends to be on assessing individual lawyers rather than the firms they work in, as legal knowledge and track record of individual lawyers were chosen as the first and second most popular answers, respectively. In contrast, the brand reputation/track record of a law firm was ranked as least important. As Murat Vanlioglu, Head of Legal for Shell Companies in Turkey, said in an earlier interview with us (see CEELM Issue 1.1.), "the individual lawyer is much more important for me rather than the name of the law firm. In the end it is the individual who does the job, not the expensive firm." Flexibility on fee rates and the actual level of fees were the third and fourth most popular answers, respectively, in line with a description provided by Anna Gritsevskaya, Legal Director Russia at PPF Life Insurance (see CEELM Issue 1.3.): "I am prepared to accept a higher cost but it must present real value for money."

"There are two main ways which I developed when I realized I was slowly becoming overly-dependent on a handful of lawyers. The first is attending legal seminars of law firms since it gives me a great opportunity to both update my knowledge and to assess that of the external counsel I am listening to (as well as assessing his business acuity). The other can simply be summed up as "GCs network." Granted, we interact considerably less than external counsel who get to meet regularly (even across each other at a table in a deal or in courts), but we do nevertheless."

– Dmitry Popov, Vice-President Legal & Compliance for Russia at ABB (CEELM Issue 1.3.)

The methods of evaluating potential external counsel Popov describes seem to be reflected in the preferences most General Counsel in CEE expressed in our survey. We asked respondents to prioritize the following sources of information they use in their selection process of external counsel: ranking directories (i.e., Chambers & Partners, Legal 500, etc.); law firm websites; referral/recommendations from networks; and thought leadership (i.e., seminars, round-tables, presentations, articles, etc.). Based on the answers we received, referrals are the most common source of identifying quality external assistance, followed by thought leadership. Ranking directories were third, and law firm websites were last.

One interesting aspect to consider is that, when we asked GCs what tools they most commonly used to keep apprised of regulatory changes, 76 percent responded that they attend law firm seminars and 70 percent reported reading thought leadership pieces in business legal publication (they were number 1 and 3 in terms of the most used tools with number 2 being direct information from regulatory bodies). The main takeaway for law firms appears to be: Generating useful content for GCs in this direction is critical for BD efforts.

Keeping General Counsel Happy

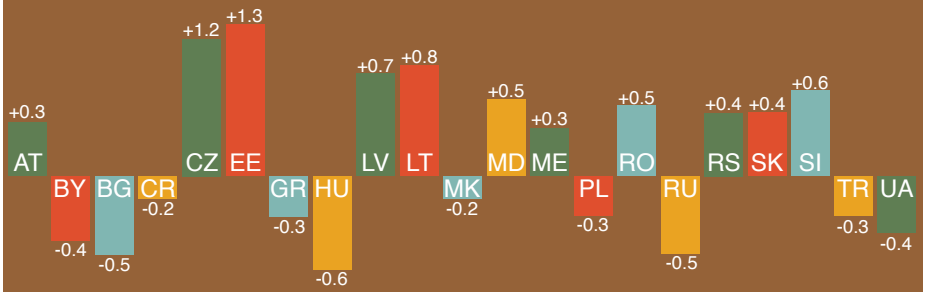
The general consensus is that recurring business is a key ingredient for a firm's success since both volume and complexity of work tend to increase the longer a client-lawyer relationship endures. To explore this further, we asked GCs what KPIs they use to assess a firm's input after a deal/litigation is completed. "Communication/Responsiveness" was the clear leader with 82 percent including it in their KPIs list. "Matching expectations on entrance of deal with results," was the second most commonly listed with 74 percent including it. Timelines/duration of the deal and accuracy of fee predictions were included in 43 percent and 41 percent of responses respectively.

We also asked General Counsel to rate their level of satisfaction with the overall quality of service of law firms in their jurisdiction. Across CEE, only 2 percent said they were "greatly satisfied," and another 5 percent said they are "overall satisfied." The great majority ticked the "acceptable level/ok" box – 53 percent. Another 26 percent reported being "somewhat dissatisfied," with 10 percent saying they were "completely dissatisfied."

In terms of specific countries, we calculated the variation of averages for each country (see Graph 1). What this graph illustrates is the deviation from the average in terms of rank (a deviation of "+1" would equal the full difference between the reported average being "acceptable level/ok" to "overall satisfied." Overall, the countries where GCs seemed to be happiest with the overall quality of legal services provided in their jurisdiction were Estonia – with a deviation of +1.3 – followed closely by the Czech Republic (with a deviation of 1.2). The country with the lowest recorded level of satisfaction was Hungary (-0.6), followed closely by Bulgaria and Russia (both with -0.5).

Graph 1: How satisfied are you by the quality of service of law firms in your jurisdiction?*

*Average variation by country (a deviation of "+1" would equal the full difference between the reported average being "acceptable level/ok" to "overall satisfied")



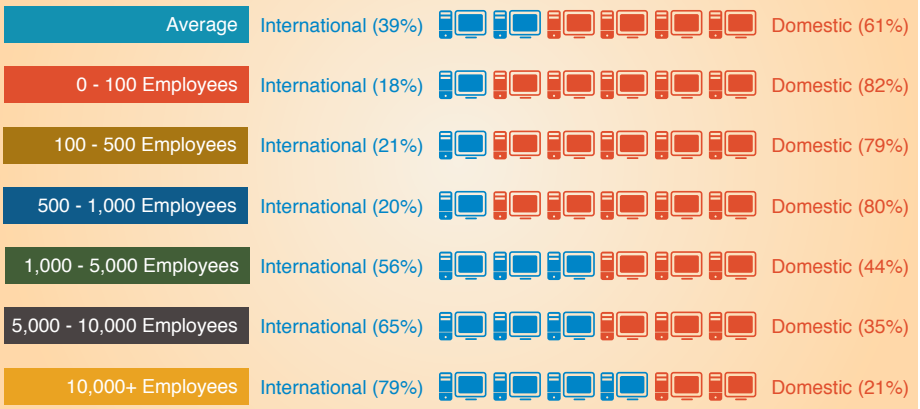
Another subject covered by the study was the primary causes of dissatisfaction towards external counsel. "High cost relative to quality" was the main factor, chosen by 56 percent of respondents, followed by "uncommunicative/unresponsive," chosen by 44 percent. "Fees too high" was identified by 38 percent and simple "incompetency" by 34 percent of the respondents. Twenty-eight percent reported "providing insufficient focus to own matters relative to other clients" as a cause for dissatisfaction, while 23 percent pointed to "fees substantially higher than originally predicted."

The Classic Debate: International or Domestic Law Firms

We asked General Counsel to identify what types of law firms – international or domestic – carry out most work on their behalf. On average, international firms were reported to carry out 39 percent of externalized work, with 61 percent performed by domestic firms. One nuance to these findings is clear when responses are segmented based on the size of the company that the General Counsel is employed by (see Graph 2). While in the case of small companies (0-100 employees), only 18 percent of the work, on average, was delegated to domestic firms, in the case of companies with 10,000 employees or more 79 percent of the work was carried out by international firms. In fact, starting with companies with more than 1,000 employees, international firms already seem to win the majority of mandates.

Graph 2: What percentage of the work you externalize would you estimate is handled by an international law firm?

By size of company:



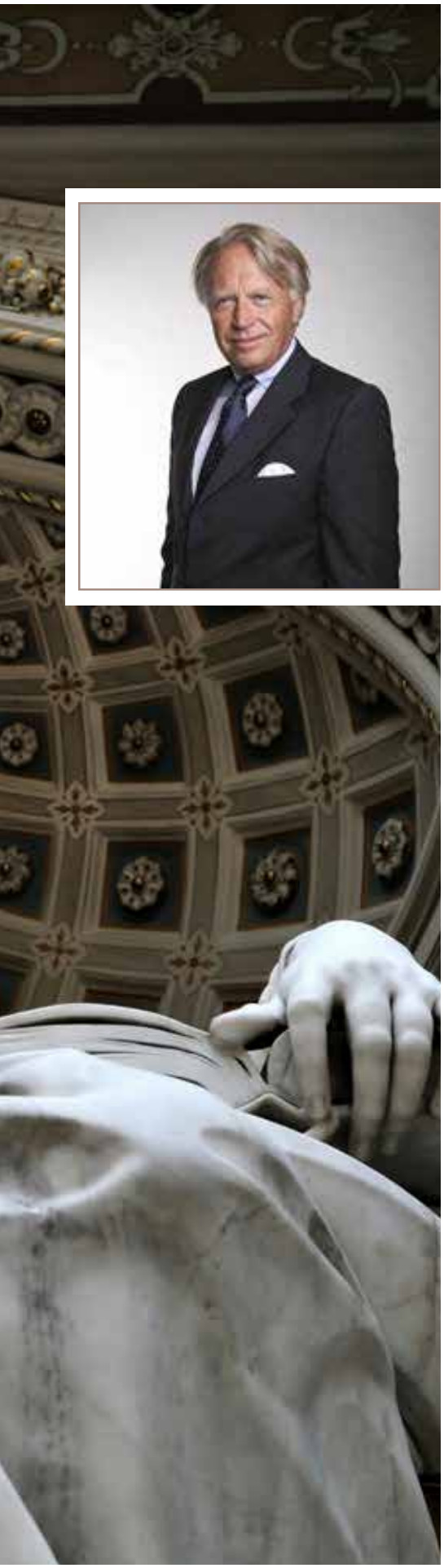
And since fee rates will always play a role in selecting external counsel, we further asked GCs to rate international and domestic law firm rates. It was no surprise to see that 0 percent of respondents rated the fees charged by both types of firms as "a great bargain." But while 28 percent reported that fee levels were "overall good value for money" in the case of domestic law firms, only 11 percent reported the same for international firms. "Overall acceptable/in line with market realities and offering" was the rating given in 44 percent of the cases to domestic law firms and in 16 percent of international ones. "Overall a bit too expensive" and "completely overpriced relative to market conditions, assigned budget and quality of services offered" were ratings given in 19 percent and 7 percent respectively to domestic law firms, while the same percentages in the case of international firms were 49 percent and 22 percent.

Find Out More

The full report is available on the CEE Legal Matter website, and contains more information about these issues – and others, including how GCs in the region hire and train their legal teams and how their role varies in focus across different companies. The sponsors of the first edition of the Handbook were: Edwards Wildman, CMS, Freshfields, Stratula Mocanu & Asociatii, and Tuca Zbarcea & Asociatii.

Radu Cotarcea

Market Spotlight Austria



Guest Editorial: At the Heart of Europe

It is wise to take another look at Austria, in order to update what you know and revise your own attitude towards it and, if need be, your knowledge of the benefits the country offers.

The country's political situation has changed completely since I first started practising law as an attorney in Vienna almost 35 years ago, and the same can also be said of the legal environment.

Whereas back then Austria was from a geographical perspective located at the far reaches of the western world, with the rest of Europe de facto cut off just 50 km from Vienna by the Iron Curtain, Austria – after the fall of this Iron Curtain and following the country's accession to the European Union – now finds itself very much at the center of Europe.

The country's neutrality was key to its survival back during the Cold War between East and West, but this conflict is no more. The Euro has replaced the Schilling, and the economy is booming, in spite of the global financial crisis, due to the sheer size of the European Economic Area, which enables the government to keep the level of unemployment in Austria low.

Austria is therefore a net contributor to the European Union and actively participates in shaping the Europe we know today.

Even the country's legal system, as I knew it in my student days, has changed entirely. No stone has been left unturned. All areas have been overhauled, the body of law of the European Union has been introduced, and many new legal areas, such as Compliance, Anti-Trust Law and Environmental Law, have become extremely important.

The courts are now equipped with state-of-the-art technology, and the land register, commercial register, and civil proceedings have gone digital. Civil proceedings are relatively quick (although expensive) and criminal justice strives to stamp out corruption – breaches of trust in particular – with relative success.

Austria's importance as a place of arbitration has also increased. If the Vienna International Arbitral Centre was founded as a neutral court of arbitration between East and West, it has now become a significant arbitral institution for all of Central Europe. The rules of arbitration were recently modernized and the state has done its bit to improve the attractiveness of Austria as a place of arbitration. Now, only one court – the Austrian Supreme Court – is competent to hear actions for annulment.

And even the Austrian legal profession helped pave the way for modernization.

The leading law firms are in excellent shape and have renowned specialists who cover all areas of law. With offices in Central and Eastern Europe, they have significantly increased their field of activity.

The interests of the client are of primary importance. The concept of providing a service has firmly taken root. Efficiency and economic objectives are top priorities. Austrian law firms are interconnected through networks at an international level and are able to withstand any international quality comparison.

In my estimation, the country is very well prepared for the future, even in terms of its legal system. This publication will show this to be true.

Benedikt Spiegelfeld, Partner,
CHSH Cerha Hempel Spiegelfeld Hlawati

The Sort-of Welcome Mat

Why Are There So Few Anglo-Saxon Partners in Vienna?

Strangely enough, there are no Anglo-Saxon expatriate partners – we'll call them "ASPs" – working among the leading local or international law firms in Vienna. Oh, there are a number of partners from other countries in CEE. But expatriates from the highly-developed and sophisticated legal markets of the United States and United Kingdom? Not one.

How can this be? The other countries of CEE are, if not awash in ASPs, certainly not unfamiliar with them. Russia has the most, with well over 20 in leading law firms in the country. The Czech Republic has over 10, Budapest has over 5, and Poland, Slovakia, Romania, Turkey, Ukraine, and even Serbia, Croatia, and Bulgaria are home to multiple as well.

In comparison to some other CEE Capitals, Vienna is widely-acknowledged as a highly international and cosmopolitan city. Indeed, referring to the city of 1.7 million people as an "international city" is like calling Sachertorte "tasty," Mozart "talented," or the Alps "tall."

The city has a history as expansive and international as any in the region – it was the capital of the largest empire in Europe during this past millenium, first via the Hapsburgs, from 1526–1804, then via the Austro-Hungarian empire into the 20th century. It has been home to intellectuals and artists like Freud, Mahler, Wittgenstein, Gustav Klimt, Lotte Lenya, and Falco. According to the International Monetary Fund, the country has the 4th largest economy in CEE, behind only Russia, Turkey, and Poland. It regularly attracts about 5 million tourists, and it is regularly listed at or near the top of the world's best cities to live in.

Yet there are no native-English speaking partners in Vienna.

Of course, the low number of ASPs among Austrian partnerships does not mean the country's firms are lacking in English-law knowledge and training. Peter Huber, the Managing Partner of CMS Reich-Rohrwig Hainz, points out that, "recruits of larger Austrian law firms, both graduates and lateral hires, usually come with some international experience having completed post-graduate studies and/or training with an international law firm in an English speaking country." He adds that "there is also a certain trend for senior positions, particularly in the transactional practice areas, to be filled by English/US-qualified Austrian nationals returning to Austria after having practiced abroad for a considerable period."

Fair enough. But that's true for many – if not most – CEE legal markets, and ASPs are not uncommon elsewhere. What makes Austria so unique?

Fiat iustitia, et pereat mundus ("Let justice be done, though the world perish") – Motto of the House of Hapsburg

The bigger picture: The phenomenon is not only limited to senior lawyers. Freshfields' Banking/Finance Senior Associate Blair Day, who moved to Vienna a year ago after spending seven years with the firm in Moscow, notes with surprise that he hasn't come across many expatriates working in the city at all, unlike in the Russian capital. He says: "Looking at it on paper, there's no reason why Vienna shouldn't be a bigger expat financial hub. I mean, that doesn't just apply to lawyers …. When I think of what the expat scene was like in Moscow, it was lawyers, bankers, accountants, real estate valuers, and the usual swag of other professionals, whereas here … I have bumped into the odd management consultant or accountant who is not Austrian, but … it's hard to tell if it's the scale of the city, related to the scale of business or something else."

Reflecting on his essentially unique existence as a senior Anglo-Saxon lawyer in a law firm in Vienna (one of only 2-3 in the market), Senior Associate Blair Day laughs: "It seems odd. I wonder if historically it hasn't evolved that way. I get the impression that the Austrian legal scene is somewhat more restrained. We don't have other Magic Circle firms here at all, and for some historical reason it seems they just haven't been here."

Day is touching on a significant part of the answer, for it turns out that it is – at least in part – Vienna's history as an outward-looking capital and center of empire that explains the scarcity of US/UK lawyers in the city. Over the centuries the country developed a competent and sophisticated legal market consistent with its intellectual renown in other areas, educating and preparing its lawyers for a cross-border and commercial law practice in a way few other European markets could match. And that development was not crushed by the Iron Curtain that draped across many of its CEE neighbors following World War II. As a result, the country's lawyers maintained their outward-looking focus and high skill level, while the growth and development of other countries in CEE was stunted and squashed.

When the Curtain was pulled aside, a large number of common-law qualified lawyers were invited to the former communist countries of CEE to assist in the transition to market-oriented economies and the creation of a functioning and business-oriented market for legal services.

In other words, British, Canadian, American, and Australian lawyers may simply not have been needed in Vienna as much as they were elsewhere.

But that's part of the story.

Emergence from Communism … and a Different History at Home

Erik Steger, Partner, Wolf Theiss

Erik Steger, one of three Managing Partners at Wolf Theiss in Vienna, explains that in the first years of the transition to a post-communist economy in the former Eastern Bloc countries, "expats could assist in bringing the service level up [and] contribute experience with laws that these countries adopted." And, once they came in, he suggests, "many more than a handful stayed and will now stay for good, [having] learned the local laws … and often learned the language [so that], today, they are excellent advisors in local law as well."

Steger also points out that those same markets benefit from the special attention of the European Bank of Reconstruction and Development and the International Finance Corporation – which inevitably make their loans under English law. As a result, he notes, experience with and knowledge of English law and native English language skills can be particularly useful in those markets. (Not coincidentally, perhaps, Wolf Theiss itself has two ASPs based in and covering four former Communist markets:

Markus Piuk, Partner, Schoenherr

Ron Given in Croatia, the Czech Republic, and Ukraine, and Bryan Jardine in Romania).

Schoenherr Partner Markus Piuk makes a similar point, without referring to the EBRD directly. Piuk points out that in CEE it is mainly financing transactions that are governed by UK/US law, and "hence, an Anglo-Saxon expat lawyer would in most cases not be able to work under his own law. This likely appears unattractive to many candidates and they rather move to jurisdictions where more transactional work is done under UK/US law."

Alexander Popp, Partner, Schoenherr

Speaking for his own firm, fellow Schoenherr Partner Alexander Popp explains that he and his colleagues focus on finding and employing highly skilled local lawyers instead of foreign lawyers with English law knowledge. Accordingly, the few Anglo-Saxon lawyers the firm has experimented with in the past were added not because of their UK/US legal knowledge or native English drafting skills, but "because they had a special industry expertise and knowledge which we needed, [and there was] a specific added-value contributed by that person."

And as far as Austria is concerned, Popp is confident that his country's lawyers are absolutely equal to those in the United States or United Kingdom: "I believe that the local lawyers in the top firms in Aus-

tria are able to provide products absolutely comparable to those prepared by US/UK lawyers."

Where does that "comparable" talent come from? An obvious answer is the long history and tradition in Austria of cross-border sophisticated commercial work. In addition, Peter Huber points to Austria's law schools. "First of all," he says, "we believe that legal education at Austrian law schools is more thorough and generally of a higher standard than in CEE/SEE."

Peter Huber, Managing Partner,
CMS Reich-Rohrwig Hainz

Does Fewer Foreign Law Firms Mean Fewer Foreign Lawyers?

Many commentators draw attention to, in the words of Schoenherr Partner Markus Piuk, "the low level of penetration by UK/US firms in the Austrian market as compared to the Czech Republic, Hungary, Poland, Russia, and also Romania."

Indeed, there are only 4 English or American law firms with offices in Austria (Baker & McKenzie, DLA Piper, Eversheds, and Freshfields). By way of contrast, Poland – the CEE country ranked just above Austria in GDP – has over 20, and the countries in the 6 spots below it have more as well: Greece (with 5), followed by the Czech Republic (12), Romania (7), Ukraine (7), Hungary (11), and the Slovak Republic (7). It is not until you get to Belarus, with an economy one sixth the size of Austria's, that you find a CEE market with fewer international law firms.

Foreign firms generally have more foreign lawyers, and as the number of firms increases, the number of available positions increases as well (Freshfields, though it has no Anglo-Saxon partners in Austria, is the only top firm in the country with any senior native-English speaking lawyers at all). And the low number of international firms in the market, despite the size of the Austrian economy and the amount of foreign investment, seems to support the claims that the Austrian firms are fully prepared to serve clients at the highest level.

Peter Huber of CMS makes just this point, noting that, "Austria has a mature legal culture and market and, unlike in most CEE/SEE jurisdictions, there has never been a 'vacuum' which represents a fertile ground for international firms (and their expats) seeking to penetrate the market."

"The avoidance of taxes is the only intellectual pursuit that carries any reward."

– John Maynard Keynes

But let's be honest: The competence of local firms and lawyers may not be the only thing keeping so many foreign counterparts from establishing Austria bases.

Dentons Partner Marcell Clark has worked with Austrian banks for many years, despite being based first in Budapest (243 km from Vienna) for 7 years, and now in Bratislava (79 km). As many of his transactions for those clients are governed by English law, Clark believes his English law and Common law experience is useful, "but so is the experience and knowledge about the industry, about the business." Unconsciously echoing the sentiments of Alexander Popp, Clark says "I think it's a different kind of situation to have an English lawyer here who doesn't have the experience. I think what [Austrian clients] value most is the knowledge – the real in-depth knowledge about their business."

But Clark also believes that Austria's extremely high income and corporate tax rates (**see Graph 1**) provide incentive to both firms and lawyers alike to offer their services to Austrian clients from outside the country. According to Clark: "Firms are able to provide more cost-efficient and competitive service to clients by basing their expats in neighboring countries, where costs generally are much lower than in Austria."

But being based in another country creates logistical problems for clients, doesn't it? Apparently not. "I don't think you necessarily need them based in [a particular country] to have the benefits of having a foreign lawyer," Clark says. "If you just have a phone and a computer you can sit anywhere. You just want them in the same time zone."

Blair Day, at Freshfields, says of the ability other Austrian firms have to locate their lawyers elsewhere in CEE that, "I guess they follow a slightly different model where they have a footprint across the region, whereas Freshfields has a base in Vienna and works with leading firms in each country."

So at least for some firms, the reason appears to be logistical and financial, rather than merely a need to compete.

Graph 1: Individual and Corporate Tax Rates in CEE

Country	Individual Tax Rate	Corporate Tax Rate
Albania	23	15
Austria	50	25
Belarus	12	18
Bosnia & Herzegovina	10	10
Bulgaria	10	10
Croatia	40	10
Czech Republic	22	19
Estonia	21	21
Greece	42	26
Hungary	16	19
Latvia	24	15
Lithuania	15	15
Macedonia	10	10
Montenegro	9	9
Poland	32	19
Romania	16	16
Russia	13	20
Serbia	15	15
Slovakia	25	22
Slovenia	50	17
Turkey	35	20
Ukraine	17	18
EU Average	37.68	21.34
Global Average	31.24	23.57

Source: KPMG (Obtained on October 12, 2014)

Conclusion

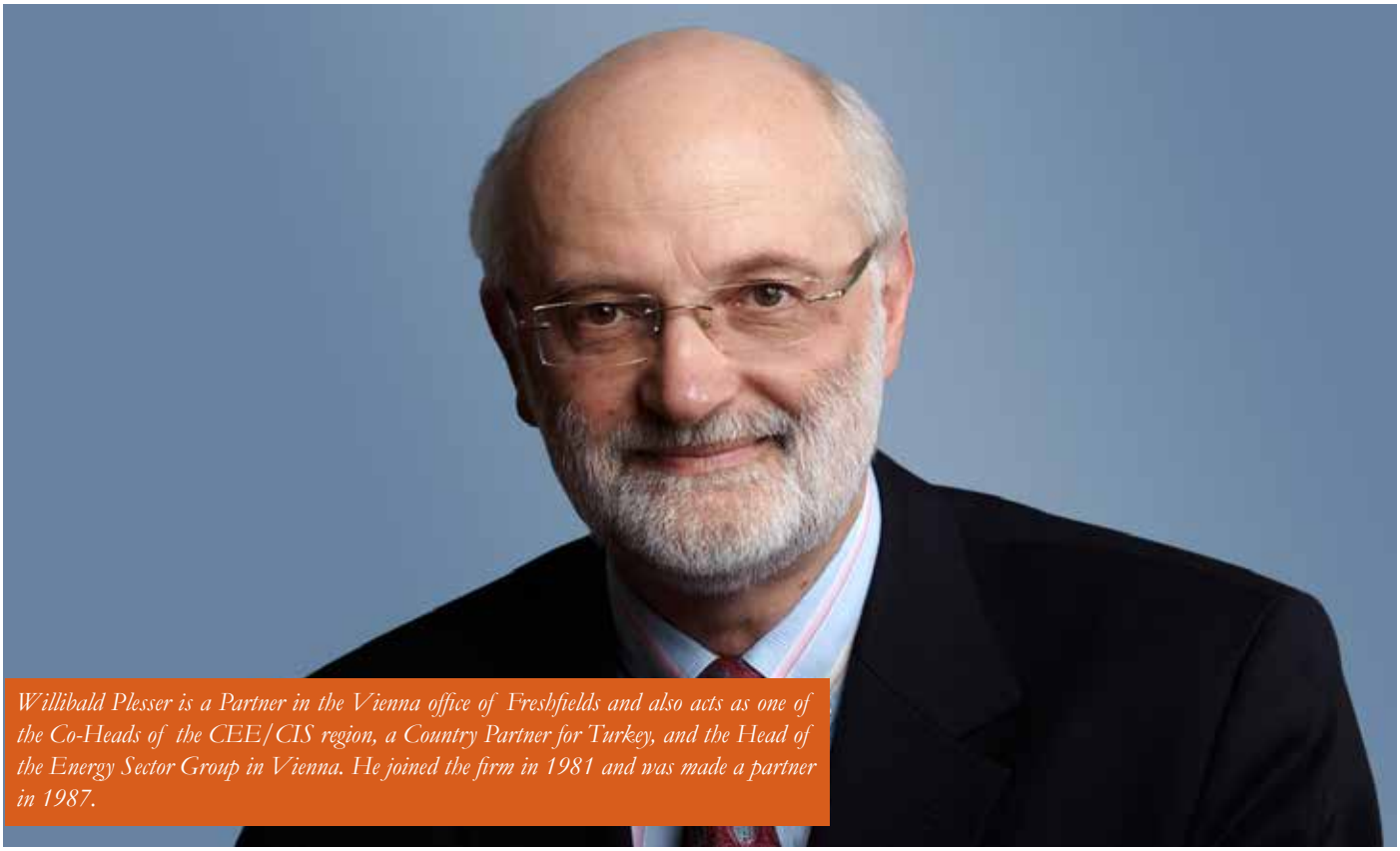
Austrian lawyers take justifiable pride in their city's history and traditions, as well as in the quality of lawyers and lawyering that result. And the unique circumstances in those neighboring legal markets still emerging from their decades-long sleep can not be denied. So history is a significant factor – maybe the most important factor – in understanding the low number of Anglo-Saxon lawyers in the market.

But it's not the only factor. And any analysis that doesn't address the significant Austrian tax rate as well may not be capturing the entire story.

David Stuckey

Interview: Willibald Plesser

Co-Head of the CEE/CIS Region at Freshfields



Willibald Plesser is a Partner in the Vienna office of Freshfields and also acts as one of the Co-Heads of the CEE/CIS region, a Country Partner for Turkey, and the Head of the Energy Sector Group in Vienna. He joined the firm in 1981 and was made a partner in 1987.

CEELM: Freshfields is the only international law firm consistently ranked as top tier across all major practices in Austria. Why is that – and how do you maintain this position?

W.P.: I believe it comes down to our history. We are the only Magic Circle firm present in Vienna and probably also the only top tier international full service firm in this market. We were one of the two top firms in Austria as Heller Loeber Bahn & Partners when we merged on January 1, 1998 with Bruckhaus Westrick Stegemann. This was the first cross-border merger between an Austrian and a German law firm – not an easy task due to certain Austrian bar restrictions. Based on EU law we were able to convince the Austrian bar to complete the merger, thus creating Bruckhaus Westrick Heller Loeber.

Freshfields Bruckhaus Deringer came into existence as a result of the merger effective August 1, 2000 between us and UK-based Freshfields, which had just merged with Germany-based Deringer Tessin Herrmann & Sedemund into Freshfields Deringer. In the view of many outside observers, and very much our own view, this has been an extremely successful merger.

I think what played a considerable part was that we were pioneers in the region as the first Austrian firm to start branching out into CEE. In 1989 we opened our Budapest office, in 1991 we set up an office in Bratislava, and in 1992 we established a presence in Prague. I still remember being asked by peers at the time in the market: "Why are you taking this uphill battle? Do you not have enough good work at home in Austria?"

And it ended up working to our benefit. Interest in CEE started in the mid-90s, shortly after the fall of the Iron Curtain. At the time, Austria itself was investing heavily in CEE, and it also was a regional economic hub – meaning it was an excellent platform from which to launch operations in CEE. In our view it was a must to follow our clients into the region. Our CEE offering made us attractive for non-Austrian clients and of course also for foreign law firms. German law firms like Bruckhaus had kept busy in the early days dealing with the challenges in East Germany, but they soon realized that the CEE region was an even more interesting market on their very doorsteps. It therefore made absolute sense for a top German law firm like Bruckhaus to merge with an Austrian law firm, which was already a very strong player in CEE, and it made absolute sense for us to merge with a firm in Germany, the most important economy for Austria. As a result, I would say we benefited greatly from leveraging a perfect window of opportunity in the market. This window, however, closed soon and other Magic Circle firms started opening offices directly in the major CEE countries rather than pursuing a Vienna hub strategy.

CEELM: In 2009, Freshfields closed its Bratislava office (the last of the CEE offices for the firm outside of Vienna and Moscow) arguing at the time that the move was consistent with the strategy of the firm. Can you elaborate on the rationale behind that decision?

W.P.: Soon after the merger with Freshfields we looked at the region and realized

that we could not have offices in all markets that were booming at the time. For example, Poland was a huge market, but was already flooded in terms of legal services. We also reached the conclusion that it was not realistic to expect to successfully grow what we believed to be a "real Freshfields" office in each of these markets. It would have also implied a lot of handholding of the local teams, which we did not feel worked with our overall strategy.

Furthermore, the realities in the local markets played a role. With the quality level of local lawyers improving over time, with many of them receiving training abroad, there was an implicit expectation to become a partner within the firm. Because of our lockstep system, it would have been difficult for more than just a few lawyers in these markets to achieve this. Because of that, and because of quality control concerns, we decided to turn our CEE offices over to those local partners who wanted to continue as a group. Oppenheim, for example, a firm that we still work a lot with in Hungary, is our former Budapest office. We were, by the way, not the only international firm to take this approach. A number of Linklaters offices, for example, have become the Kinstellar of today, and other firms have withdrawn altogether.

CEELM: In retrospect, was it the right decision?

W.P.: I believe it was the right approach rather than struggling to run offices in each jurisdiction especially in terms of servicing your client. If you work on a major deal, for example, such as the sale of a major participation in the Slovak gas company SPP, a multi-billion US dollar deal, you need to address a great number of aspects, including, for example, regulatory work. If you are tied to your own local office of 5 or 10 lawyers you cannot truly offer a full service to your client and you stand to lose out on work, or, if you do win the mandate, you run the risk of under-delivering, which would be a disaster to your brand. Instead, we were free to create a powerful network around us of strong local practices together with which we have been working to great results. Having experienced both models first-hand, I can comfortably say that we are far better off under our current framework, and our practice across the region has grown considerably over the years, both in volume and complexity, without the headache of micro-management.

There is another positive to that equation to keep in mind: Local firms are also willing to reach out to us and to develop new business together with us. For example, if a local firm is advising on a large PPP project locally, they can comfortably reach out to us to complement them on that specific type of advice as opposed to a situation in which we'd be perceived as competing for work in their local market.

There are downsides, with the standard reflex of clients to first ask "do you have an office there," but sophisticated clients understand that this is less and less important, and they rather choose to focus on whether we "have the right expertise and know the right people on the ground." And yes, I can easily say this approach has paid off. At the moment, already a third of our global revenue is generated from jurisdictions where we do not have an office, and we expect this percentage to grow in the future.

CEELM: How do you identify the local firms you work with in other markets – are they on a case by case basis or do they tend to be long-term partners only, such as Oppenheim in Hungary?

W.P.: We have developed and implemented a dedicated program in this direction, called "Stronger Together," in which we try to identify not one but 2 or 3 local firms that we can work with on a regular basis. This program is implemented worldwide because we decided to push the firm towards a strategy which would allow us to legitimately claim that we are prepared to serve our clients in any jurisdiction at any point.

What we focus on in our "Stronger Together" program is both making sure that we connect all these local firms with us and that we meet regularly but also create channels to exchange know-how and business opportunities. Of course, if a mandate warrants it, we will identify local firms that can support on niche areas outside of the program – but our main drive strategically at the moment is to build up this existing network and develop ways to leverage it to its full potential.

CEELM: You are one of the firm's Country Partners for Turkey. How is this team structured within your firm and why do you not have an office in a market that is otherwise considered very attractive by so many international firms?

W.P.: For Turkey, we have a group of approximately 10 Partners across the firm that act as Country Partners, based for instance in Dubai, Germany, London, Moscow, and Vienna. The Country Partners are those partners that historically have done a lot of work in the country, or that take a special interest in Turkey. Personally, I've been active in this market for more than 20 years, working especially in the energy sector. We worked for instance on the asset-swap agreement between E.ON and Sabanci. Other partners working on major Turkey deals are Alan Rae Smith, based in London, and Pervez Akhtar, based in Dubai. As Country Partners, we have regular strategic meetings to figure out the best way forward in the market. Greece is another market where we have a similar set-up.

In terms of why we do not have an office in Turkey, we did look thoroughly at the country and came to the conclusion that it is a crazy market. It is heavily over-lawyered (it reminds me of Poland in this regard) and with a lot of new market players, including international ones, firms are racing to build up their track record – leading to a considerable price dump. At the same time, the local firms have grown considerably in the last few years, with players like Herguner having 70 lawyers or more. Lastly, similar to China, the idea of Turkish clients paying for external counsel was not traditionally the norm. Because of these factors, among others, we decided not to build a local physical presence. I do have to say though, that Turkey is a very exciting market and we have a number of on-going projects there and whenever I go to Turkey I too get excited and at times get carried away in thinking we should do more – but I am happy focusing only on the type of very high complexity work like we are doing now.

CEELM: What major developments, strategies, or initiatives are you pursuing currently in Vienna that you're most excited about?

W.P.: I spoke already about the "Stronger Together" project. In terms of strategic approaches, we always position ourselves towards, and aim for, the truly complex deals. In that direction, being proactive is critical so, for example, in the energy sector, what I try to do is to constantly monitor the latest potential projects, investments disputes, bonds bought, etc. This is an exercise that the firm as a whole carries out in other sectors as well such as financial institutions, media, etc.

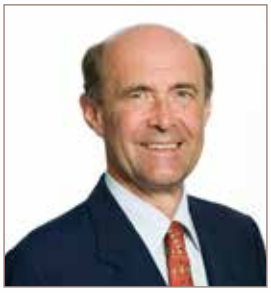
Radu Cotarcea

Round Table: Business Development and Marketing in Austria

On September 2, Partners from 8 leading law firms in Austria met in Freshfields' Vienna Office for a CEE Legal Matters Round Table on law firm business development and marketing approaches. The Round Table participants represented a good mix of international firms, including both Austrian firms with a strong CEE regional presence and firms operating exclusively in the Austrian market.

Peter Huber, Managing Partner Vienna, CMS

Jasna Zwitter-Tehovnik, Partner, DLA Piper



Christian Dorda, Managing Partner, Dorda Brugger Jordis

Friedrich Jergitsch, Managing Partner Vienna, Freshfields Bruckhaus Deringer

Willibald Plesser, Co-Head of the CEE/CIS region, Freshfields Bruckhaus Deringer

Markus Piuk, Partner, Schoenherr

Christoph Moser, Partner, Weber & Co.

Horst Ebhardt, Partner, Wolf Theiss

Core to Marketing and BD in Austria: Building Relationships

When it comes to marketing and business development in the country, Christoph Moser spoke at length about the need to identify the most effective channels. In contrast to the previous firm he worked at, Moser explained that Weber & Co., a smaller firm operating with limited resources, found value in moving away from "intensively sending out press releases." He explained that: "We find it critical to stick close to the community and try to find smaller channels for our news and legal expertise and try to address our peers directly, in particular Corporate/General Counsel/Banking clients."

Coming from the opposite side of the spectrum, Jasna Zwitter-Tehovnik argued that, while DLA Piper, as a global firm, benefited from a multitude of global marketing initiatives, there is still a strong need to "adapt to market realities." In her view, this goes beyond a simple assessment of whether the media channels used are sufficiently focused on the local markets. Instead, as she put it, "you need to position yourself as a lawyer of trust, and you need to make sure you build a personal relationship with your client to let him know you for the specialist you are."

Willibald Plesser suggested that the ultimate answer is simple: "Get out there and see your clients." Markus Piuk emphasized the same thing by explaining that if you don't spend time with your clients, someone else will. According to him, in most CEE jurisdictions – not only in the competitive Austrian market – there are at least 10-15 strong law firms, which makes it imperative to constantly differentiate yourself by engaging in dialogues with potential clients.

But staying connected to potential clients is not all about generating new business. In fact, Christian Dorda mentioned that, in his estimate, less than 20% of his firm's work is generated from actual marketing efforts. The rest, he said, is a matter of "reputation of the brand, which is simply impossible to build without building a personal relationship." Plesser further explained that a great deal of effort needs to be dedicated to maintaining and developing existing client relationships to receive the best possible mandates from them in the long run, both in terms of complexity of the matters covered as well as, implicitly, the fees generated.

While relationship building is important in any jurisdiction, the participants suggested that it is even more so in Austria. Speaking to this point, Dorda explained that it is important, in the relatively small Austrian market, to be perceived as having a strong civic sense and to be engaged in your community on an on-going basis and belonging to associations (such as, he suggested, various chambers of commerce).

Advertising: Does it Pay to Pay?

Since the CEE Legal Matters business model is built on advertising revenue, we asked the attending partners about the perceived value of advertising for their firm as well as what best practices they have developed in maximizing its returns. On the topic, Huber explained that the reality with advertising is that "half of the advertising spent is wasted, but the curse is that it is close to impossible to know which one." Dorda's position is that advertising is generally "good to have as background noise and to make sure you have some form of presence" but that it cannot replace direct contact. Horst Ebhardt linked the drive for and potential impact of advertising to the growth stage of a firm. In his view, young organizations stand to benefit considerably more from the brand visibility it promises, while the added value for established brands, while not nonexistent, is diminished considerably.

In terms of best practices, Moser explained that his firm's approach is generally to be as specific in their target segment as possible. According to him, it is usually best to "try to allocate print marketing funds to publications that we believe are not necessarily read by all but reach the core target audience." Similarly, Huber's approach is that it is best to "focus our advertising spend to industry specific outlets." At the same time, firms can distinguish themselves not only by choice of channel, but also by the message conveyed: "I personally prefer advertising only if we feel we have something especially pertinent to say. Simply putting our name out there by itself does nothing for us," Piuk explained.

"Content is king" seemed to also be one of the main consensus points. According to Friedrich Jergitsch, there are so many things happening in the legal industry that firms have a plethora of marketing tools available to them. Traditional advertising, in his mind, can easily and effectively be complemented by using various channels to advise clients on legislative changes, for example, which helps firms position themselves as experts. In terms of distribution of this kind of content, Piuk spoke about Schoenherr's "Legal Insights" reports, which are appreciated by clients and have helped the firm create real leads. Ebhardt mentioned that once content is generated it makes sense to use a healthy mix of firm-maintained platforms and outsourced ones as distribution channels. Huber also mentioned that even creating "blog-type" platforms to put forward such content is useful, especially in terms of motivating and rewarding younger lawyers. This can also be leveraged on social media platforms to great results if done consistently, according to Zwitter-Tehovnik, especially since tools such as LinkedIn are useful not only in conveying a firm's message, but also in keeping track of developments. She conceded, however, that social media can become a massive drain on time.

Legal Directories: Worth the Time Investment?

All law firm marketeers complain about the massive amounts of time eaten up by legal directory submissions. This work involves not just gathering relevant information on previous deals and nagging fee-earners for relevant information, but also reaching out to clients and asking them (sometimes repeatedly) to vouch for the quality of a firm's work. We asked the attending partners if they feel these efforts pay off in terms of generating business.

Jergitsch said that he does not recall once being called up by a new client because of their ranking in a directory. That is not to say that the rankings do not add any value, he noted, agreeing with Horst Erbhardt, who explained that law firms "cannot really afford to not be listed as it is more of a confirmation that anything else." The same was argued by Plesser who described the rankings as a "useful endorsement to have," with Moser reinforcing this view by explaining that for clients it is "really hard to argue [internally] why a choice was made for one [unranked] firm over others which are ranked." Piuk also explained that being listed in such directories is particularly useful in what he called "exotic markets" (such as Moldova, he said, for Schoenherr). In such markets, Piuk explained, a general counsel turning to the market for the first time is quite likely to rely on such directories. Plesser applies the same logic when it comes to "niche or exotic" practice areas but emphasized that, at the end of the day, all the above are valid points if you are talking about established directories with a thorough methodology.

Branding: Out Looking In and In Looking Out

Since a great deal of the discussion focused on the specific nature of the Austrian market, we asked the representatives of international firms in Austria whether the branding efforts of their firms focus on positioning themselves actively as large international organizations or whether they feel the need to localize their brand identity. Plesser emphasized the need to strike a balance between the two. On the one hand, he mentioned that Freshfields does benefit from its full service/top level positioning promised through an international brand, but he emphasized that that promise has to be constantly fulfilled by providing the best quality service that clients can get on the market. He pointed out that a brand is always something that "in some instances it is perceived to add value, while in others it is something that makes you fight uphill."

With regards to the size of marketing and business budgets allocated to markets outside of Austrian borders, the percentages ranged from CMS's approximately 10% (as estimated by Huber) to Weber & Co.'s 40% – the majority of which Moser explained was targeted at the German market. Ebhardt did point out that, at times, such investments are hard to break down by market, as when, for example, he meets a General Counsel in New York for work in Austria.

A BD Culture: Not all Lawyers are Marketing Animals

For the last part of the discussion, participants discussed their approaches to building up a business development culture, with a lot of the conversation revolving around how they train up the rain-makers of tomorrow. To start, Piuk pointed out that while his firm dedicates a lot of time and effort towards fostering a business development culture, "it cannot really be forced upon people." He explained that there are some people who are genuine "marketing animals" and genuinely enjoy speaking with clients, while others, with "incredibly strong legal expertise" may simply not enjoy that aspect as much. "That is not to say they are not critical," Piuk clarified, "as there is nothing better than doing marketing with a strong professional that is a go-to expert in his/her field."

In terms of "training the young," Huber explained that structurally firms can and do include BD as part of their "core curriculum," complemented by a reward system such as (for instance) a "business developer of the year." The same was noted by Zwitter-Tehovnik, who referred to what DLA calls its "academy," and is part of the firm's partnership track. Also in terms of structure, Ebhardt explained that all Wolf Theiss lawyers have a "BD target agreement," based on their strengths and seniority. He also mentioned an interesting exercise that the firm carried out regularly, with several GCs agreeing to be "pitched" by young associates as part of an in-house competition that even the GCs, Ebhardt claimed, enjoyed.

Dorda also spoke about the importance of creating a flat hierarchy to allow younger members the opportunity to see first hand not just that they have to be in front of a client, but also *how* to do so effectively. According to Moser, having a young associate shadow a client meeting is a critical tool to demonstrate that effective lawyering is not simply about billable hours, but also showing them the value of communicating with clients. "I never had feedback from a GC that it is not ok to bring an associate to a meeting," he added. Jergitsch explained that, while in some cases, it might be difficult to bring associates along for a BD meeting, Freshfields tries to make sure that associates are constantly encouraged to write and "get their name out there."

Overall, the round table generated a fruitful exchange of ideas, and we would like to thank all the participating partners for their time and especially to Friedrich Jergitsch, who offered to host the event. We look forward to more such gatherings in the future!

Radu Cotarcea

Managing the Region: Interview with Christoph Lindinger, Partner, Schoenherr

Christoph Lindinger is a Partner with Schoenherr in Vienna, where he heads the firm's Dispute Resolution practice. His practice focuses on arbitration and corporate litigation matters, including post-M&A arbitrations according to a variety of arbitration rules. Lindinger has also been the Managing Partner of the firm since 2001. Under his leadership, Schoenherr has expanded into one of the top law firms in Central and Eastern Europe, covering the region with a network of offices in 13 CEE jurisdictions, plus one in Brussels.

CEELM: What is Schoenherr, and how is it different than other firms in Austria and the region?

C.L.: We were once referred to in one of the Austrian weeklies as "high level understatement," as opposed to another firm, which they described as "new kids on the block." And I think that describes us quite well and gives you a sense of the flavor, instead of just saying "the culture" – every firm has a culture." Also, I think that our geographic coverage is unique. There is no other firm with this kind of coverage.

CEELM: Does the firm reflect your own personality and efforts over the years? How?

C.L.: I've been with Schoenherr for nearly three decades and have been its managing partner since 2001, so I think it's safe to say that some of my personality has rubbed off on the firm's overall culture. What once might have been a pretty traditional law firm culture has developed into an environment in which people are open-minded, dynamic, and dedicated to moving things ahead – and having fun while doing so!

I think I also happened to be lucky in the sense of being at the right place at the right time – the firm was open for changes, the Iron Curtain fell, the CEE markets beckoned, a new, more internationally-oriented generation of lawyers was rising, and so on.

CEELM: Was that development toward a more dynamic and fun-filled environment a deliberate choice of yours, or are you simply a fun person to work with?

C.L.: I think both. If I say it was only a deliberate choice, that would be too flattering of my capabilities, but I truly believe that works need to be fun, because whatever you do, you spend most of your time working. More than sleeping, more than anything else. It had better be fun.

CEELM: Under your management the firm has opened 11 offices, namely in Croatia, Slovenia, Serbia, Bulgaria, Ukraine, Hungary, the Czech Republic, Poland, Slovakia, and most recently Moldova and Istanbul. That's a truly impressive list. Is that process over, or do you have more expansion planned? Perhaps the Baltics, or Belarus, or Albania, or Azerbaijan?

C.L.: No, we are set. That's an easy one. No.

CEELM: How do you balance the substantial demands on your time as a Managing Partner of one of the largest firms in Central and Eastern Europe with client-related work? Are you able to do both?

C.L.: Actually, this year I just fully jumped back into client work by taking up the role as the Head of Dispute Resolution at the firm. And the reason why I can combine both roles is because we appointed Gudrun Stangl Lutz as Chief Operating Officer about a year and a half ago. Basically, Gudrun takes a lot of work off my shoulders. And not only day-to-day operational tasks, but also strategic tasks, because

she used to be an M&A lawyer in Christian Herbst's team, so she knows the shop inside out. She also used to run our Bratislava office as office Managing Partner. Because of Gudrun, I've regained 70% of my capacity for client-related work.

CEELM: So you have time to appear in Court?

C.L.: Well I do mainly arbitration, so I also appear before tribunals, but yes.

CEELM: What do you consider the most challenging part of your job – and the most rewarding?

C.L.: I can give the same answer to both questions. The most challenging part is to keep this bunch of egos together – and that is also the most rewarding. Why is that challenging? Because they are all egos. My partners and fellow-lawyers in the firm have quite unique personalities, each of them, and each of them has a more or less distinct view of what we should do and what we should not do. And those views rarely overlap. So that's the challenge. And the reward is what you see: we are the top firm in the region.

CEELM: Moving to Arbitration: How many Arbitrations does the firm handle a year?

C.L.: Currently, the Dispute Resolution practice in Vienna has 3 ongoing investment arbitrations, and 5 quite substantial commercial arbitrations, so we are handling about 8 a year – and here I'm talking about the substantial ones. There are more that start with the request for arbitration, and then get settled, but those 8 involve the ongoing, substantial, work-creating matters.

And I think this workload will increase in the coming years, because our profile is growing, we are better exploiting opportunities on the market, and the opportunities on the market are growing.

CEELM: Does the firm mainly work on domestic arbitrations, or arbitrations involving one or more foreign clients?

C.L.: Well, each arbitration has an international angle. There are usually Austrian parties involved – but not always. Commercial arbitrations mainly result from international transactions, and investment arbitrations are international matters by definition. We advise both Austrian and international parties.

CEELM: How do you get those clients, those matters?

C.L.: I think on the commercial side it mainly comes from the firm's activity, because we are known as the Corporate powerhouse in the region. This means we do a lot of Corporate transactions, which in turn means that in those where there is a subsequent dispute, we are the natural choice of the client involved. So that's the Commercial part of it. In the Investment arbitration part, I think the reason why we do many of those cases compared to the size of our firm is that we have a strong footprint in a region in which you find jurisdictions that are quite prone to many kinds of investment arbitration. Think about Turkey, and from Turkey to the east, including all the 'stans – that is quite a fruitful area in which to find unhappy investors.

CEELM: And how do they know to come to you?

C.L.: Well, I think we are known in the community, and we also market ourselves.

CEELM: Does the firm have a particular specialization in arbitration or traditional dispute resolution you're particularly proud of?

C.L.: We are particularly proud of our post-M&A dispute resolution capabilities. We have a fairly unique experience in M&A transactions, and that gives us a distinct advantage over other dispute resolution practitioners. I'm also particularly proud of our Investment arbitration practice, because if you look at the number of cases that are newly filed with the fora that normally see these kind of cases, you'll see that our peers are Freshfields, King & Spalding, Weil Gotshal, and those big shots, mainly from the UK and the US. In this sort of community, we're a bit of a newcomer, and for a newcomer, we're quite successful.

CEELM: As for the post-M&A transactions, with your experience in structuring deals, that presumably makes you especially able to defend them, and to defend the structures you created, right?

C.L.: Exactly. That's also true if we are disputing a post-M&A transaction which we did not structure immediately. We still know how it should have been structured, or how it likely was structured, and what routes of attack you can find into those not-always immediately visible structures.

CEELM: Is Arbitration a growing practice in the firm in terms of the team?

C.L.: Yes. We plan to grow the team. The team is fairly sizable already, because we look at it as a completely international and integrated team over our 13 CEE jurisdictions. So there's been growth and there still is growth potential, including in Vienna.

CEELM: So it sounds like you think there will be more clients and more business – it's only going to grow in the years to come?

C.L.: Yes, absolutely.

CEELM: Now that the 2006 changes to the Austrian Arbitration Act are no longer so new, do you think they've achieved the goals for which they were designed? Do you see other or remaining problems you think need to be addressed?

C.L.: First of all, I think that although it's been 8 years now, it's still early to tell. People in the arbitration community are very happy that there's now a one-stop shop for annulment procedures. But believe it or not, in the last 8 years there have been only 3 annulment cases in Austria – and those have involved quite low amounts in dispute. And out of those three cases, one was withdrawn. So the 2006 changes have not really been something that has triggered an avalanche of cases coming in. Secondly, the court fee structure is still a bit on the high side. From a competitive viewpoint in this respect, Austria is probably not as good as – for instance – Switzerland, because there is no cap on court fees for annulment procedures for arbitrations, while in Switzerland there is such a cap.

Finally, there are couple of smaller things we have wanted to see rectified for years and years, and they are still there. For instance, there is a fairly old-fashioned provision in our Civil Code that specifies the need to have a special power of attorney that also encompass the submission for arbitration or election of an arbitrator. If you don't get that right in this power of attorney, then you are left in the dark. So that should be removed. But other than that, we are fairly happy with how the arbitration environment in Austria has developed.

David Stuckey

Private Equity On The Rise in CEE: Interview with Peter Huber, Managing Partner CMS Reich-Rohrwig Hainz

The CEE region is registering a growing interest from renowned private equity firms and an increase in large transactions involving reputable market participants. We sat down with Peter Huber, the Managing Partner and Head of the International Transactions Team at CMS in Austria. His team was recently involved in the Kohlberg Kravis Roberts & Co (KKR) acquisition of the SBB/Telemach Group, one of the leading Internet and cable operators in south-eastern Europe (i.e., Serbia, Slovenia, Bosnia, Croatia, Montenegro and Macedonia) with more than 100 million customers. Coordinated by CMS Vienna and Belgrade, this transaction was the first investment of KKR in the region.

CEELM: In your view, what are the main drivers for the increased interest in the CEE region from PE firms?

P.H.: I believe there are a multitude of factors at play. Certainly, a lack of attractive investments in more established PE markets is a big driving force towards this region. At the same time, pricing in the region remains relatively attractive. The bottom line is that PE firms are always looking for markets that hold the promise of attractive returns, and I believe CEE holds this promise.

Another aspect is that these markets are now offering an increase in the supply of secondary situations, where PE firms that invested in the region 5-6 years ago and who are not reaching the end of their investment cycle are now looking to sell.

Lastly, I would say that there is also a changing attitude towards risk that can be observed among the major PE players. Having major US and UK equity houses turn towards CEE will have a strong impact on making these markets more established on the PE global landscape. In light of this, the Telemach deal is in many ways an icebreaker for the region.

CEELM: Since you mentioned risk, do you believe the risk profile of CEE markets has decreased recently or that PE houses turning towards the region are simply less susceptible to it?

P.H.: I'd say that to some extent, both apply. On the one hand, it is surely the case that the perceived risk levels have generally decreased, especially for investments in the EU member state regions – but also in those markets bidding for accession. At the same time, I also believe that these firms have put in place more effective processes to identify, price, and manage existing risk, including very rigorous due diligence exercises.

CEELM: What are the main jurisdictions in terms of attractiveness, and

"Telecom and media will definitely continue to grow since there are quite a few promising companies in these industries. PE will likely pick-up companies in these areas and strategic investors here will likely represent a spearhead for PE companies in the region, depending, of course, on the flexibility of regulators in allowing them to branch out."

which ones are lagging behind?

P.H.: Poland and the Czech Republic are perceived as the most stable markets for various reasons: their finances, the size of their respective markets, EU membership, etc. When we look further afield, Slovakia, although a smaller market, is potentially attractive; however it does raise the question as to whether there are enough potential targets in the country simply due to its size. Romania is another market that is relatively attractive.

Serbia and some other Balkan countries also have significant potential at this point in time. Serbia still possesses the legacy of a former industrial hub for the region. It also has quite a few "secondaries" taking place, but it needs to manage the perception towards them, especially in terms of financing. I believe – and this view is shared by other market observers – that the KKR investment in SBB/Telemach, which apart from Serbia involved several other markets in the SEE region, will in many respects act as an icebreaker transaction.

CEELM: What are the main industries you believe will attract most investment in the short or mid-term period and why?

P.H.: Telecom and media will definitely continue to grow since there are quite a few promising companies in these industries. PE will likely pick-up companies in these areas and strategic investors here will likely represent a spearhead for PE companies in the region, depending, of course, on the flexibility of regulators in allowing them to branch out.

Other high potentials can be found in the food and drinks industry, and it is likely we'll see some movement in the retail space as well, all of which are relatively lagging behind but are, for the most part, undergoing consolidation in many markets in the region. PE firms could act as a catalyst in this process.

CEELM: In light of current events, has the deal flow towards Russia and Ukraine decreased? If so, where is it being redirected?

P.H.: To some extent, these markets have always had a high profile of risk, meaning they have always been viewed as problematic from a PE perspective. Interestingly, if you look at most statistics, the Russian market has led – and still is leading – the charts in terms of PE investments. But that does not always present the most accurate image, since the boundaries between PE investments and private investments as well as investments by corporations controlled by high net worth individuals are rather blurry.

What I can say is that, based on what I am hearing from my colleagues in Russia, international PE investors are sitting on the sidelines at the moment and waiting to see how things unfold. We have seen some exits from these markets from both international and regional PE houses but I have a hard time imagining that the ones who are still on the ground will pull out in the mid-term. Naturally, in terms of new investments, there is a significant slowdown.

CEELM: From a regulatory standpoint, what do you believe are the biggest challenges for PE Funds looking at CEE Markets? What are the main recurring risk factors that these firms take into account when looking at the region?

P.H.: You do need to differentiate between EU members, including those markets negotiating their accession, and other markets. For the most part, the typical emerging market's risk factors come into play: foreign exchange risk, repatriation of profits concerns, risks of nationalization or quasi-nationalizations, risks of asset freezes, the general risk of enforceability of legal contracts, and general corporate governance, compliance, tax, and merger control risks. What I notice is that players who become committed to the region have developed very effective tools to assess, manage, and price these risks.

One of the biggest factual barriers is therefore the investment required for a PE house to familiarize itself and become comfortable with the peculiarities of the markets in the region. But for a second investment, things are much easier. What I would expect is that the houses which have recently made a significant investment in the region will likely continue to remain active in these markets in the future.

CEELM: We spoke a lot about potential investors from the US or UK. What about other potential ones?

P.H.: We might see more investments from Asia, i.e. from markets such as China, and maybe Singapore – if we include direct investments of sovereign wealth funds in our definition of PE – but I can't really point for sure towards systematic efforts in the CEE/SEE region to attract such investments.

CEELM: With more firms turning towards the region, is CMS likely to expand its Private Equity team to match its offering to the increased demand? If so, in what jurisdictions will that likely happen?

P.H.: Naturally, we always try to react to market changes and increased demand. One recent example of this is the fact that we now have a team in place in Turkey that is well equipped to advise on PE transactions. They are our youngest office in the region but have already been quite active in the PE field. We have also dedicated resources to increasing our team in the Balkans and will likely continue along these lines as the market develops.

CEELM: While the two are not mutually exclusive, as a general strategy, is CMS trying to build a client base consisting of PE funds interested in the region or local companies looking to sell? Why?

P.H.: In both the recent and not so recent past, we have more often advised PE houses, co-investing supra-nationals, or corporates buying from PE. Occasionally we have also advised local companies or to a lesser extent the management of local companies. Overall, we do tend to focus strategically on advising PE houses or international corporates buying from PE as we feel that this type of work allows us to apply our expertise in the best way possible.

Radu Cotarcea

Market Snapshot

Banking and Finance in Austria

Dr. Uwe Rautner, Partner,
Rautner Rechtsanwalte

Austria is currently facing the same challenges as most of the other European countries: the banks are still struggling, funding is limited, margins are tight, and risk has become a high visibility focus. Commercial banking, investment banking, and leasing are all competing for the same limited funds and equipment. The crisis continues to cause difficulties for Austria's largest banks – which again recently faced substantial losses on account of their extensive operations in CEE and SEE – and the country continues to face external risks from the political and economic uncertainties related to the Ukrainian crisis.

Austria is also still struggling with the wind-down of those banks that were rescued by the state on the brink of the financial crisis. Volksbank (whose Kommunalkredit unit was the first Austrian bank to be taken over by the state in 2008) and Hypo Alpe-Adria-Bank International are the institutions that have been the biggest burden to the national budget. Hypo Alpe-Adria-Bank International has required EUR 5.5 billion in state aid so far. Its Abbaubeteiligungs bad bank is due to be set up with about EUR 17 billion of assets to wind down.

Austria broke new ground in Europe by approving a law committing holders of state-guaranteed subordinated debt owed by the nationalized Hypo Alpe-Adria-Bank International to its restructuring (a so-called "bail-in"). The former Finance Minister Michael Spindelegger justified the new law as ensuring that the bank's assets would be sold on the best possible terms and that previous shareholders and subordinated bond holders would bear a share of the restructuring costs. The new law entered into force on August 1, 2014. Existing bondholders holding approximately EUR 890 million of subordinated debt are expected to challenge the law before the Constitutional Court (the first complaints are expected to be filed soon). But bondholders are not the only ones intending to fight against the Hypo law, and opposition political parties have declared that they will ask the Constitutional Court to repeal the law as well.

In order to avoid a similar situation with Volksbank, which needs to be wound down sooner rather than later, Austria is keen to implement Directive 2014/59/EU, which established a framework for the recovery and resolution of credit institutions and investment firms (BRRD). The draft law has already been submitted to the parliament for review. It is expected that the law will pass before the end of the year and enter into force on January 1, 2015. The new regime is intended to provide the strategies and tools for handling national and cross-border bank failures, and should reduce the potential public cost of future financial crises. The BRRD is a minimum harmonizing directive that sets a threshold which national legislation must meet. Member States are permitted to adopt or maintain rules that supplement those laid down in the Directive or in the technical standards adopted under the BRRD, providing that these new rules are of general application and do not conflict with the BRRD or the technical standards adopted.

Volksbank will be the first application of this new law. In this context, it remains to be seen whether the new law will be actively used by governments to bail-in a wider group of bondholders and creditors of nationalized banks in the future, such as for instance senior bondholders.

Corporate/M&A in Austria

By Florian Kusznier, Partner, Schoenherr

The Rudderless Ship. Closely-held corporations (e.g. family offices or companies controlled by family trusts) may not see regular changes to their management boards. If all goes well, continuity is, after all, very much in the interest of everyone involved. Since such privately-held companies will typically also require a less elaborate corporate governance system, it cannot be excluded that a board member's term may formally expire without the supervisory board immediately taking note. Even outside family-run companies, a management board member may, for instance, initially be appointed for a shorter term than the 5 year statutory maximum that exists in Austria – followed by an extension under which the total term may exceed the 5-year maximum.

Why is this relevant? Consider the fact that annual accounts are drawn up by the management board before being submitted to the supervisory board. What impact does a defective management board appointment have on their legal quality? Does it mean that contracts signed by such a board member in the day-to-day business are no longer binding?

The appointment of a management board member who simply continues to act in such capacity after his or her term of office expires without a compliant re-appointment resolution of the supervisory board is defective. To remedy all acts undertaken by a board member whose appointment is defective would result in considerable difficulties and legal uncertainty. Hence, the goal must be to find a more general way out that leaves such acts intact and legally valid.

Keep going. The solution is to treat the board member concerned as a so-called de facto management board member. This is possible provided that there has been a valid original appointment and that the board member continues to act in his/her capacity as a member of the management board beyond the original term. Typically, both criteria are met in the case of a defective re-appointment, because the original (compliant) appointment is deemed to be sufficient to meet the first test and, at least in the examples used in the beginning, the company is generally fine with the board member continuing in his function.

The core consequence of this remedy is that measures undertaken by the management board member whose appointment is defective are valid both within the company concerned and vis-à-vis third parties.

A board member is a board member is a board member … From the perspective of the management board member, this approach means that they remain subject to the same duty of care they were obliged to provide during their proper appointment and which they would have owed had they been re-appointed in a compliant manner.

At the same time, the general consensus is that such a management board member remains entitled to the agreed compensation (and not "only" a more abstract form of "market level" or "arms' length" compensation, which may well be lower than what was agreed in a specific case).

Time to put it right. If and when the defective appointment comes to light, the supervisory board must react. It may choose to recall the management board member – in an exception from the general rules applying to stock corporations such a recall does not require a good cause (wichtiger Grund).

Or the decision may well be that what temporarily "survived" as de facto management should be put on sound legal basis (again). In this case, the supervisory board needs to pass a new (re-)appointment resolution – which must then comply with all statutory requirements, in particular the 5-year maximum appointment term.

Dispute Resolution in Austria: Collective Redress from an Austrian and European Perspective

Eric Breiteneder, Partner, Breiteneder Attorneys at Laws

It seems that there is no other topic within dispute resolution that is more full of myths than "class actions" or – as Europeans prefer – "collective redress." On the one hand there is a fear of US "class actions," with their image of greedy lawyers trying aggressively to find clients who are (more or less) willing to join a class. On the other (European) hand it seems we are far away from a unified collective redress system. And the fact is that the number of cases in which a group of individuals suffer damages arising from one event or circumstance is growing.

The Austrian way of dealing with this situation is to invoke § 227 Zivilprozessordnung (Civil Procedure Act), which for over 31 years has provided plaintiffs with the ability to file lawsuits based on various claims against one defendant. Of course it was originally meant more in the sense that if your neighbor destroyed your car and accidentally also sold you an investment in shares which dropped dramatically in value because they turned out to be riskier than your neighbor promised you, you only have to sue him once. Being creative within the existing rules, therefore, the key to collective redress in Austria is "assignment," where one plaintiff (either an individual or a corporation) collects claims and brings them to court. But note: the Austrian Upper Court has ruled that the legal reasons for the claim have to be "similar." And sometimes it is quite tricky to predict what a judge will decide qualifies. If there is not enough "similarity" within the claims the judge can split the court procedure. Divide et impera!

The European Union way involves the Recommendation of the Commission on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under European Union Law (C [2013] 3539/3). This provision states that: "The Union has set itself the objective of maintaining and developing an area of freedom, security, and justice, inter alia by facilitating access to justice, as well as the objective of ensuring a high level of consumer protection." Therefore: (1) claims must be brought by an entity, with a non-profit character; (2) funding is required to be transparent and there may not be a conflict of interest. A competitor may not fund a collective redress action; (3) the loser-pays principle shall apply; (4) the claimant party shall be formed on the basis of the express consent of the person being harmed (i.e., the Opt-in Principle); (5) any member of the claimant party shall be free to withdraw from the trial at any time; and (6) contingency fees shall be prohibited, not only for the lawyer but also for the funding party.

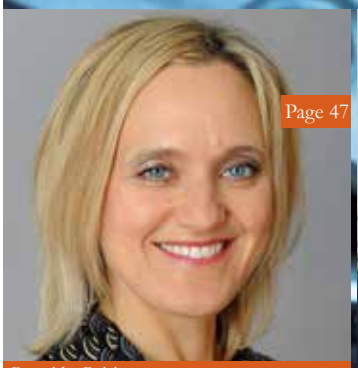
Private enforcement is not unified under EU law as an element of governance of capital markets. Hence there is (almost) no European approach to unifying collective redress. The emphasis of enforcement remains with national authorities.

The fact is that we need an effective procedure at EU level to clarify liability in cases where one cause of loss has an impact on a group of individuals in the same way. Once liability is clarified there can be a settlement for all the members of the group, which benefits both parties. And some EU members have found an effective solution. A good example can be found in the recent settlement with Shell in the Netherlands, for instance, where the investors received a benefit of EUR 340 million, and the defendants (more or less) were able to finalize the process and move on when the settlement was declared "absolute" for all individual members of the group who had not opted out of the group.

Thus, the way forward in collective redress has to be a way that takes in consideration the interests of defendants as well as plaintiffs and stops the myths.

Inside Insight

A Look at the World of In-house Counsel in Austria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Interview: Roswitha Reisinger

General Counsel in Emerging Markets at Eli Lilly

Roswitha Reisinger has been working for Eli Lilly in Vienna since December 2004. During her time with the company she acted as a legal counsel for over 3 years, then was appointed the Head of Legal for Central and Eastern Europe, a position which she occupied for 4 years and 4 months before transitioning to her current role as General Counsel in Emerging Markets. Prior to Eli Lilly, she worked for both Graf Maxl Pitkowitz and Wolf Theiss.

CEELM: You were responsible for the CEE region for over 4 years when you decided to take on your current role, which is focused on emerging markets. What drove you to take on this challenge?

R.R.: The answer is quite simple. I enjoyed being responsible for the CEE region, but after close to 5 years I wanted a new challenge and the opportunity to expand my horizons beyond Europe. Taking on the responsibility for emerging markets (Africa and the Middle East) presented the challenge I was looking for as it allowed me to get a broader world view and learn about the economies and the opportunities, as well as the risks of emerging markets.

CEELM: Covering such a wide region must be quite a challenge indeed. How does one cope with such an endeavor?

R.R.: The key is to understand the markets that you are supervising and the legal and regulatory trends that present risks for the company. Equally important is the ability to effectively work with and through your team and to prioritize. You also need to have good outside counsels.

CEELM: Since you mentioned it, when you do need to externalize work, what are the main ways you identify and pick external counsel?

R.R.: Ideally the external counsel should have a good understanding of the industry – I feel many of the aspects related to quality of service stem from that. In terms of how to identify the right counsel, especially because several of the markets I am currently responsible for are rather small, I also rely on recommendations from law firms or from colleagues to complement my own research. Another important aspect is that the law firm understands our ethical requirements.

CEELM: What about post-project – What KPIs do you use to assess the effectiveness of a law firm you have just worked with?

R.R.: First and foremost it comes down to the quality of work that was provided, whether the legal advice was practical, and if risks were identified, whether solutions in line with the objective are being provided. Responsiveness and meeting timelines are other key factors.

CEELM: What are the main differences you would identify between CEE jurisdictions and the ones you are currently responsible for?

R.R.: Since we are talking about a heavily regulated industry in general it is not surprising that the emerging markets under my responsibility tend to have many laws and regulations in place. The main differences I would identify from the European markets I used to manage relate to the higher level of ambiguity in relevant regulations and a relatively less advanced set of enforcement mechanisms in place. At the same time, the level of IP protections in some of these markets is a challenge and, lastly, in some of the smaller countries it can sometimes be a challenge to identify good quality external help.

CEELM: Since you worked for 3 years and a half in private practice prior to joining Eli Lilly, what would you identify as the main differences between working as an in-house counsel and in private practice – and which do you prefer?

R.R.: I really do prefer working in-house. The main reason I moved away from private practice was that I wanted a more global and diverse environment exposure, and I can comfortably say I have found that in my current team, which is very diverse, bringing a lot of experiences and different cultures together. Also, working in-house allows you to get a more comprehensive and holistic understanding of organizations and the business.

Another aspect is, in private practice a lawyer tends to become a specialist in only one area, whereas in house-counsels generally have to be conversant in a very broad array of laws.

CEELM: What best practices have you developed to stay appraised of changes in a regulated industry across so many different jurisdictions?

R.R.: In my mind, it is critical to have a good network of external firms in each of the markets you are covering and to have good relationships with colleagues who are on the ground. It is also important to make it a point to be 'in country' – by which I mean taking regular visits to various jurisdictions to get an accurate pulse of what is going on there. I also like subscribing to a multitude of newsletters from law firms. I guess, to sum it up, it really all comes down to building a strong support structure around yourself.

CEELM: What do you think makes a good in-house counsel a great leader within his/her organization?

R.R.: I will say that while you definitely need strong technical skills, the additional things to master to be an effective leader are strong communication and interpersonal skills, and in particular the ability to establish open and trusting relationships. This is what makes the difference between a risk advisor and a strategic business partner within a company.

I do think lawyers have many skills through their training that help them add value if they engage the company's leadership strategically. First of all, they have strong logical/analytical thinking and they are trained to objectively prioritize between complex actions. Last, but definitely not least, I think lawyers have – because of their professional ethics – a responsibility to truly make a difference, which helps in seeing beyond the simple 'bottom line.'

Leveraging these strengths in my mind comes down to developing excellent communication skills, especially when it comes to highly complex matters, and communicating them in a manner that is both digestible and understandable to non-lawyers, which requires a great deal of empathy and the ability to see matters not only through a legal lens but also through an economic lens.

CEELM: What are the main communication channels that you prefer to use internally then?

R.R.: Communication is definitely not one of those fields that come with a toolbox, and in my view you need to constantly adapt to your audience. It also depends on the goal and content you want to communicate. For compliance trainings, one of the most effective channels in my experience are case-studies relevant to your business partner, so that they can empathize with your message. Emails are a good tool to communicate simple matters. For complex matters such as those which require negotiation or collaboration, or matters where you actively need to seek and draw out other´s views, the phone or, ideally, in-person meetings (and technology these days allows for the latter to happen a lot more often than in the past) are far more effective channels of communication than emails.

CEELM: From an in-house perspective, what would you say makes Austria unique amongst other CEE jurisdictions?

R.R.: Austria used historically to be a hub for CEE but I think it is slowly losing that hub function.

CEELM: On the lighter side of things, what element/activity is a must for you to kick start an efficient day?

R.R.: The makings of a good day for me include waking up early enough to have my morning run. A good morning cup of coffee is also a welcome addition. However, one thing that really motivates me is working with great people and learning new things. I believe in life-long education and have just returned from a great executive leadership program from the Harvard Business School with the mission of educating leaders who make a difference. For me, integrating the learnings in my present and future work and also sharing them with my colleagues is one of the things I find most rewarding.

Radu Cotarcea

Interview: Peri Lynne Johnson

Legal Adviser and Director of the Office of Legal Affairs at the International Atomic Energy Agency (IAEA)

Peri Lynne Johnson is the Legal Adviser and Director of the Office of Legal Affairs of the International Atomic Energy Agency. She has previously served as the Director of the Legal Support Office, Bureau of Management, of the United Nations Development Programme. Johnson earned her B.A. in French Literature (with a focus in Government and International Relations), with distinction in all subjects, from Cornell University in the United States, and she obtained her Juris Doctor from Harvard Law School in 1991. She is based in the IAEA's Vienna office.

CEELM: Please describe for our readers your career leading up to your current role.

P.L.J.: After graduating from Harvard Law School in 1991, I served as a legal associate at Arnold & Porter, a leading Washington, D.C. law firm, handling litigation and international matters. In 1993, I joined the United Nations system and have stayed in the system, in four different capacities, since then: First, I joined the UN High Commissioner of Refugees in Conakry, Guinea, working with political refugees, primarily from Liberia and Sierra Leone; then, from 1995 until 2000, I was a legal officer with the UN Office of Legal Affairs in New York; that led to my joining the United Nations Development Program legal office where I stayed for ten years, becoming legal advisor in 2007; finally, I was recruited for my current position at the IAEA.

CEELM: What drew you towards an organization such as the IAEA?

P.L.J.: I had been in New York since 1995, and I had worked in the most rewarding legal positions in New York – the Office of Legal Affairs and the UNDP legal office (as the UNDP manages the Resident Coordinator program of the UN, the UNDP legal office handles many legal issues facing the UN system, not just UNDP-specific legal issues; this made the work very exciting). I was ready for new challenges and applied for this position, as I thought it would be a great opportunity at that stage of my career to specialize in a particular area of international law – nuclear law. I also understood that Director General Amano, who had started his term a year before my arrival, sought to highlight the development aspects of the work of the Agency, work that was not as well-known as the nuclear verification work. Coming from the UNDP, with substantial experience in this area, I was confident that I could play a role in this regard. Furthermore Director General Amano was seeking to increase the number of female staff. During his tenure that figure has increased from 22.5% to 28.4%

CEELM: You are the Director of Office of Legal Affairs. What does your role entail precisely and what type of legal work does your team have to handle on a regular basis?

P.L.J.: I serve as the Director General's Legal Advisor, reporting to him directly. The Office of Legal Affairs has 3 sections with a total of 23 lawyers, 9 assistants, 1 knowledge management specialist, and 3 to 4 legal interns year round. The General Legal Section deals with typical in-house counseling legal work – agreements, contracts/procurement, personnel, and finance. The Non-Proliferation and Policy Making Organs Section deals with safeguards/verification issues and support to our governing bodies: the Board of Governors and the General Conference. The Nuclear and Treaty Law Section deals with nuclear safety, security, civil liability for nuclear damage, technical cooperation, and nuclear power related matters.

In all of our work, our mission is to provide the highest standard of legal services to the Director General, the Secretariat (the departments and staff that make up the Secretariat), and the Policy Making Organs, as well as our Member States, in the development and implementation of Agency activities.

CEELM: How would you say your role is different than that of a General Counsel/Head of Legal working for a private company?

P.L.J.: Although I have never served as the Head of Legal for a private company, I am sure that in some respects it is similar – managing a staff of lawyers and assistants, ensuring sufficient budget for our activities, providing high quality services for clients. But there are differences. As a public international intergovernmental organization, we are not driven from the perspective of making profit. Our priorities are set by our Member States. Our mission as described above is to provide the best advice possible to support the development and implementation of Agency activities.

CEELM: As far as we understand, you are responsible for legal matters across 162 jurisdictions? Is this accurate? How do you structure your legal team to cover such a wide set of countries?

P.L.J.: Actually, in view of our status as an international organization, we are not dealing with domestic laws and courts of our 162 Member States or only exceptionally.

When we get involved, that would be to advise national authorities, upon request, on how they might choose to adjust their legal frameworks to be in line with international treaties or standards where our Organization has competences.

CEELM: Do you work with external counsel? If so, on what type of projects?

P.L.J.: Just about all of the work of the Office of Legal Affairs is managed directly by the staff of the Office. However, when necessary, we do use specialized expertise – in national and regional workshops on issues related to nuclear safety and security, for example.

CEELM: How much time do you spend interacting with regulatory bodies and in what capacity?

P.L.J.: The Office primarily engages with regulatory bodies in connection with our legislative assistance program, during which we advise our Member States on their national nuclear laws. Also, we do engage with regulators in the context of the review meetings for the Convention on Nuclear Safety, which we support together with the Department of Nuclear Safety and Security.

CEELM: While you are not working solely on the Austrian market, from an in-house perspective, what would you say makes Austria unique amongst other CEE jurisdictions?

P.L.J.: I can't really comment on how Austria compares to other CEE jurisdictions, however, the Director General always refers to Austria as a model Host Country. It is generally very supportive of the Agency and its activities, including in connection with the ongoing renovation of our laboratories at Seibersdorf.

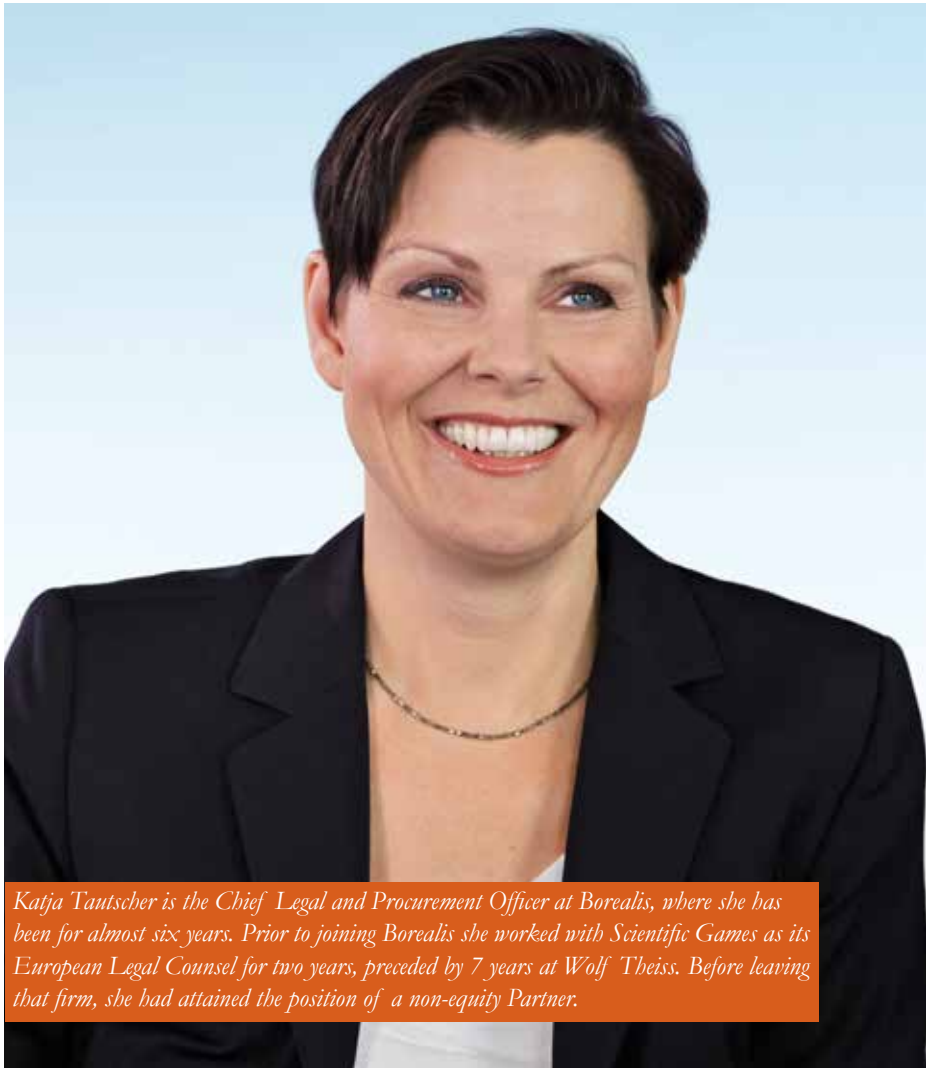
CEELM: On the lighter side of things, if not the IAEA, where would you envision yourself working?

P.L.J.: Well, it is hard to consider this, as I am very honored to be here at the IAEA, involved in such important work! Notwithstanding, given my over 20 years in the UN system, it is safe to say that I would imagine myself somewhere in the UN system. After so many years in the UN system, working in the private sector is not really appealing to me. It is really great to work to support the goals of the UN Charter and the Agency Statute, working for peace, security and development of our Member States.

Radu Cotarcea

Interview: Katja Tautscher

Chief Legal and Procurement Officer at Borealis



Katja Tautscher is the Chief Legal and Procurement Officer at Borealis, where she has been for almost six years. Prior to joining Borealis she worked with Scientific Games as its European Legal Counsel for two years, preceded by 7 years at Wolf Theiss. Before leaving that firm, she had attained the position of a non-equity Partner.

CEELM: Please describe for our readers you career leading up to your current role.

K.T.: I studied law in Vienna and started to work immediately after my Masters' degree in a then small law firm particularly focusing on day-to-day matters. I soon found out that I was actually more interested in international matters but that I lacked the foundation for that. So I went back to university to do an LLM at the London School of Economics, focusing on international business law and European law. I got a job offer to work in Dusseldorf for Clifford Chance and really enjoyed working on really big matters.

I had to come back to Austria because I did not have the bar exam and I returned to Wolf Theiss where I worked for almost 7 years, first as an associate and then as a junior partner in Austria and Slovenia. During that time I had a one-year secondment to Allen & Overy in London.

At the end of the seven years I realized that I really enjoy working very closely with clients and getting involved in matters beyond the purely legal questions. So I decided to move in-house and started this career as a European Legal Counsel for a US company. After two years I got a job offer from Borealis to act as its General Counsel and

here I am. Last year I did an Executive MBA at INSEAD to broaden my skills more into the commercial area.

CEELM: Your role within the company recently changed from that of "Vice President - General Counsel" to that of "Chief Legal and Procurement Officer." What does that change entail in terms of responsibilities?

K.T.: The change is quite massive. Besides heading the legal department, I am now also responsible for all raw material, technical, and business related purchasing matters, which translates to a budget of EUR 1.2 billion per year.

CEELM: The recurring myth is that a GCs job is a 9 to 5 one. Do you find it to be accurate?

K.T.: I think that there is a difference between an in-house role and a role in private practice and yes, the working hours are more "civil" now. However, in my entire working life I have rarely left the office at 5 and I rarely only show up at 9. The big difference is that – unless there is a real emergency – you are more of a master of your time than you are in a law firm (where the clients call on emergency matters).

CEELM: Prior to joining Scientific Games as its European Counsel, you were a Partner in a law firm. What drew you to the in-house world? Would you consider returning to private practice?

K.T.: I wanted to understand the bigger topics that companies have to deal with and got a bit bored by only looking strictly at legal matters. I also wanted to participate in projects when they are a pure idea and develop them from the beginning rather than being only called in at the very last moment. I also enjoy getting a really good picture of the industry and being able to move away from the legal department into a broader role.

Never say never but at the moment I would not see myself in private practice again.

CEELM: You have been with Borealis for almost 6 years now. What still gets you excited about going to work in the morning?

K.T.: I think Borealis is a truly fascinating company with an open company culture and strong values. The business we are in is very exciting and I love the fact that we are very international. In the Viennese headquarters, two-thirds of my colleagues come from other countries than Austria and you hear many different languages in the corridor. My team, from both the legal and the procurement departments, is extremely professional, very motivated, and just fun to work with.

We are also not very hierarchical and you can talk to everyone freely irrespective of rank and age.

CEELM: How large is your in-house team and how do you structure it?

K.T.: The in-house legal department consists of 17 team members. We have 13 lawyers, a company secretary, a contract manager, an Ethics and Legal Compliance officer, and an assistant.

We have structured it along the business. This means that we have dedicated business lawyers which are unofficial parts of the respective businesses and specialists for areas such as IP, M&A, corporate law, and finance and funding law.

CEELM: On the lighter side of things, what is your favorite thing to do after you leave a stressful day at the office to decompress?

K.T.: I have a little son, age 2, and playing with him really makes my day worthwhile.

Radu Cotarcea

Interview: Ingo Steinwender

Group Head of Legal Affairs at CA Immobilien Anlagen

CEELM: Please describe for our readers your career leading up to your current role.

I.S.: After graduating from law school at the University of Salzburg and passing a postgraduate program on European Studies at University Krems in 2001, I started my first job as a tax assistant at Deloitte in Vienna.

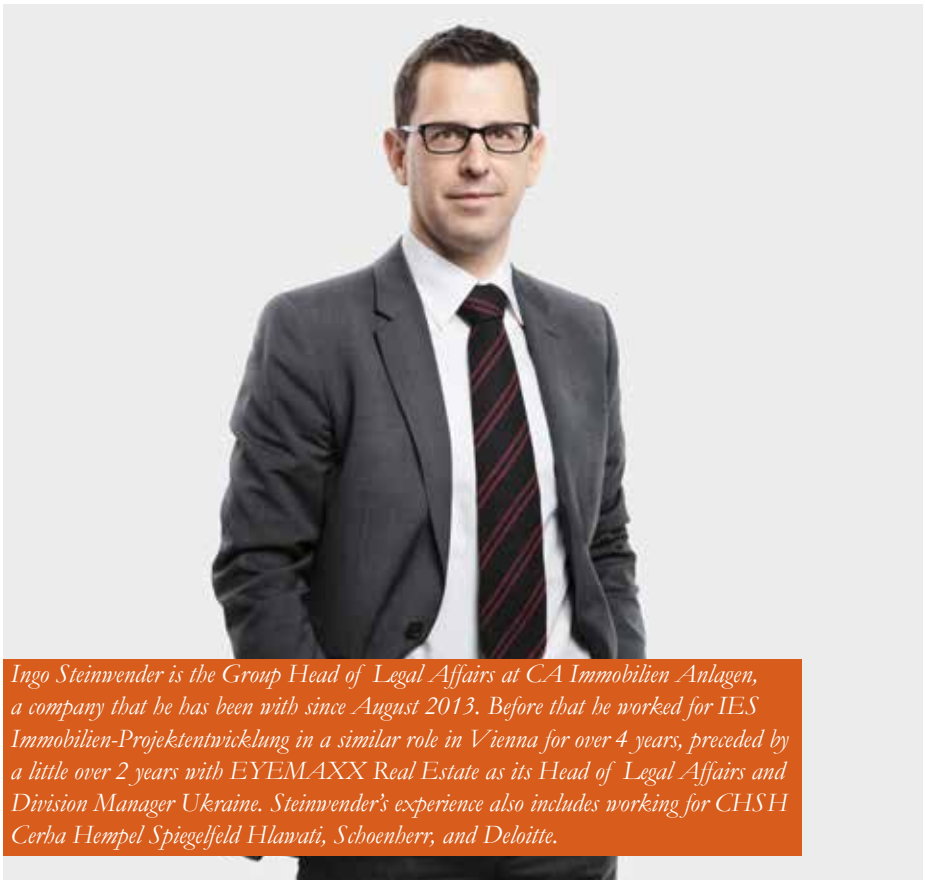
In 2002 I joined Vienna-based leading law firm Schoenherr and worked in Vienna and as an expatriate in the Bucharest office. In 2005 I joined the law firm CHSH Cerha Hempel Spiegelfeld and worked in the Vienna office and again as an expat in the newly established Bratislava office. In 2006 I passed the Austrian bar exam and completed my doctoral studies at the University of Vienna.

After 6 years as a tax and legal adviser in two of Austria's leading law firms and a big four tax firm I decided to change my professional environment by focusing on one permanent "client" and started to work as an in-house lawyer joining the developer EYEMAXX Real Estate as its Head of Legal in 2007. In 2009 one owner of EYEMAXX Real Estate left the company and I joined him to become Head of Legal in the newly established Austrian developer IES Immobilien Projektentwicklung, a family business. In August 2013 I took my career to the next level by becoming the Group Head of Legal at CA Immo, in my view one of the most attractive positions for real estate in-house lawyers in Austria, Germany, or CEE.

CEELM: You have worked in Austria, Romania, Slovakia, Ukraine. Which of these did you find most challenging to work in and why?

I.S.: Austria is a predictable jurisdiction with an – on the whole – very good functioning court and administrative system. When I worked in Romania in 2004 and 2005 during the pre-accession phase to the European Union there were continuously material amendments of laws resulting from the implementation of the acquis communitaire. It was pure lawyering as there was almost no published case law and very little literature, one had to rely on his own interpretation of the law.

In Ukraine from 2007 onwards we were regularly confronted with an incredibly time- and resource-consuming bureaucracy and situations where even Supreme Court decisions were made without any legal ba-



Ingo Steinwender is the Group Head of Legal Affairs at CA Immobilien Anlagen, a company that he has been with since August 2013. Before that he worked for IES Immobilien-Projektentwicklung in a similar role in Vienna for over 4 years, preceded by a little over 2 years with EYEMAXX Real Estate as its Head of Legal Affairs and Division Manager Ukraine. Steinwender's experience also includes working for CHSH Cerha Hempel Spiegelfeld Hlawati, Schoenherr, and Deloitte.

sis or where corruption hindered further investments.

I cannot say that one jurisdiction was or is the most challenging. All were different and very exciting and I am happy to have had the opportunity to work in all these jurisdictions.

CEELM: Having worked in both private practice and in-house, what do you find to be the biggest differences?

I.S.: Any in-house counsel requires not only very good legal skills, but also managerial and communication skills. He/She is an interface between different interests or departments. As a legal manager the in-house counsel has to proactively give shape to an efficient and as-simple-as-possible legal framework enabling his/her company to successfully conduct its business, and has to make decisions.

A lawyer in a private practice is an advisor of a company upon request and executor of decisions taken by the company. And this is the biggest difference: a lawyer advises upon request on specific issues, whereas the in-house lawyer has to actively decide and actively look after all legal needs of his company, as the key is to understand the bigger picture.

CEELM: In-house, you have worked exclusively in the real estate sector. What drew you to this field?

I.S.: The real estate business covers almost all areas of law and each phase in the life cycle of a property, from the first ideas for a green-or-brownfield investment to the sale of the developed property. It has its specific and always different legal issues. Since I have worked in the real estate business I have never had "boring" projects or routine work. This is what real estate business makes incomparably attractive and exciting to me.

CEELM: What does a "regular day in the office" look like for you? What type of work takes up the most of your time?

I.S.: My days always start in the same way – with a cup of coffee and a short chat with colleagues. Other than that – fortunately, there is no such thing as a "regular day in the office" with CA Immo, as there are many different Austrian and international projects, and transactions of every size and complexity come and go all the time.

As I have a very experienced, skilled, and independently-working team of 8 colleagues for whom I am very grateful, most of my time is taken up with legal management of CA Immo, and my own projects and transactions.

CEELM: When you need to outsource work to external counsel, what are the main criteria you use in selecting the firms you will work with?

I.S.: In general we outsource specific legal issues requiring a high degree of specialization, litigation, due to work overload or due to a lack of in-house lawyers in our CEE markets.

In the selection process I do not rely on legal rankings (like Legal 500 or Chambers Guide) but on our company´s previous experience or recommendations from friends or colleagues. I do not select law firms, but lawyers in a law firm.

The three most important criteria in selecting lawyers are: (1) Experience and industry knowledge; (2) Quality of work; and (3) Response time. The fees of course count as well, but are regularly negotiable to our satisfaction and very similar across the market.

CEELM: From an in-house perspective, what would you say makes Austria unique amongst CEE jurisdictions?

I.S.: As pointed out before, Austria has a very predictable and stable jurisdiction with competent courts and authorities. In general the Austrian business laws are flexible enough allowing each company to create a tailor-made legal environment for doing business.

The main difficulty however, apart from some strange mandatory legal provisions, which I would rather not go into further detail on, is the duration of court and administrative proceedings, which, to a certain extent, can be explained by an overload of cases and budget cuts. Compared to other CEE jurisdictions the problem, however, is a small one.

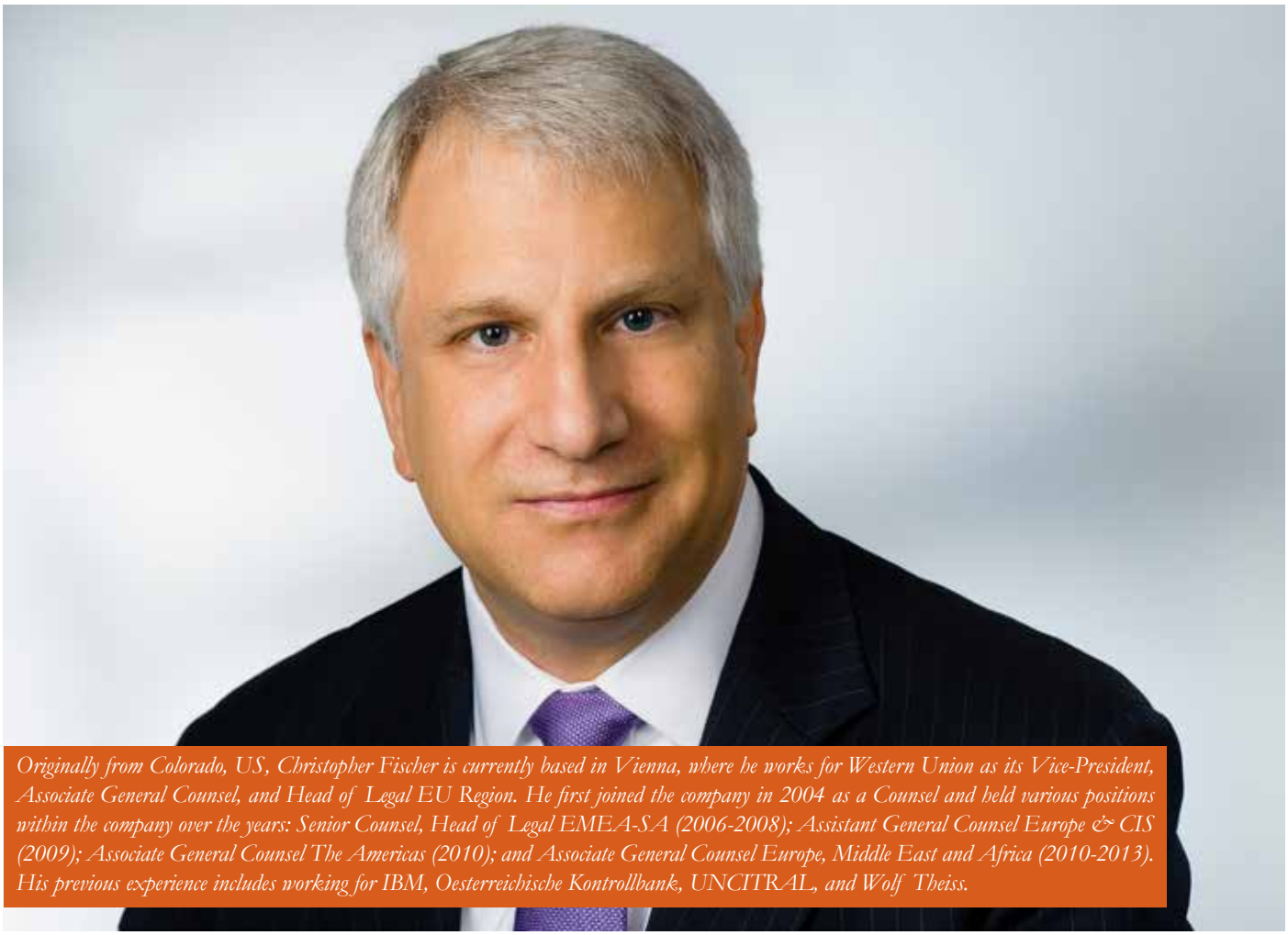
CEELM: On the lighter side, what was the team-building exercise you participated in (at your current or previous companies) that you enjoyed the most and why?

I.S.: After several team-building events in different companies I am a master in building rafts and floating down torrential rivers. But the most important and most efficient team building happens every day and must not be planned. I think of spontaneous cups of coffee with colleagues, common lunches talking about private stuff, or an after work beer. This kind of team building I enjoy most, as this really works.

Radu Cotarcea

The Expat On the Ground

Interview: Christopher Fischer, VP & Associate General Counsel, Head of Legal EU Region at Western Union



Originally from Colorado, US, Christopher Fischer is currently based in Vienna, where he works for Western Union as its Vice-President, Associate General Counsel, and Head of Legal EU Region. He first joined the company in 2004 as a Counsel and held various positions within the company over the years: Senior Counsel, Head of Legal EMEA-SA (2006-2008); Assistant General Counsel Europe & CIS (2009); Associate General Counsel The Americas (2010); and Associate General Counsel Europe, Middle East and Africa (2010-2013). His previous experience includes working for IBM, Oesterreichische Kontrollbank, UNCITRAL, and Wolf Theiss.

CEELM: How did you end up in Vienna?

C.F.: As is often the case with expats, love brought me to Vienna. While studying in Germany for my LL.M., I took a language course north of Barcelona to refresh my Spanish. I met my wife at that course and moved to Vienna after completing my studies.

CEELM: Is language in any way a challenge to you professionally as a foreign lawyer in Central Europe?

C.F.: Becoming fluent in German was the key to my professional beginnings. At one point I was the "Austria" lawyer for IBM – although I never studied Austrian law. That forced me to hone my skills in negotiation and learn to negotiate in a language other than my mother tongue. Now most of my work is in English, but I also have a greater appreciation for my counterparts negotiating in a language other than their mother tongue. So with English, German, and the odd word or phrase in other languages, I have learned to be effective as a foreign lawyer in Central Europe. Empathy also plays a big role in that.

CEELM: You mentioned empathy. What does it mean for you and how is it useful?

C.F.: Being able to look at things from the other side and using that insight to create solutions is a must. In every negotiation, both sides have things that are important to them. It may be a specific issue or it may just be "winning" a point. For example, I have to train my junior lawyers that succeeding on maintaining our template wording is not necessarily important. If the other side wants to re-write 90% of a contract just to be seen as being strong negotiators, I can accept that so long as the meaning doesn't change for the points that are important to me. The goal is reaching a deal. If I can make the lawyer on the other side succeed while still getting what I want, that is truly a success. So at least half of a negotiation is about listening and understanding what is important for the other side.

CEELM: What was your strongest cultural shock when you first got to Austria?

C.F.: That shops closed so early. Shopping hours have since become longer, but still nothing like the US, England, or in fact many Central European countries. I no longer have to but it's still good to know that I can drive an hour to Slovakia or Hungary and find a 24-hour supermarket

if needed.

CEELM: Is your American-ness an asset or an obstacle (speaking exclusively of your personality and style) in terms of your ability to manage a team successfully in another country?

C.F.: I'm not sure that my American personality is either an asset or an obstacle. I have had good and bad managers or seen good and bad managers of many nationalities. In the end it comes down to the person. Lawyers as people managers are difficult to begin with. Our training and most of our initial work experiences are as lawyers in law firms. The partner is the boss and he or she has to put the client first. I can remember a number of young associates put in tears by partners. It wasn't about people management, but getting the work done by a deadline. That's certainly part of the reason I enjoy working in-house. I have the ability to manage deadlines and thus manage the stress levels of my team. As for my own personality, I also believe that humor is important in life and work. So having a laugh, even if the work is hard or dull, is important.

CEELM: Your team is spread out across a number of European jurisdictions. What best practices have you developed in terms of managing a virtual team?

C.F.: Communication is key and I try to *over*-communicate. Finding the connection between your everyday work and the bigger picture isn't always easy. By giving my team insight into the bigger picture I see helps motivate them. I also see communication as a two way street or, better yet, a spider web. While there have to be certain hierarchies of who reports to whom and the appropriate level for decision making, when it comes to communication, seeking advice, or socializing I don't believe in hierarchies. Everyone in my team can come to me for anything and I encourage my team to reach out across the team. I even schedule ad hoc skip level conversations so that I have a feel for everyone's comfort in the team.

CEELM: How often do you have to travel to other markets and why?

C.F.: I'm seeing a trend towards less travel as a corporate cost-saving effort. While I don't support unnecessary or excessive travel, some travel (even without a negotiation, etc.) is still valuable. It is important that my lawyers can occasionally meet each other in person. For me personally, most of my travel is now related to regulatory and board meetings and lobbying in Europe.

CEELM: Is your relationship with external lawyers different in Vienna than it might be in the US?

C.F.: As in many CEE countries, we are physically closer to our external lawyers than is generally the case in the US. We sometimes see our external lawyers on the street or in the fitness center. It is easier to join a law firm sponsored event. This makes our interaction more personal and I believe that helps drive better quality and responsiveness.

CEELM: Of all the jurisdictions you are responsible for, which one gives you the most headache and why?

C.F.: Difficult jurisdictions seem to change over time. For Western Union, the difficulties are most often driven by regulatory concerns. So it varies depending on when a particular regulator chooses to focus on my industry. This month it might be Bulgaria, next month Spain and the month after that Germany or Ireland. When negotiating with our distribution partners, I can say that – on average – our partners or prospective partners in Poland and Romania seem to be the toughest negotiators. But that is only an average. On the flip side, the UK seems to be one of the easiest jurisdictions to do business. Even if issues arise, there is typically a fair and transparent way to reach an agreement.

CEELM: Do you enjoy working in Vienna? Why?

C.F.: Vienna is a great city in which to live and work. It is an imperial city in a small country. The infrastructure is very good. So getting around is easy. The airport has great flight connections to most of Europe, in particular within CEE. Vienna is also an international city. My team in Vienna is diverse with colleagues from the US, Scotland, Mexico, and Greece – in addition to Austrians.

CEELM: Would you ever consider going back to the US? Under what circumstances?

C.F.: I almost went to the US on assignment. A new General Counsel came in and asked me to stay in Vienna, which didn't bother me too much (Vienna really is a great place to live!). As with most professionals, I would relocate for the right position. Moving with a family is a lot trickier, so I would have to see an advantage for the entire family and not just me personally. I guess we'll see what my future brings.

Radu Cotarcea

Next Issue's Market Spotlight

Poland

Experts Review: Arbitration

Na zdravy!

The articles in this issue's Experts Review feature are ordered by per capita beer consumption. Why? Because it turns out that four of the top five beer-consuming countries in the world are in CEE (only Germany, in 3rd place, spoils the fun). And because, coincidentally, the Czech Republic (the focus of last issue's Market Spotlight) and Austria (the focus of this issue's Market Spotlight) stand comfortably in first and second place in per capita consumption. (To some extent even ranking other countries next to the Czech Republic is an injustice. The difference between first place Czech Republic (148.6 liters a year) and second place Austria (107.8 liters a year) is greater than the difference between Austria and 13th place Slovenia (80.1 liters a year)).

Unfortunately, we were unable to find data for all countries of CEE or the world, so we're ordering those that remain on our own personal estimates (much of which is, we happily admit, developed less on anything approaching hard science, and more from somewhat surprisingly clear memories of good times).

Is any of that particularly relevant to the feature's focus on Arbitration? To the analysis of the available organizations and applicable rules in CEE legal markets, those problems which have been solved in recent years and those that still remain, and the many other issues addressed by our experts? Probably not. But it caught your attention, didn't it? And heck, Oktoberfest!

Read. Learn. Enjoy. And if a nice cold beverage facilitates the understanding, all the better. Cheers!

Instructor and Instructed:

Client and Law Firm Explain Communication on Arbitration Instruction

In this Experts Review we also sought to explore the working relationship between a client and the law firm mandated to represent it in an arbitration. We reached out to Integrites' Denys Kytsenko and an Integrites client, Levada. Both Kytsenko and the co-founder of Levada, Pavel Naprienko, agreed to give us their respective views on the process.

Denys Kytsenko is a Counsel and the Head of Dispute Resolution at Integrites. He is a member of the EBA, ABA, Ukrainian Bar Association, and the Russian Association of International Law, among other organizations, and he represents clients in the national courts of Ukraine and Russia, arbitral proceedings in the ICAC at the UCCI of Ukraine and Russia, and under UNCITRAL Arbitration Rules. Kytsenko is a Harvard Law School alumnus and holds a PhD degree in International law from the Institute of International Relations at Taras Shevchenko National University of Kiev.

CEELM: Do you generally advise your clients to seek Alternative Dispute Resolution over litigation in your market? Why/why not?

D.K.: In most cases, we do advise our clients to consider Alternative Dispute Resolution before litigation. ADR generally consumes a lot less time and funds than litigation. However, we usually advise them to conduct ADR in short time frames – possibly within a month – to avoid the expiration of the limitation of liability deadline. By and large ADR may be skipped if the case is urgent, i.e., if a dissipation of assets will take place, the limitation deadline is about to expire, and so on. Besides, even a positive decision of a tribunal can be difficult to enforce in Ukraine. Such enforcement will, in some instances, stretch over a long period of time and be more costly than a litigation itself. Thus, we assist our clients in conducting ADR procedures to welcome voluntary execution of the judgment prior to enforcing it by the bailiff service.

CEELM: Do you find that your clients generally trust arbitration solutions in your country or prefer they are carried out in other jurisdictions?

D.K.: We see that many of our clients, who execute large-sum contracts, prefer to have arbitrations carried out in other jurisdictions. Based on our practice, the jurisdictions of London and Stockholm are chosen most frequently. Some clients, however, tend to settle their disputes domestically. Frequently the choice depends on the complexity of a transaction. Complex ones, such as those involving post-M&A or shareholders agreement disputes, are usually settled in the London Court of International Arbitration, while more straightforward ones, like sales agreement disputes, might be referred to the ICAC at the UCCI.

CEELM: In what aspects of the arbitration process do you tend to involve the client's in-house counsel the most?

D.K.: We require input of the client's in-house counsel once we start the preparatory work on a project. At the initial stage we need to know everything about the legal relationships between the client and the opposing party, starting with the contract-drafting history. We also rely on the in-house counsel to deliver the full history of correspondence and when the claims (if any) were sent, and to provide details of prospective witnesses, as well as to search for former employees to be interrogated as a witness.

CEELM: What communication challenges have arisen most often between you as an external advisor and clients in an arbitration process and what best practices have you developed to avoid them?

D.K.: The hardest communication challenge from our practice was when an urgent decision (requiring the client's approval) had to be made, but the client could not be reached. To alleviate tensions like these, we try to work out an "on-line schedule" with clients – dates and time when they can be easily reached (we try to notify them in advance on the times when their input may be required and ask them to stand by for contact on short notice).

Pavel Naprienko is Co-Founder and one of the Executives at Levada, where he heads the Board of the Company. Naprienko graduated with honors from the Institute of International Relations of Kyiv Taras Shevchenko National University. After many years in public service, he decided to test himself in large business projects, and subsequently, in 2012, he co-founded Levada Holding.

CEELM: What selection process do you use when choosing a firm to represent you in an arbitration? Do you go by simple Dispute Resolution rankings, or do you do additional research into firm's arbitration-specific experience/capabilities?

P.N.: While selecting a law firm to represent our interests in arbitration, we conduct both a general review of the firm rankings in leading guides of recommended law firms (e.g., Chambers and Partners, Legal500, etc.), as well as specific arbitration-oriented guides, such as the Global Arbitration Review. In addition to that, we look into a firm's experience with different arbitration bodies and rules, as well as the list of clients they have represented. The distinction of the partner leading the arbitration practice – his awards and personal achievements – are also on our priority list.

Dmytro Volkov (on the left) and Pavel Naprienko (on the right) are owners and executives of Levada.

CEELM: Do you differentiate between experiences and capability in arbitration vs. litigation during the process?

P.N.: We distinguish between the two practices of a firm, and look where the firm is more successful/has more accomplishments. However, for us a competent litigation team is also a prerequisite, since we understand that we will have to rely on their services to enforce an arbitration award through court.

CEELM: How closely do you monitor the progress of the firm representing you during the process? Do you check in daily/weekly? What degree of independence/autonomy does the firm have in creating and enacting its strategy?

P.N.: In the arbitration process, we generally follow the following scheme: a general report on developments weekly, and a more detailed report of the progress monthly. However, we expect the most important and crucial developments to be given to us on short notice. In creating and enacting its strategy, the firm is free in developing it, as well as other alternatives it considers to be feasible. After that, we mutually consult and approve the course of action that has to be taken. While carrying out the strategy we've agreed upon, the firm is free to act – within defined limits – as it considers necessary.

CEELM: Can you give us a few examples of the types of "limits" you have set up in the past?

P.N.: We usually define the minimum amount and the conditions upon which we are ready to settle. The law firm is then free to negotiate in any manner it considers appropriate to reach those goals. Final terms and conditions are subject to our approval. Also, we often agree on certain costs, apart from legal fees, to cover the expenses incurred in pursuing a particular result or action. The firm is free to allocate and spend that money on third party services (experts, investigators, overseas counsels, and so on), and conduct any additional actions it deems necessary to achieve the result, subject only to post-factum reports on how the money was allocated.

CEELM: Do you insist on arbitration provisions in your contracts? Do you also approve of mediation and other forms of Alternative Dispute Resolution?

P.N.: We strongly insist on including arbitration provisions in our contracts as the ultimate safeguard. We turn to mediation and other forms of Alternative Dispute Resolution only briefly and only if negotiations are likely to be productive and provide results. We then turn to arbitration in one of the two scenarios: Where the other forms of Alternative Dispute Resolution have proved fruitless over an extensive course of time, or the deadline for filing for arbitration is about to expire. In some cases, the former precedes the later.

CEELM: Do you trust Ukrainian arbitration options? Do you find them reliable, efficient, and professional? Would you like to see them changed/improved in any way?

P.N.: The International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry (ICAC at the UCCI) option has its upsides and downsides. The positives are that the arbitration will generally be cheaper and take substantially less time than in European arbitration courts. Also, decisions of Ukrainian arbitrations are easier to enforce domestically under the provisions of the International Commercial Arbitration Act and per Civil Procedural Code of Ukraine. The downside would be that, generally, the arbitrators are less professional and their English language capacity is somewhat lower.

Radu Cotarcea

Czech Republic

Arbitration in the Czech Republic: Overview of Developments

The legal environment in the Czech Republic can be described as relatively friendly and supportive of arbitration. While the Czech Arbitration Act of 1994 (CAA) is not specifically based on the UNCITRAL Model law, it does recognise the most fundamental principles of modern commercial arbitration, including the doctrines of separability of arbitration agreements and competence-competence, the applicability of which has been tested in Czech Courts. It is not common for the Czech courts to interfere with arbitration. The CAA gives them a rather standard set of tools to set aside domestic awards and to refuse their recognition and enforcement. On the other hand, in some cases courts may assist with the constitution of arbitral tribunals and, if asked by the arbitrators, take evidence on their behalf. Also, upon request of a party, courts may issue interim measures in cases where future enforcement of an award could be jeopardized. However, Czech courts would not protect arbitration by interfering with foreign court proceedings, for example by issuing anti-suit injunctions.

Nevertheless, the Czech Republic cannot be described as a typical seat of major international commercial arbitrations. There are various reasons for that. First, there are jurisdictions in the region – most notably Austria and Switzerland – which have been traditional choices as arbitration seats for many years and which parties trust. Secondly, for the conduct of arbitration, the CAA refers to the application of the civil procedure rules of the Czech courts. The character of these rules is very "continental" and as such there is, for instance, almost no disclosure of documents between the parties, and cross-examination of witnesses is limited. Such an approach is not compatible with the modern practice of international commercial arbitration. Thirdly, the main arbitration organization in the country, the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic, does not seem to be able to fully keep up with current international trends, which is reflected in, among other things, its new rules (effective as of July 1, 2012), which merged the previously divergent rules for international disputes with those for domestic disputes and which consequently do not sufficiently address the specific nature of disputes with an international element.

Also, the prestige of arbitration as a whole has recently suffered in the Czech Republic from the fact that arbitration clauses were routinely used to decide disputes from consumer contracts by private entities other than permanent arbitration courts established on the basis of a statute. These entities appointed arbitrators, issued "arbitration rules", etc., which were perceived to be unfair to consumers, and which resulted in 2012 in the most extensive amendment of the CAA to date. This amendment introduced numerous consumer protection provisions, including additional requirements as to the form and content of arbitration clauses and selection of the arbitrators in the area of consumer disputes and two new grounds for setting aside awards issued in such disputes.

By contrast, the general overhaul of Czech private law (effective as of January 1, 2014) did not have any major impact on the regulation of arbitration in the Czech Republic. The most significant change in this context was that the provisions on various aspects of arbitration with an international element were moved from the CAA into the new International Private Law Act. However, save for a few technicalities, the substance of those provisions did not change.

As regards the recognition and enforcement of foreign arbitral awards, the Czech Republic is a signatory of the New York Convention, which in most cases remains the primary legal basis for recognition and enforcement, despite the fact that: (i) as a result of the Czech Republic's reservation it only applies to awards from other signatory states; and (ii) more favourable provisions of bilateral treaties on legal aid entered into between the Czech Republic and certain countries on occasion take precedence. It is regrettable that in the context of enforcement of foreign awards Czech courts may from time to time also require other documents than those mentioned in Article IV of the New York Convention, such as extracts from the commercial register, which is in violation of the Convention. Also, doubt has been expressed as to whether the only way to enforce foreign awards in the Czech Republic is through Czech courts, or whether they can also be enforced through private executors, which is usually more efficient.

As for the separate and rather distinct area of investment treaty arbitration, the Czech Republic is currently a signatory of more than 80 investment treaties and has been sued by foreign investors under those treaties at least fifteen times, including famous cases like CME, Saluka, and Phoenix. However, the number of actions filed against the Czech Republic has been dropping, with the notable exception of claims filed by solar investors. On the other hand, Czech investors are becoming increasingly aware of the rights and remedies available under those treaties, and some of them have already taken actions to protect their foreign investments in this way.

Martin Magal, Partner, and Otakar Hajek, Associate, Allen & Overy

Austria

Austria Enhances its Competitive Position as Important Player in International Arbitration

Arbitration has become an indispensable alternative to often expensive, extended, and inefficient proceedings before state courts. The reasons for the success of (mainly international but also domestic) arbitration include the ability to have the dispute settled by a panel of experts who can be nominated by the parties based on their specif-

ic qualifications, and, most significantly, the almost universal enforceability of arbitral awards under the umbrella of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Additional benefits include confidentiality, (cost) efficiency, and the generally shorter duration of arbitral proceedings.

Against this background, competition for international arbitral proceedings has become fierce in recent years, especially from the arbitration institutions' perspective. Austria's history as a strategically well-located and neutral country has made it a popular place for international arbitral proceedings – which it remains today. Beyond that – or perhaps because of that – Austria is an arbitration-friendly jurisdiction. Austrian courts in general have a positive approach towards arbitration agreements and show a strong preference for upholding arbitration agreements as valid, provided that formal and minimum content requirements have been met. With the Austrian Arbitration Act of 2006, Austria has adopted (with only minor changes) the UNCITRAL Model Law as its law of arbitration, thereby ensuring that the internationally acknowledged standards for arbitration are incorporated into Austrian law. Furthermore, under Austrian arbitration law there are only a limited number of grounds on which arbitral awards may be challenged.

However, most recently, international arbitration has been scrutinized, and questions have been raised about whether arbitral proceedings actually are as flexible and time-and-cost efficient as arbitration practitioners have claimed. As a result, Austria took up the challenge of modernizing its procedural rules in order to meet the expectations of parties interested in arbitration. Additionally, the Vienna International Arbitral Centre (VIAC) amended its rules to adapt to recent trends (such as an increase in multi-party proceedings), and to address concerns about a lack of flexibility or efficiency (e.g. by introducing fast track proceedings).

Single Instance to Challenge Awards

By virtue of the Austrian Arbitration Law Reform Act of 2013 (which entered into force on January 1, 2014), the number of court instances empowered to review arbitration matters has been narrowed from three to one. Parties now have direct access to the Austrian Supreme Court, which acts as first and last instance for all appeals to have arbitral awards set aside and for decisions on the validity and existence of awards and procedures regarding constitution of the arbitral tribunals. Arbitration proceedings involving consumers and labor law matters are still regulated under the former regime and thus may pass three court instances.

VIAC Rules 2013

As of July 1, 2013, the new Vienna Rules of the VIAC apply to all proceedings initiated on or after that date. Particularly by introducing the possibility of a fast track procedure, VIAC has reacted to critical voices saying that arbitral proceedings are not as efficient as they should be. The new VIAC Rules also introduced new regulations regarding the joinder of parties and the consolidation of proceedings, which is now allowed if: (i) the parties agree; or (ii) the same arbitrators were nominated or appointed and the place of arbitration in all of the arbitration agreements on which the claims are based is the same. The responsibility for approving consolidation lies with the VIAC Board after having heard the parties and the arbitrators. Furthermore, the parties can now agree to fast track proceedings, in which the final award will be rendered within six months from the transmission of the file to the arbitral tribunal, unless this time frame is extended. Additionally, the arbitral tribunal now has wider discretion in ordering third parties to join proceedings upon the request of a party or a third party.

The amendments to Austrian arbitration law and the adoption of the new VIAC Rules are important steps to maintaining and increasing the attractiveness of Austria as a player in the field of international arbitration. From the perspective of Austrian lawyers nowadays it is in any case state of the art to inform and advise clients about the possibility or – depending on the circumstances of the contractual relationship in question and on the parties to the contract – even the necessity of including arbitration clauses in international contracts. With the modernization measures taken over the last two years, Austria is perfectly prepared for new arbitral proceedings to come in the future.

Arbitration is rapidly paving its way into the Polish market as a fast, efficient, and cost-effective dispute resolution alternative to Polish state courts. In recent years, economic growth in Poland has gone hand-in-hand with the development of arbitration as a dispute resolution method. Meanwhile, the growth of arbitration has also been accompanied by an arbitration-friendly approach of Polish state courts, which have consistently accepted the limited scope of review of arbitral awards.

Katharina Kitzberger and Stefan Weber, Partners, Weber & Co.

Poland

Arbitrating in Poland

While there are about fifty permanent courts of arbitration in Poland, two of them are of predominant importance: the Court of Arbitration at the Polish Chamber of Commerce (the PCC) and the Lewiatan Court of Arbitration. Both of these courts have recently undergone revisions to their rules in line with the directions being set in international arbitration. Moreover, the number of cases heard by these courts is rapidly growing. In 2013 the PCC heard approximately 350 cases, at least 20% of which were international. This permanent court has more than 60 years of experience and has concluded various cooperation agreements with other arbitral institutions famous worldwide. Arbitral proceedings administered by the PCC typically last only 6-9 months.

In 2013 the Lewiatan Court of Arbitration's cases were concluded, on average, within 4.5 months after appointment of the arbitral tribunal. This was accomplished despite a nearly two-fold increase in the number of submitted cases, which appears to be a direct result of the 2012 revision of Lewiatan's arbitration rules – which included various highly anticipated innovations. By way of example, the new rules introduced "fast-track proceedings" for claims not exceeding PLN 50,000 (approximately EUR 13,000), which allow cases to be heard within 3 months of the appointment of arbitral tribunals composed of sole arbitrators. The new rules also introduced an emergency arbitrator procedure, in which the emer-

gency arbitrator (appointed by the Lewiatan Court within 2 days of receipt of a party's application) may issue an order concerning interim measures prior to the constitution of an arbitral tribunal.

With regards to the post-arbitration phase, it is worth emphasizing that arbitral awards rendered in Poland can be set aside by a Polish court only in limited situations. The Polish Supreme Court has confirmed in numerous rulings that the list is exclusive, thereby confirming the very limited scope of review of arbitral awards by Polish courts. An arbitral award may only be set aside due to certain egregious errors that occurred during arbitration proceedings, e.g. lack of an effective arbitration clause, improper composition of an arbitral tribunal, or an arbitral award made in contravention to public policy.

After an award is rendered it needs to be incorporated into state legal order through a recognition or enforcement mechanism. Since Poland is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), foreign arbitral awards are "transplanted" into Polish legal system and enforced according to the New York Convention. A state court can refuse enforcement of an arbitral award rendered in Poland only in two cases: if, according to Polish law, the dispute should not have been decided by an arbitral tribunal; or if recognition or enforcement would be contradictory to Polish public policy. As is clear from the above, a Polish state court is prohibited from reviewing an arbitral award on its merits both in annulment and in enforcement proceedings.

Moreover, new amendments have been proposed to the Polish Code of Civil Procedure in order to improve its arbitration law. Particularly worthy of note is the suggestion that annulment proceedings be compressed to one possibility of appeal. At present, a party may commence annulment proceedings before a district court, the judgment of which is then subject to appeal – with, in some instances, the possibility of filing a cassation to the Supreme Court. Under the new proposition, the annulment proceedings would consist of only one objection, made directly to a court of appeal. Such judgment would then be final and non-appealable (albeit potentially subject to cassation to the Supreme Court).

In conclusion, although there is stillroom for improvement, arbitration in Poland is developing in the right direction. This is very welcome news, especially with regards to construction disputes, where arbitration is currently the best option available in Poland to businesses. Such disputes are by nature highly technical and require a great deal of expert knowledge and time, which, more often than not, a state court judge does not possess. Due to the vast caseload of Polish state courts, most proceedings last for many years, with an outcome highly uncertain. Arbitration, on the other hand, allows the parties to appoint arbitrators experts in the field, who will be able to resolve the case in an efficient and knowledgeable manner.

Wojciech Kozlowski, Partner and Michal Jochemczak, Counsel, Dentons

Croatia

Litigation vs Mediation vs Arbitration in Croatia?

Arbitration, mediation or litigation? Which is cheaper? Quicker? More efficient and more suitable for my client? These are the questions that international lawyers practicing in commercial and dispute resolution have been facing on a regular basis for decades. In Croatia, these questions were more an exception than a rule. But for a number of reasons the last few years has seen an upward trend in the use of alternative dispute resolution methods.

An inefficient justice system is one of the key obstacles for Croatia's economic recovery and the inducement of foreign investments. Although there have been notable improvements over the last few years, especially due to the harmonization of Croatia's legislation with the EU acquis communautaire (Croatia became an EU member state on July 1, 2013), the court case backlog is still substantial. In 2013, Croatia had approximately EUR 2.4 million in court cases – a very high number in comparison to its population (approximately 4.3 million as of 2011). In 2013, the average duration of the first-instance proceeding in municipal courts was 140 days, with an 86-day average in commercial courts (including summary proceedings), and 493 days in administrative courts. The average duration of the second instance proceedings in the County Courts was 220 days, with 938 days in High Commercial Court, 228 in the High Administrative Court, and 611 in the Supreme Court.

Many judicial system reforms have been implemented over the years to increase the level of judges' expertise and expedite proceedings. In 2013, comprehensive amendments to the Civil Procedure Act came into force, with the goal of accelerating dispute procedures, increasing the efficiency of the courts, and reducing procedural costs. Some noteworthy amendments include shortening of time limits for procedural actions, introducing the obligation to present the entire case (submit all facts and evidence) in early stages of the proceeding, introducing the possibility for re-trial (i.e., a second instance court may set aside a first-instance judgement and return the matter to the first-instance court for re-trial), and implementing new rules to facilitate mediation.

Furthermore, the government has proposed to reorganize the judicial system by reducing a number of first-instance courts from the current 67 municipal courts to only 24. This decrease in the number of local courts, combined with the specialization of judges in larger towns, should be a recipe for improving the level of court expertise, expediting proceedings, and eliminating local influences, which should finally lead to an overall enhancement of legal security.

Mediation has been one of the government's strategic measures for resolving overcrowded courts, especially in social-sensitive matters like family disputes, personal and fatal accident claims, natural-persons civil disputes, and so on. The Mediation Act entered into force in 2011, pursuant to which a new Mediation Centre with the Croatian Chamber of Economy was established and expert mediators appointed. Furthermore, judges are encouraged to invite parties to resolve disputes through mediation. Pursuant to the Civil Procedure Act, mediation can take place with the court and is conducted by an expert mediator. Settlement agreements concluded between the parties in a mediation proceeding with the court have the same legal effect as a court-approved settlement agreement. Despite the government's efforts, however, mediation has not yet become popular, and only a small percentage of disputes are settled in this manner.

In comparison to the overburdened courts, arbitration may seem more appealing because of efficiency, confidentiality, and expertise that very often even the judges of the Commercial Courts do not have. Historically, as in other socialist countries, arbitration proceedings were not encouraged (or even allowed). Arbitration reform started after Croatia's independence in the early 1990s, finally resulting in a new Arbitration Act in 2001. In practice, the new legal platform was applied gradually and slowly due to a traditional orientation towards the courts, as well as a lack of information and understanding of arbitration proceedings.

Today, the Permanent Arbitration Court of the Croatian Chamber of Economy – the only institutional arbitration court in Croatia – handles on average between 30 and 70 matters per year, with a total value up to EUR 130 million. In comparison to international courts of arbitration, this is a rather small number; however, arbitration still remains a valuable alternative to traditional-court dispute settlements, not only because arbitration proceedings are more expeditious, but also because judges lack knowledge and experience in more complex areas that require specialization (e.g., in international commercial trading disputes and energy and construction matters). The ability to choose arbitrators who are experts in the relevant field should increase the possibility of adjudicating the case "fairly" in accordance with applicable law. On the other hand, court proceedings in Croatia are significantly cheaper than arbitration proceedings, which may sometimes be a decisive factor in the final choice between the two.

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Romania

Commercial Arbitration in Romania

Arbitration or litigation? Meditation? From a lawyer's perspective, the answer is always – it depends. Although there are a number of issues to be considered before initiating any proceeding, arbitration appears to be the right choice for complex disputes that require a higher level of expertise.

The modern Romanian law system, including its rules on commercial arbitration, was influenced by Occidental laws. Conceived as a private way for solving disputes based on the parties' agreement, ad-hoc arbitration has been regulated since 1865 under the Romanian Civil Procedure Code, which was inspired by the 1819 rules of the Geneva canton and by the French procedural rules of 1807 (as amended in 1842). The architecture of the rules applying to ad-hoc arbitration was slightly amended during the intervening years, in particular in 1993. The first norms on institutional arbitration – introduced in 2010 under the New Romanian Civil Procedure Code – are to a certain extent similar to the UNCITRAL Model Law and are significantly harmonized with international practices. The New Romanian Civil Procedure Code of 2010 provides rules applying to any form of voluntary arbitration (domestic and international, institutional and ad-hoc, substantive law and ex equo et bonum), except for compulsory arbitration, set forth by the law or by international agreement.

In light of the international standards applied in this field, institutional arbitration is defined as an alternative to ad-hoc arbitration, being of a private nature, enjoying a permanent character, and being independent of ordinary jurisdictions, as it is selected and organized based on the written agreement of the parties in the dispute following the lex voluntatis principle. In addition, one of the main features of institutional arbitration is that it is not economic, not for profit, and benefits from an autonomous character in relation to the institution or the organization that established it. In Romania, institutional arbitration is organized in a specific form attached to organizations of associative nature (the most representative is the system of "courts of arbitration attached to chambers of commerce"), and established and operating in accordance with the law. To a significant extent, arbitration activities regarding both domestic and international disputes arising from civil contracts are organized on a permanent basis by the National Chamber of Commerce through an International Court of Arbitration (the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania (the "CICA")), as the leading permanent institution for arbitration in Romania.

During recent years, the CICA was questioned both about its independence from the organisation which created it and about the impartiality of its arbitrators; thus, a certain reluctance towards arbitration organised by this institution was obvious until new court rules were adopted in June 2014. The newly amended rules of arbitration facilitate a more efficient and professional arbitration by an independent institution, with the support of qualified arbitrators. The current court arbitral rules completely revised the CICA procedures for the arbitration of disputes, and a new set of principles was introduced to generate more confidence in the institution and in its main actors, the arbitrators. The court of arbitration cooperates with other arbitral institutions attached to county chambers of commerce and keeps the record of the arbitral practice, leading the arbitral activity in Romania.

International arbitration in Romania is organised mainly along the lines of institutional arbitration, but it is fairly rare in the country, as the existing arbitration institutions generally lack sufficient capacity and expertise in handling international cases; thus, ICC Paris or arbitration in Vienna or Zurich enjoy priority in international claims. In conformity with the abovementioned new rules of procedure, the parties to an international arbitration before the CICA may apply its rules, the rules arising from international conventions

to which Romania is a party, and additional rules they select to apply to their dispute. The parties may also determine, by mutual agreement, the applicable law on the merits of the dispute. In the absence of this determination, the arbitration tribunal itself shall decide, based on the conflictual norms considered to be applicable in the subject matter. With respect to the conflict of laws, in order to determine the substantive law in an arbitral case, since Romania became a member of the European Union in 2007, the rules provided by Roma I and II Regulations have also applied.

Romania is party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (ratified in 1961), to the European Convention on International Commercial Arbitration (ratified in 1963), and to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ratified in 1975). Foreign awards are enforced in Romania if recognised following a special procedure based on the 1958 New York Convention or on domestic law. The judicial system has no involvement in the performance of the arbitral proceedings except for cases expressly provided by Romanian procedural law (e.g., challenging the award for reasons of cancellation, which does not imply in itself a new debate of the case).

Cristiana Irinel Stoica, Founding Partner, Stoica & Asociatii

Slovenia

The Release of New Arbitration Rules of the Ljubljana Arbitration Centre at the Chamber of Commerce and Industry of Slovenia

Summary: The new Arbitration rules of the Ljubljana Arbitration Centre at the Chamber of Commerce and Industry of Slovenia provide for a more simplified and party-friendly procedure, making the use of arbitration in disputes a more attractive option compared to the court procedure.

On January 1, 2014, the new Arbitration rules (available at the sloarbitration.eu website) of the Ljubljana Arbitration Centre ("LAC") at the Chamber of Commerce and Industry of Slovenia ("CCIS") came into force, placing LAC on the arbitration map with a renewed frame for dispute settlement in arbitration proceedings in Slovenia.

The new rules (the "LAC Rules") ensure faster and more efficient proceedings, provide high-quality service and greater time/cost optimization for clients, and provide neutral solutions for both Slovene and foreign clients coming from diverse cultural and business environments.

The LAC is an independent entity established within the CCIS and is composed of the Board and the Secretariat. Both bodies provide support and organization in dispute resolution in compliance with the LAC Rules. Disputes are resolved either by a sole arbitrator or by an arbitral tribunal, both of which are appointed in accordance with the LAC Rules.

An arbitration proceeding in front of the LAC now commences with the submission of a request for arbitration. The introduction of this provision postpones the filing of a lawsuit (which previously marked the commencement of the arbitration proceeding under former rules) to a later point in the proceeding, allowing the parties a more equal position from the start. The request for arbitration serves as a notification, for the Secretariat as well as for the respondent, regarding the description of the dispute and the circumstances giving rise to the claim, as well as the relief or remedy sought by the claimant.

The difference between the answering period for domestic disputes and disputes with foreign elements is now abolished, as respondents are now given 30 days to answer requests for arbitration in all cases, bringing the answer period for wholly domestic disputes – which had been 15 days – in line with the 30-day period previously provided for disputes with at least one foreign party.

The power of appointing the arbitrator is given to the parties. In case they fail to nominate or jointly nominate (depending on the foreseen number of arbitrators), the arbitrator is appointed by the Board. The new LAC Rules have abolished the permanent list of arbitrators with the LAC, leaving the parties free to choose the arbitrator they want (though their nomination must still be confirmed by the Secretariat).

As the main advantage, the LAC Rules provide a time limit for issuing an arbitral award. Under the old provisions, the sole requirement was for the arbitral tribunal to issue an award within 60 days of the conclusion of the hearing. The new provisions provide the time limit for the entire proceeding, requiring the tribunal to execute the entire proceeding and issue an arbitral award within nine months from the transmission of the file to the arbitral tribunal. The time frame can only be prolonged, in case of justified reasons, by the Board on its own motion or upon a reasonable request by the arbitral tribunal.

Further novelty under the LAC Rules is the integration of an "emergency arbitrator" and the possibility of an "expedited arbitration proceeding."

In urgent cases where a party is unable to wait for the appointment of the tribunal, the party can demand the initiation of an emergency arbitration for the instatement of an interim measure. In such cases, the arbitrator is appointed by the Board as soon as possible, as a rule within 48 hours of the request. The parties are bound by the decision on the interim measure, although upon the proposal of a party the interim measure can be modified, suspended, or terminated. The Secretariat will only accept the request where costs are paid (as provided by the Rules, EUR 10,000 for the arbitrator and EUR 3,000 as a non-refundable administrative charge).

In order to provide a faster and more efficient proceeding, the LAC also provides the option of an expedited arbitration proceeding where expressly agreed upon by the parties - either in the arbitration agreement itself or with an agreement at a later point up until the submission of the answer to the request for arbitration. In this expedited proceeding, the case is normally handled by a sole

arbitrator. The proceeding is simplified by shorter deadlines, providing a limitation on the manner and number of submissions and, significantly, the nine month limitation for providing an arbitral award is now reduced to six months.

The implementation of the new LAC Rules provides a new framework, advancing the LAC Rules towards modern arbitration regulation. How the new LAC Rules will work in practice is yet to be seen as the Rules were released only in January 2014 and are still new. It is clear though that the new LAC Rules enable a faster and much more client-intuitive proceeding for parties coming from any part of the world.

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Bulgaria

Arbitration in Bulgaria – Overview

There has been a steady increase in the number of national and international arbitration proceedings held in Bulgaria in recent years. The number of arbitrations for the past four years, for instance, is more than 4,000 (compared to the 20,000-30,000 disputes that state courts in Bulgaria deal with each year). The average amount at stake in international arbitration cases is approximately EUR 500,000, while domestic arbitrations traditionally involve far less.

Arbitration in Bulgaria is governed by the International Commercial Arbitration Act (ICAA), which follows the UNCITRAL Model Law on International Commercial Arbitration and borrows some rules from the New York Convention and the European Convention on International Commercial Arbitration 1961. The ICAA is applicable to international arbitration, which it defines as settlement of disputes where the venue of the proceedings is Bulgaria and at least one of the parties to the case does not have a permanent residence (domicile) or place of business in Bulgaria. According to the Bulgarian Civil Procedure Code, arbitrable disputes should have a proprietary nature (i.e. be capable of monetary valuation) or alternatively concern filling gaps in a contract or adjusting an existing contract to newly emerged circumstances. Disputes encompassing rights in, or possession of, real estate property as well as maintenance obligations and labor relations fall outside the scope of arbitrability. Furthermore, disputes regarding trademarks, patents, insolvency, or competition law are also not arbitrable.

By contrast, public contracts and concession agreements can be subjects of arbitration clauses. Under the ICAA, there cannot be ex aequo et bono jurisdiction of tribunals seated in Bulgaria. Any of the parties may ask for court support and assistance in the course of arbitral proceedings (for freezing assets or collecting evidence) and the same may be requested by the tribunal on its own motion. An arbitration clause is a bar to a claim brought before a state court. Any award rendered under the ICAA (on Bulgarian territory) does not have to undergo a recognition procedure and can be directly enforced under local Bulgarian rules of enforcement. The award can, however, be set aside by the Supreme Court of Cassation.

Bulgaria is one of the few jurisdictions where it has been established that an optional (i.e., split or hybrid) arbitration clause is contrary to good faith and therefore invalid. In 2011, the Bulgarian Supreme Court of Cassation (Decision No. 71 of September 2, 2011, of Second commercial chamber of the Supreme Court of Cassation under commercial case No. 1193/2010) reviewed an application for setting aside an arbitral award under an optional clause and found that it gave advantage to one of the parties to alter the rights and obligations of the other in a way that only statutes may do. This rendered the clause illegal and was found void in its entirety.

The most common venue for arbitration in Bulgaria is the Arbitration Court at the Bulgarian Chamber of Commerce and Industry. During the past 10 years it has handled approximately 1350 international arbitrations, with a great number of them (around 60%) decided within 6 to 9 months. Other commonly-used and reputable organizations that support international arbitration courts are the Bulgarian Industrial Association and, the Bulgarian Stock Exchange, etc.

Bulgaria is a New York Convention (Convention for the Recognition and Enforcement of Foreign Arbitral Awards of 1958) jurisdiction. Bulgaria is also a contracting party to a number of international treaties for investment promotion and protection which that envision international arbitration as dispute resolution mechanism. Bulgaria is a signatory to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (1965), which establishes the International Center for Settlement of Investment Disputes (ICSID). The investment treaties usually refer arising investor-state disputes either to institutional arbitrations (like ICSID or, the Arbitration Court at the Stockholm Chamber of Commerce, etc.) or to ad hoc proceedings under arbitration rules such as UNCITRAL or the rules of the International Chamber of Commerce. To this date, there has been only one concluded investment dispute with Bulgaria and it was conducted in ICSID (Plama Consortium Limited v. Republic of Bulgaria, ICSID Case No. ARB/03/24), with several more currently pending proceedings there.

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Lithuania

Arbitration in Lithuania

The efficiency and attractiveness of arbitration depends on several factors: the applicable arbitration laws of the seat of arbitration, the national courts' attitude towards arbitration as a separate dispute-settlement method, the standard of arbitration fees, the competence of arbitrators, the geographic location and development of the State itself. Taking all these criteria in mind, Lithuania could be seen as an arbitration-friendly country upholding Western principles regarding

international commercial arbitration and its management.

To start with, it is worth mentioning that Lithuania is a signatory of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards since June 12, 1995 (the NY Convention). Moreover, Latvia's arbitration rules are in harmony with the UNICITRAL Model Law although not explicitly adopted. The Supreme Court of Lithuania (the SCL) in its 2002 ruling concluded that the court when applying and interpreting the NY Convention must analyze and rely on foreign case law, and in 2010 held that if the parties had entered into an arbitration agreement, in the absence of the plea for the invalidity of such arbitration agreement, neither the party nor the court may modify such agreement – the dispute is not capable of being litigated in the court.

Between 2010 and 2012 there were around 400 arbitral awards issued, with 28 of them challenged in the Court and only 3 awards being set aside, while one decision to set aside was reversed by the SCL. (The grounds for setting aside the awards were: (1) the transportation of railroad cars is not covered by railroad cargo transportation contract; (2) non-arbitrability of bankruptcy proceedings; (3) an issue regarding contractual term setting the price in a contract entered into through the public-procurement procedure).

In June, 2012, the Lithuanian Parliament amended the Law on Commercial Arbitration (LCA), which advanced the modern approach of arbitration in Lithuania. The LCA shortened the list of non-arbitrable disputes and provided more situations of court assistance in arbitral proceedings. Recent case law on the new LCA has upheld the competence-competence doctrine, as the SCL in 2013 stated that the arbitral tribunal has the primary right to decide upon its own competence. Moreover, it is acknowledged that even if the arbitration clause is pathological in some way it shall be interpreted in favor of arbitration (in favor contractus). Lastly, the applicability of the arbitration clause to parties who are not signatories is also accepted.

According to recent research, approximately 98% of the foreign arbitral awards are recognized in Lithuania. Thus the arbitration laws and courts of Lithuania are becoming more and more pro-arbitration, and reluctance to recognize and enforce an arbitral award is most common in cases where a strong public interest is at stake. This is not a surprise, as all modern arbitration countries, including France, Switzerland, and Sweden, have maintained the relevance of 'ordre public' as an exception from arbitral proceedings.

Referring to arbitral institutions, there are four permanent arbitral institutions established in Lithuania, but for the purpose of this Article the statistics and relevant information of the Vilnius Court of Commercial Arbitration (the VCCA) will be presented, because the VCCA prevails over the other arbitral institutions in terms of the amount and complexity of cases.

One of the important factors when considering which Arbitral institution could take up this 'golden mean' in a particular dispute is the standard of arbitration fee. Whereas the registration fee for the initiation of arbitration in the Stockholm Chamber of Commerce is almost USD 2000 and in the International Chamber of Commerce USD 3000, the VCCA takes less than USD 400 – 6 to 7 times cheaper. It is cheaper even than in neighboring countries like Russia or Estonia. In addition, there is no differentiation between the fees for national and international disputes.

Last but not least, according to VCCA statistics, business actors are the main participants in the arbitration proceedings. Most of the time, one of the parties in proceedings is an international subject. For example, 50% of disputes came from Eastern and Central Europe, 38% from Western Europe, and North America and Asia each provide 6 %.

Since arbitration is favored by business and commerce, the majority of cases are also of economic character: 48% involve Trade, Construction and Design; 17% involve Services and Finance; and 10% involve Insurance.

To summarize, Lithuania is going hand in hand with modern legal thinking, providing 'arbitration-friendly' legislation based on international commercial arbitration principles, and offering arbitration costs, which can be described as best for quality. The location of Lithuania between East, West, and Nordic Countries provides cultural commonalities, shared values, and understanding with those regions, so it can be seen as a particularly convenient and neutral forum for businesses from different regions, offering both highly competent arbitrators who have worldwide arbitration experience and a broad, business-promoting point of view.

Kestutis Svirinas, Partner, Sorainen

Slovakia

The Resurrection of Arbitration Proceedings in the Slovak Republic?

Although arbitration as a form of dispute resolution has been recognized by the legal order since before the First World War, arbitration proceedings in the Slovak Republic are still at an early stage. Without any doubt the initial idea of having Slovak laws follow the UNCITRAL Model Law on International Commercial Arbitration was more than promising. However, the lack of legal regulation resulted in the establishment of too many permanent courts of arbitration with a low level of neutrality, and as a result the word "arbitration" evokes concern rather than a hope that disputes will be resolved efficiently and fairly. It is therefore not surprising that many negative experiences have occurred, particularly with respect to the resolution of disputes in consumer affairs, and that Slovak businessmen more frequently choose to resolve their disputes via the Vienna International Arbitral Center.

Aware of these weaknesses and influenced by the current pro-consumer direction of EU legislation, the Ministry of Justice of the Slovak Republic has decided to change the current situation. Its most visible and significant move in this direction has been to amend the already existing Act No. 244/2002 Coll. on Arbitration Proceedings, and to introduce a new Act on Consumer Arbitration Proceedings. Although the new regulation has not been adopted yet, it is clear from published drafts that the main goals are to restore confidence in arbitration proceedings, to provide increased (perhaps a bit too much) legal protection for consumers, to relieve

the courts from being congested by a large number of cases, and through all these methods to strengthen the right to a prompt and speedy judicial process.

The amendment of Act No. 244/2002 Coll. on Arbitration Proceedings aims to achieve these goals primarily by imposing stricter requirements on those who found permanent courts of arbitration. While previously almost any legal entity could establish a permanent court of arbitration, leading to the creation of some 150 permanent courts, the new amendment requires that only national sports unions, chambers established by law, or so-called "interest associations of legal entities" may do so. Existing permanent courts of arbitration that do not meet these new obligations will have six months from the date the amendment comes into effect to adapt to the new requirements. In case they fail to do so, the arbitration agreements will not become invalid; however the nature of the arbitration will be changed from institutional to ad hoc. This measure aims to limit the conflicts of interests between founders of permanent courts of arbitration and the requirement for impartial and fair proceedings.

In addition to these substantial reforms, some minor amendments will also be introduced. For example, arbitral tribunals will now be empowered to render preliminary injunctions with two different effects, and the reasons for judicial cancellation of an arbitral award and for refusal of enforcement of foreign arbitral awards will be changed.

The new Act on Consumer Arbitration Proceedings will, in the interest of enhancing consumer protection, introduce stricter requirements for arbitrators and permanent courts of arbitration. The Act will also regulate consumer arbitration proceedings and establish various ways in which the resulting awards can be examined. The most significant change relating to consumer arbitration proceedings will be the introduction of a so-called "consumer arbitration agreement." Formal as well as substantial requirements of the consumer arbitration agreement will be strictly regulated by the law. For example, the consumer arbitration agreement must be a separate agreement – an arbitral clause in the main agreement will not suffice. Further, the parties to a consumer arbitration agreement are prohibited from choosing a particular arbitrator in that agreement and although the parties to a consumer contract may have concluded an arbitration agreement, the consumer may still bring a case to the court.

Another significant novelty affecting consumer arbitration proceedings is the extension of the "supervisory" role of the general courts. For example, before issuing a commission to perform an execution, certain aspects of earlier proceedings shall be examined by the court, such as the requirements on the consumer arbitration agreement and the award itself. This increased supervisory role of the general courts will be reflected also in their ability to cancel awards based on various substantial or procedural defects, e.g., an incorrect examination of the factual background of the dispute. At this point a question arises whether the whole concept of alternative dispute resolution will not be overshadowed by the increased judicial supervision of arbitration proceedings in the form of an almost-inevitable second instance, which will diminish the traditional advantages of arbitration (confidentiality, low costs, time frame, and efficiency).

Although we may not get rid of the impression that the regulation of consumer affairs will be a burden rather than an advantage, the rest of the changes appear to be a positive step forward. Only time will show whether the proposed changes will be sufficient to resurrect the good reputation and popularity of arbitration proceedings or whether they become the final nail in the coffin for alternative dispute resolution in the Slovak Republic.

Tatiana Prokopova, Partner, and Eva Cibulkova, Registered Legal Trainee, Squire Patton Boggs

Latvia

Arbitration in Latvia

The regulatory framework of Arbitration in Latvia has experienced important changes this year, as the Special Arbitration Law, adopted by *Saeima*, the Latvian Parliament, will become effective on January 1, 2015.

Currently, arbitration proceedings are regulated by the Civil Procedure Law, which has been in force since 1999. The Civil Procedure Law is equally applicable to both domestic and international arbitration unless an international agreement to which Latvia is bound provides otherwise. Latvia is a member state of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the European Convention on International Commercial Arbitration, and the Washington Convention on the Settlement of Investment Disputes between States and Nations of Other States.

One of the particular features of arbitration in Latvia is a relatively loose regulation for establishing an institutional arbitration court. At present around 120 institutional courts of arbitration are registered in Latvia, which is an excessively large number in comparison with neighbouring Baltic and Nordic countries. While arbitration proceedings are undeniably popular in Latvia, this existing regulation of arbitration has been criticised by peers and business representatives, as the rapid resolution of disputes by the many institutional arbitration panels in some cases was counter-weighed by the poor quality of awards and flaws in proceedings.

On September 11, 2014, the Parliament of Latvia adopted a new Arbitration Law that will enter into effect on January 1, 2015. The aim of the new law is to ensure effective and fair dispute resolution by setting stricter requirements for arbitrators and establishing the procedure for institutional courts of arbitration.

It is apparent that once the new regulation enters into effect, the number of arbitration courts will diminish: only non-business associations, set up for the purpose of organizing arbitration hearings, will be entitled to establish institutional courts of arbitration. Currently, by contrast, any legal entity, including business corporations, can establish an institutional court of arbitration. Where an

existing institutional court of arbitration fails to comply with the new requirements during the transitional period prescribed by law, it will be excluded from the registry of institutional courts of arbitration going forward.

The new law requires that each institutional court of arbitration compose a list of at least ten arbitrators. The candidates for one of these arbitrator positions shall agree in writing to serve as an arbitrator, and they must meet certain requirements, including being trained and qualified as a lawyer and having at least three years of legal experience in an academic or professional position. In addition, candidates who have been convicted of an intentional crime or who are suspected or accused of committing an intentional crime will be prohibited from accepting a position as an arbitrator.

The scope of disputes to be exempted from the jurisdiction of the courts of arbitration under the new regulation remains the same as under the current one. These are disputes where the adjudication of cases may infringe on the rights or interests of a person who is not a party to the arbitration agreement. Similarly, no disputes may be handled by arbitration if they relate to amendments to the Civil Records Registry; fall into specific categories of employment relationships; relate to rights and duties of persons who have been declared insolvent; or fall into one of several other categories.

An award of a court of arbitration is final and binding upon the parties and cannot be appealed. The parties must comply with it. If the award adopted by an institutional court of arbitration is not complied with, the party benefiting from the award may apply to a state court and request a writ of execution. The compulsory execution is not available for awards rendered by an ad hoc arbitration unless the arbitral award shall be enforced under the rules of New York convention.

Setting-aside and annulment procedures of arbitral awards are not available under either the current or the new regulation. In order to avoid an unrealistic and unmanageable workload by the state court, the option of involving the state court in such matters as taking evidence or hearing witnesses during the arbitration procedure is also not available. For those and other reasons it must be concluded that the new law is a compromise between the existing regulation, criticized by many practitioners and scholars, and the desired implementation of the UNICTRAL Model Law of International Commercial Arbitration.

While Latvia has eliminated a number of deficiencies in its regulation of arbitration proceedings, it remains to be seen how the new regulation will be implemented. In any event, the landscape of arbitration practice will undergo important changes in the course of 2015.

Lauris Liepa, Partner, and Liga Fjodorova, Attorney at Law, Borenius

Ukraine

Reflections on The Geology of International Arbitration in Ukraine

The movement of tectonics plates is ordinarily associated with earthquakes, volcanic activity, mountain-building, and oceanic trench formation occurring along the plate boundaries. The present status and prospects of International Arbitration in Ukraine resembles in some respects the movement of the lithosphere resulting in the active landscape formation. The geopolitical situation, the reinforcement of commercial cooperation with the EU, and the significant slow-down of Ukrainian-Russian trade are the driving forces for such movement. The general collapse of the economy and volatile foreign currency rate adds to the seismic activity in the region, which is abundant in disputes. This affects International Commercial Arbitration and International Investment Arbitration.

Legal framework

To understand fully the arbitration geology of the region some words should be mentioned about the legal framework. Ukraine adopted its International Arbitration Act in 1994, following verbatim the 1985 UNCITRAL Model Law on International Commercial Arbitration. The rules governing the recognition and enforcement of foreign arbitral awards contained in the Civil Procedure Code were drafted in full compliance with the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards. The positive image of the legislation, however, is somewhat diluted by the unavailability of interim measures in support of international arbitration in state courts and the fact that efforts to have arbitration awards either set aside or recognized and enforced must be made first to the lower court, with the Appellate Court, the High Specialized Court, and even the Supreme Court available for potential reconsideration, while most other European countries limit the judicial-review process (and expense) considerably.

Since 1992 two permanent arbitration entities have acted under the auspices of the Chamber of Commerce and Industry of Ukraine: the International Commercial Arbitration Court (ICAC) and the Maritime Arbitration Commission (MAC). ICAC earned popularity with more than 300 international disputes resolved each year; its caseload reflects a consistent trend of growth characterized also by prompt resolution.

Anticipated changes

International arbitration follows the economy. Significant changes in economic activity and the direction of economic relationships influence the number of cases and the preferred choices in arbitration.

The 2008/2009 crisis provides relevant background for understanding the effect of a slow down in the economy. International arbitration lawyers recollect that 2009 was marked by the proud announcement by a number of arbitration institutes of a dramatic

increase in their caseload. On average the increase in the number of cases for European institutes was between 10 and 34%. ICAC experienced an unprecedented increase of 100% – 651 cases registered against the usual number of 300-350. The predominance of trade disputes (over 80%) in the portfolio of ICAC played a significant role in this increase. International sales of goods is traditionally more reactive to economic changes and a volatile foreign-currency exchange rate. Accordingly, the institute may experience an even more significant increase in the number of cases for the same reason in this and the coming year.

Furthermore, changes in the choices of preferred forums are becoming more evident in recently concluded and negotiated contracts. Less enthusiasm appears to exist for the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation, and a greater preference is expressed for ICAC and European institutions like the Stockholm Chamber of Commerce Arbitration Institute, the International Chamber of Commerce International Court of Arbitration, the London Court of International Arbitration, and the Vienna International Arbitral Centre.

The level of preferences and referrals remains unaffected by the situation in specific commodities, such as the arbitration institutions of the Grain and Trade Feed Association (GAFTA) and the Fat, Oil and Seed Federation of Associations (FOSFA) for the grain and vegetable oil industries, where Ukraine retains a leading worldwide exporting role. This business is traditionally conducted pro forma in the specialized associations, with ready-made choices for dispute resolution known to Ukrainian companies.

As to investment arbitration, the changing political situation inside the country has unsurprisingly stimulated the growth of a number of international investment disputes. The International Centre for Settlement of Investment Disputes has already registered two cases (ICSID Case No. ARB/14/17 and No. ARB/14/9). A number of mandatory negotiations preceding filing in Investment Arbitration are pending, so Ukraine risks appearing in the list of the most frequently sued countries again.

The renewed picture of the International Arbitration landscape in Ukraine will be seen in full some time from now. Although any geological movement brings some level of uncertainty, one thing is beyond any doubt: changes will keep International Arbitration practitioners quite busy.

Yuliya Chernykh, Partner, Arbitrade

Turkey

Arbitration in Bulgaria – Overview

General

International business always seeks stability and predictability. Legal instruments are reasonably expected to serve this stability and predictability as well. This should not be perceived as a simple requirement and desire of international business. It is also one of the indispensable components of the rule of law.

It is quite understandable that business people in particular prefer arbitration as a dispute resolution mechanism instead of state courts. Although this preference has long been explained by reference concerns about state courts' practices and impartiality, we believe that the phenomenon is not directly related to impartiality. Instead, both domestic and international investors are inclined to use arbitration because of well-established rules and the long-standing prestige of arbitration, which, combined, ensure a high level of quality and predictability.

Historically, it is fair to say that Turkish legal practitioners have remained aloof from arbitration mostly because of a lack of sufficient knowledge and experience in practice. However, arbitration is now becoming more widespread in Turkey, along with soaring economic figures and legislative initiatives driven by international trends.

Chronological Development of Arbitration in Turkey

Until recently, Arbitration in Turkey was mainly governed by Civil Procedure Law No. 1086 (the "CPL"), which entered into force on October 4, 1927. Nevertheless, application of arbitration was very limited under the CPL. Additionally, the arbitration provisions of the CPL only regulated domestic arbitration but not international disputes. Therefore, Turkish International Arbitration Law No. 4686 (the "International Arbitration Law") governing disputes with foreign elements was enacted, and entered into force on July 5, 2001. Subsequently, the CPL and the arbitration rules contained therein were replaced by the New Civil Procedure Law No. 6100 (the "New CPL"), which entered into force on October 1, 2011.

Thus, two different laws governing the voluntary arbitration mechanism now exist in Turkey. The New CPL governs, among other things, domestic arbitration, and the International Arbitration Law governs disputes with a foreign element. Both laws are based on the UNCITRAL Model Law. Accordingly, they are indeed compatible with modern practices.

Some Specific Observations on Arbitration Practice in Turkey

Whether arbitration can flourish in a country depends heavily on the attitude of state courts when their intervention is required. As long as state courts employ a liberal interpretation favoring arbitration, the availability of the process can ultimately be a "value" for that country (as it has been for Switzerland for many years, for instance). In contrast, an excessively conservative approach by state courts may decelerate or block the development of arbitration.

Indeed, arbitral awards rendered under the CPL were subject to the appeal process, and the Turkish Court of Cassations unexpectedly examined the merits of disputes as well. Pursuant to the New CPL, however, arbitral awards can only be subject to set-aside proceedings based on procedural challenges. Substantive issues ruled by the award cannot, in principle, be examined. This is in line with international arbitration practices.

As set forth above, the International Arbitration Law is applicable to disputes involving foreign elements, where Turkey is designated as the place of arbitration. Similarly, arbitral awards rendered under this law can only be challenged based on procedural grounds

(except where the substantive issues affect or contravene matters of public policy).

Needless to say, enforcement of foreign arbitral awards is another ingredient of international arbitration. Turkey is one of the signatories of the 1958 New York Convention. Accordingly, we should stress that there is normally a legal mechanism facilitating enforcement of foreign arbitral awards. Nonetheless, Turkish courts are generally prone to interpret the notion of "local public policy" as widely as possible. This often leads to unexpected enforcement bans in Turkey. We thus believe that Turkish courts should refrain from supervising the merits of foreign arbitral awards and should rather adopt a more liberal approach promoting "universal public policy principles" when they hear enforcement requests.

Istanbul Arbitration Center

The Turkish government intends to ensure that Istanbul become an internationally recognized finance and arbitration center. The government has decided to realize this intention by a law, which is still under debate. In other words, establishment of the Istanbul Arbitration Center (arbitration court) is on the way. Obviously, the potential success of this center will be extremely dependent on what kind of operational, economic, and scientific autonomy it would have. Furthermore, in order for this arbitration center to compete with other eminent arbitration courts worldwide, the arbitration rules to be applied have to be well-defined, rigorous, and transparent, in line with international theory and practice.

Result and Conclusion

Awareness and consciousness in relation to arbitration have started recently to increase in Turkey. The theoretical mainstay of arbitration has also been fortified, but arbitration practice should also parallel the theory. Accordingly, arbitration should be prioritized in legal education, public officials and judges should be heavily trained, and private sector representatives should also contribute to the development of arbitration by following applicable global trends and regulations in a close manner.

Cem Cagatay Orak, Partner, Cakmak Avukatlik Burosu

Moldova

Arbitration in Moldova

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often the real loser – in fees, and expenses, and waste of time. As a peace-maker the lawyer has a superior opportunity of being a good man."

– Abraham Lincoln

What is the role of arbitration in the Moldovan justice system?

Arbitration is central among the alternative means of dispute resolution in the Moldovan justice system. However, the number of commercial disputes settled in arbitration is far below the number of cases examined in national courts.

Despite the fact that local companies still prefer to settle their disputes in national courts, the number of cases resolved via arbitration has increased substantially during the past 3 years: from 16 cases (14 international and 2 national) considered by the International Commercial Arbitration Court of the Chamber of Commerce and Industry of the Republic of Moldova (the ICAC) in 2010 to 95 cases (7 international and 88 national) in 2013. .

Since Moldova has only a few treaties on recognition of foreign judgments rendered by the national courts of other jurisdictions, most international investors prefer to settle their disputes via arbitration. At the same time, they usually defer the examination of disputes to international arbitration institutions located outside Moldova. Therefore, the activity of Moldovan arbitration institutions is focused mainly on domestic disputes.

What types of arbitration institutions are active in the Republic of Moldova?

The ICAC is the country's main permanent arbitration institution. There are also several specialized arbitration institutions, including: the International Arbitration Court by the Liquidators and Administrators Association of Moldova, the Court of Arbitration by the International Association of Road Hauliers of Moldova, the Court of Arbitration for Sports of the Moldovan Football Federation, and the Arbitration Court Specialized in Industrial Property by the State Agency on Intellectual Property.

Are there any special laws regulating arbitration in Moldova?

The first Moldovan law on arbitration was adopted in 1990. In 1997 Moldova ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards and in 1998 it ratified the European Convention on International Commercial Arbitration.

To fulfill the customary provisions of international treaties, two main laws that transpose the provisions of the above-mentioned treaties were enacted in 2008: the Law on Arbitration and the Law on International Commercial Arbitration.

What kinds of disputes are exempted from arbitration under Moldovan legislation?

National regulations grant wide competences to arbitration, establishing that arbitrators may examine disputes arising from civil relationships "in the broad sense."

However, claims related to family law and claims arising from accommodation lease contracts and housing property rights are within the exclusive competence of national courts and may not be subject to arbitration agreements. Arbitration clauses on any such disputes will be unenforceable under Moldovan law.

Moldovan courts have the jurisdiction to decide on the validity of any arbitration clause, applying foreign law if so compelled by the provisions of the agreement.

Are foreign arbitration awards enforceable in the Republic of Moldova?

As Moldova is a signatory to the New York Convention of 1958,

foreign arbitration awards are binding in Moldova. The competence to recognize and enforce foreign arbitration awards belongs to Moldovan courts. Complying with the imperative internal law provisions and observing applicable arbitration procedures are the main requirements for the enforceability of such awards.

Thus, Moldovan courts may refuse to recognize and enforce an award if: (1) it is issued on a dispute that is exempt from arbitration; (2) it relates to a dispute that is not covered by the arbitration clause; (3) the arbitration procedure was prejudiced by the failure to duly summon the debtor or by the composition of the arbitration panel; (4) the enforcement of the award violates the public order of the Republic of Moldova; or (5) on other grounds specified by the New York Convention.

What are the costs of arbitration in the Republic of Moldova?

Since the Moldovan Parliament voted in 2010 on the stamp duty ceiling to be paid for submission of a claim in court, arbitration lost the advantage of being a more cost effective means of dispute resolution. Currently, the stamp duty for examination of a dispute in court amounts to 3% of the value of the claim and can not exceed MDL 50,000 (EUR 2,700) for legal entities and MDL 25,000 (EUR 1,350) for natural persons. The arbitration fees are regressive and usually vary between 1% and 5% of the value of the claim.

However, the rapid and less formal way of dispute settlement in arbitration can reduce the costs of legal assistance, which are often the main financial burden for the client. When it comes to the examination of the dispute in court, the average term of a case is 2-3 years, whereas in arbitration a case may be settled within the term agreed on by the parties.

Iulia Furtuna, Coordinator of the Litigation Practice, and Olga Saveliev, Associate, Turcan Cazac Law Firm

Serbia

Prevalence, Effectiveness and Convenience of Arbitration as a Method of ADR in Serbia

Arbitration has a relatively long tradition in Serbia. The first institution for arbitration in the country, the Foreign Trade Court of Arbitration, was founded in 1946 and has administered more than 8,000 cases. Until the early 1990s, this institution regularly registered more than 100 cases per year in what was then Yugoslavia. The Foreign Trade Court of Arbitration caseload dropped significantly after the dissolution of the former state. The caseload of the country's arbitration institution has averaged 15-25 cases per year over the course of the past decade. As the predecessor country, Yugoslavia was among the first states to sign the European Convention of International Commercial Arbitration. The New York Convention has also been applied in Serbia for more than three decades. These facts by themselves speak of the longstanding history of arbitration in Serbia. However, taking into account the commercial court overload in Serbia and the number of Serbia-related disputes arbitrated offshore, arbitration is still very much an underutilized dispute-resolution mechanism in the country.

When negotiating commercial contracts and their dispute-resolution clauses linked to Serbia, parties tend to prefer arbitration to litigation if the project involves a foreign element or complex subject matter. Arbitration is also generally the favored choice in certain economic sectors, such as construction, financial services, insurance, and energy.

Arbitration is by far the dominant form of Alternative Dispute Resolution (ADR) in Serbia, since other ADR methods are still rather undeveloped. Although a specific legislative framework has been introduced to cover other ADR techniques, notably mediation, the number of commercial disputes in Serbia processed under other ADR forms is insignificant. Commercial parties in Serbia would appear not to believe in the effectiveness of these other ADR methods.

Serbia has a suitable legal framework for effective arbitration. The country's Arbitration Act is modeled upon the UNCITRAL Model Law on Commercial Arbitration and therefore relies on the general principle of strictly limited court intervention in arbitration proceedings. The court powers to intervene are designed mainly to assist and support the parties and the arbitral tribunal – for example, the court may appoint an arbitrator in the event that the parties or their agreed mechanism fail in this respect and may assist the tribunal in the taking of evidence.

An arbitration award rendered in Serbia enjoys the status of a final court judgment and, as such, is directly enforceable in Serbia. The losing party may attack an arbitration award only by an action for setting aside. Much like the UNCITRAL Model Law, Serbia's Arbitration Act protects the arbitration award by endorsing an exclusive list of very limited grounds for setting aside the arbitral award. Compared to the Model Law list of grounds for setting aside, the Serbian Arbitration Act additionally explicitly sets out that an award may be set aside if it is based on a false witness or expert statement or a forged document or is the result of a criminal act committed by an arbitrator or the parties. Pursuant to the available data, the Serbian court practice in setting aside proceedings has so far been very favorable to arbitration. Over the past decade, there have been only a few actions for setting an award aside and only one challenged domestic arbitral award has actually been set aside.

In addition, much like other modern arbitration statutes, the Serbian Arbitration Act also ensures "indirect enforcement of the arbitration agreement." If one of the parties initiates court proceedings despite an existing arbitration agreement, the court shall reject the lawsuit and refer the parties to arbitration, unless it determines that the arbitration agreement is manifestly void, inoperable, or incapable of being performed. However, the court does not consider the arbitration agreement on its own motion; the counter-party must raise an objection before it begins to litigate on the merits of the claim.

There are currently two arbitral institutions in Serbia handling disputes with a foreign element: the Foreign Trade Court of Arbitration attached to the Serbian Chamber of Commerce and the newly constituted Belgrade Arbitration Center. The Foreign Trade Court of Arbitration may also administer disputes under the UNCITRAL Arbitration Rules. For those who prefer arbitration under the International Chamber of Commerce (ICC), it is worth noting that the national committee of the ICC in Belgrade has operated since 1927.

Thus, Serbia may be a convenient venue for arbitration not only when the subject matter of a dispute relates to Serbia or one of the parties is Serbian, but also when the parties for any reason need a third country to be the seat of the arbitration. However, this potential is still very much unexploited, since even Serbian parties still frequently provide for arbitration with a seat outside Serbia – most commonly Zurich, London, or Paris.

Jelena Bezarevi Pajic, Junior Partner, and Natasa Djordjevic, Attorney, Moravcevic, Vojnovic I Partneri in cooperation with Schoenherr

Belarus

Arbitration in Belarus: Tendencies and Achievements

Arbitration is a relatively new but rapidly developing dispute-resolution method in Belarus. Although the "arbitration tradition" in Belarus has not yet developed to the level of many Western European countries, we note that Belarusian companies resort to arbitration and include arbitration clauses in their foreign-trade and domestic agreements much more frequently than they did a decade ago.

The history of institutional arbitration in Belarus dates back to 1994, when the International Arbitration Court at the Belarusian Chamber of Commerce and Industry (the "IAC at BelCCI") was established. The IAC at BelCCI operates in accordance with the Law of the Republic of Belarus "On International Arbitration (Intermediate) Court" adopted on the basis of the UNCITRAL 1985 Model Law on International Commercial Arbitration.

The IAC at BelCCI handles not only international economic disputes (involving at least one foreign party) but also disputes in which both parties are Belarusian entities. The IAC at BelCCI may also consider cases not involving Belarusian residents. In practice the IAC at BelCCI considers both minor disputes and complex and multi-jurisdictional cases. In 2012 the IAC at BelCCI considered 143 disputes, involving 92 foreign respondents and 46 foreign claimants. The number of disputes considered by the IAC at BelCCI per year is small in comparison with the number of cases considered by the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation (the "ICAC at the RF CCI") or the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry (the "ICAC at the UCCI"), which may be explained by the fact that the IAC at BelCCI is much smaller than either the ICAC at the RF CCI or the ICAC at the UCCI. At the same time, in the course of negotiations over the inclusion of a dispute resolution clause in agreements between Belarusian companies and foreign counter-parties, the IAC at BelCCI is often among the top options, due to its often being perceived by Belarusian companies as a "local" dispute resolution authority – located in Minsk, where local Russian-speaking lawyers are available as arbitrators – and therefore a convenient forum. Although the facilities of the IAC at BelCCI may appear rather limited, this does not affect the quality and impartiality of the awards. In practice, the IAC at BelCCI often tends to be the only arbitration institution to which large Belarusian state companies or state bodies agree in their contracts with foreign partners.

It is noteworthy that the minimum arbitration fee at the IAC at BelCCI is almost one third of the ICAC at the RF CCI's, and half of the ICAC at the UCCI's. As for the term of the arbitration proceedings at the IAC at BelCCI, generally the arbitral tribunal considers a dispute within 6 months from its initiation (3 months if the parties are Belarusian entities).

As an alternative to the IAC at BelCCI in Belarus, there is the International Arbitration (Intermediate) Court, the "International Chamber of Arbitrators at the Union of Lawyers" (the "ICA at UL"), which was established in 2010. The minimum arbitration fee at the ICA at UL amounts to EUR 300 + VAT 20 % (less than the IAC at BelCCI's). The terms for arbitration proceedings at the ICA at UL are also shorter than the ones at the IAC at BelCCI.

The lists of recommended arbitrators of the IAC at BelCCI and the ICA at UL include not only Belarusian legal experts but also foreign legal experts from Russia, UK, Austria, Germany, Lithuania, France, Poland, Ukraine, and Kazakhstan, and the parties are also entitled to appoint arbitrators who are not included in the recommended lists.

In view of the great flexibility, short time, and low cost of Belarusian arbitration institutions – and as arbitral awards of the IAC at BelCCI and the ICA at UL are recognized and enforced under the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (to which Belarus is a party) – these international arbitration options should be considered by foreign investors doing business in Belarus, interacting with Belarusian companies, or simply seeking a flexible, professional, and expedient dispute resolution institution.

All things considered, there is a strong and legitimate foundation in Belarus for further development of arbitration as an alternative dispute-resolution method in compliance with international arbitration practice and the enhancement of its availability and frequency.

Dennis Turovets, Managing Partner (Minsk), and Nataliya Ulasevich, Associate, Egorov Puginsky Afanasiev & Partners

Next Issue's Experts Review

Capital Markets

In Closing: TopSite Award

Top Sites this month checks in on the leading law firm websites in Austria and Lithuania.

In Austria the top two websites reflect the character and nature of the firms they represent nicely, despite being extremely different in style, design, and functionality.

www.schoenherr.eu

The best site, redesigned and relaunched just this year, belongs to Schoenherr, and reflects advanced research into and analysis of what a modern law firm website can be, should be, and should do. According to Gina-Maria Tondolo, Schoenherr's Marketing Director: "We consider our web presence key for connecting with clients all around the world. Our analytics tell us that our strategy for a content rich website has proven to be right. When relaunching our website earlier this year, we made sure to meet all of our users' requirements, such as responsive design and easy-to-use and search-optimized knowledge sections."

Mission accomplished, because Schoenherr's site accomplishes all that – and more. It is virtually state of the art: It is attractive, and directs visitors to the information they need simply, clearly, and quickly, while being at the same time admirably complete, and answering every question visitors might reasonably ask. Given the necessity of conveying substantial amounts of information about the firm's many lawyers, capabilities, and services across 14 European jurisdictions, the advanced, attractive, and interactive nature of the website is especially remarkable.

Tondolo was pleased to hear her team's efforts had paid off. "We put a great deal of thought, lots of hard work, and countless hours into our new website – so we're especially happy to win this award, as it shows that the advantages of our new approach to content marketing and responsive design haven't gone unnoticed."

www.dbj.at

Despite being very different, the website of Dorda Brugger Jordis stands out as well. As the firm pursues a more geographically conservative business model than Schoenherr – with only a Vienna office – its website is perhaps for that very reason restrained where Schoenherr's is expansive, and quiet where Schoenherr's is dynamic. The differences are significant – but do not diminish Dorda's attractiveness or effectiveness. At the end of the day its site is undeniably stylish, elegant, and traditional, offering a calm introduction into the office's capabilities.

www.dominas.lt

Our analysis of Lithuanian law firm websites was challenging, as a large number of the most successful firms have trans-Baltic presences. As a result, determining which website can qualify as "Lithuanian" is not always simple. Fortunately, it turned out not to matter, as the site of Dominas & Partners – a firm only in Lithuania – stands above the rest. The site is attractive and elegant, with an esthetic design and an intelligently-divided menu of options quickly directing visitors to useful and relevant information. Partner Gediminas Dominas was pleased to learn of the award, and shared his thoughts about the site's look: "When creating our new web site design we were not so much concerned with what message exactly it would be carrying to the visitor. We wanted it to have a nice look, avoid existing clichés (like Lady Justice, skyscrapers, sailing boats), and be different from our competitors' sites. We also wanted the design to be compatible with our vision: a hands-on approach to complicated deals and cases through a combination of experience on the market and the efforts of well-educated younger people. But most importantly, we wanted the choice on the website's design to be made by all people of the firm. Everyone, including the bookkeepers and secretaries, had their say in which of the proposed visual ideas aesthetically was closest to their heart. Out of a couple of dozens designs proposed by the agency, the current one was almost unanimously chosen by all partners, associates, and employees. As to other aspects, like functionality, the design agency was given a wide freedom of action."

www.sorainen.com

The website of Sorainen comes in second in Lithuania. It is fairly simple and text-heavy, with a conservative design. Nonetheless, the emphasis of substance over style and on content over flash reflects well on the firm. Plus, the home-page links to an entertaining commercial for the firm's Estonian office, which injects unexpected light-heartedness into the site.

According to Sorainen Lithuania's Managing Partner Laimonas Skibarka, "the firm's website is our business card on the web. Thus our aim [in creating it] is the same as with our services in general – being client-focused and regionally integrated across the Baltics and Belarus. An excellent website on its own is hardly enough to make the final 'purchasing decision.' However, it should instil confidence about the firm's track record and provide easy access to the most relevant information and value-added news to your followers."

David Stuckey

What do you expect from your law firm?
wolftheiss.com

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