

## **Zero-tolerance for corruption is an unrealistic aim**

A top lawyer's view Slovakia's business environment, including the lack of a qualified workforce, corruption, business law, and security.

The right to privacy is the biggest challenge of our time, and personal data protection is just a small part of it, says Peter Štrpka, one of the founding partners of the Soukeník-Štrpka law firm, which regularly places among Slovakia's top law firms in the rankings.

**TSS: One of the main issues that businesses active in Slovakia are dealing with is the lack of a qualified labour force. Is that a problem that also concerns a law firm like yours?**

**Peter Štrpka (PŠ):** Very seriously so. In our early years, we had tens to hundreds of candidates for a job position. Nowadays, it's a recruitment rather than a selection process. We even need to work with headhunters to try and find good people and win them over from our competitors. This is a new situation that started in the past two to three years. It might be due to demographics, and with the sociological problem of our generation postponing children until later. Another thing is that young people nowadays seem to be happy to be average, and I don't mean that to scorn them, I understand them. They are also sceptical and say there is no room for them on the market.

**TSS: Is that true?**

**PŠ:** I remember having similar thoughts when my partner David Soukenik and I started in 2003. We thought, what a shame we're not in the year 1990, we don't have the opportunities that the older generation, now in their sixties, had. They populated the market and left no chance for us. But we came up with something new, we wanted to be innovative in the legal business, to turn this into a big company and invest our money in it. We did not want to end up with a small office, with one secretary and one articled clerk. That was our vision and we went for it.

**TSS: How was it, starting your business from scratch?**

**PŠ:** In 2002 David and I agreed on a partnership within the BL Consulting advisory company. Neither of us had a bar licence at that time, so we started our company in 2003 after David successfully passed the bar exam. By that time, competition was tough on the legal services market. We did not fear big challenges, hiring new people or taking risks. In hindsight, I chalk our quick start up to our youthful enthusiasm, innovative approach and the will to work hard every day, including weekends. We have been lucky with the people who have worked for us and the people we worked for. Our cooperation with successful clients was key to our firm's success. We aimed to build a firm with a big number of lawyers, each with a professional specialisation, applying an active approach to clients and using modern technology. There was a gap in the market of doing law this way 15 years ago. The old-style barristers, one-man law firms, are now disappearing and lawyers are joining forces. A firm like ours is now standard in the market of legal services.

**TSS: Is this a result of applying standards in Slovakia typical for the legal profession in the western world?**

**PŠ:** We are getting closer to that; we just applied the models that were used abroad and moulded them to the Slovak environment, adjusting them as society developed. We were lucky the regime changed in 1998, Slovakia turned to the west, with the vision to enter the EU and NATO. The vision of the state changed, and we could follow it and adjust the vision of the law firm to the way law firms work abroad.

**TSS: When politicians talk about a greater need for university graduates in technical fields, the common thing they say is that “we have too many lawyers”. You say you have difficulty finding good ones. What is the problem?**

**PŠ:** There are too many law schools in Slovakia, six of them, which is nonsense. For this market, we could easily do with two public schools and one private school, to preserve competition. There are many lawyers, but most of them are useless in business. They don't even try to get a legal job and do something else instead. And then you need to think of barristers as one of many legal professions, and a very complicated and demanding one, with no certainty and little security in terms of business. That uncertainty discourages many young people. That is also why we, in a big company, try to offer some level of security to our young lawyers, as a benefit for the people who have their mortgages and want to start their lives somehow. We set our system the way it works abroad - barristers are also people who have some business drive, who can get clients and take care of them, but then there are people in our law firm who do the actual work on files and who might not be successful as barristers on their own, but in a firm like ours they are an essential part of the team.

**TSS: What are the most common concerns or questions that foreign companies ask you when they are considering entering the Slovak market?**

**PŠ:** Foreign clients tend to make comparisons. Most often they have difficulties understanding the still extremely tough red tape, the turbulence due to frequent changes in business-environment-related laws, and little stability in terms of legislation in general. This is one of their biggest fears: that they will enter into some kind of status quo, but we cannot guarantee that it will remain unchanged, whereas at home they might be used to a more stable environment. Another thing is our judicial system. We warn clients who consider doing business in Slovakia that there might be problems if there is a lawsuit. In such cases, though, we try to act as mediators and keep people out of courts; we try to explain to them that it is wiser to go for a compromise. We're not typical barristers in that sense.

**TSS: The most frequent complaints that investors in Slovakia voice are about law enforcement and the state of the judiciary. Has this improved?**

**PŠ:** I am an optimist here, and I see an improving trend. In our early years, it could take weeks or even months to list a company in the Business Register. Today, we seem to have forgotten things that used to complicate the business environment in the past, and many have been resolved. Land registry offices have moved forward, many things can be done online and fast. There has been much improvement regarding the agenda that is not related to lawsuits and legal disputes, even though it could be much faster. Problems arise when it comes to lawsuits

and cases. Courts deal with things that in my view are not really conflicts, meaning all the statistics about the length of court processes are deformed and do not have much telling power. An actual case, a dispute between two parties, can take several years to be resolved. And I don't even see many attempts to improve this. There is the new Civil Litigation Procedure Code that specialised some courts, some diversification has been made, but it is still not sufficient. That is what causes long waits.

**TSS: So the tendencies should be towards more specialised courts?**

*PŠ: Definitely. The Justice Ministry will need to consider whether the things that the courts are dealing with should really be handled by courts. Some of their agenda could be handled in administrative proceeding, to make sure that courts only deal with things they are supposed to. Specialisation of judges needs to be supported too, so that judges are experts in the matters they deal with.*

**TSS: Another thing that often resonates among investors is problems with transparency and corruption.**

*PŠ: There are several levels of corruption. One, when I try to make someone do things for my benefit other than according to the law. Second, to do something earlier than they should or could. Next, overpriced state orders. Some of this is irremovable, because it is part of human nature. It's impossible to get to zero tolerance, in any democratic country. The point is to make it an exception, a marginal thing, or a socially acceptable level of corruption that is not running the system. I am far from seeing an idealistic picture of a country where nobody ever does anything for a friend or a relative. But it should be a secondary matter, an exception that does not harm the system, rather than the essence of the way the system works. A system built on corruption can never work.*

**TSS: Politicians tend to say that Slovakia has above-standard legislation in transparency, like the publishing of contracts or register of partners of the public sector. Are our laws really so good?**

*PŠ: I consider them sufficient, in some ways unique. It creates space for society to be sustainable, opens up information that society can work with and use to put pressure on those who feel untouchable and who feel they can do whatever they want. The laws we have are a good warning sign - the contracts are public, anyone can take a look, journalists, NGOs. This goes both for the info-law and register of partners of the public sector. However, any law is effective only to the extent to which it is enforced.*

**TSS: When these laws were introduced, the main concern was that they would pose another bureaucratic burden for companies and hinder business. Did these concerns materialise?**

*PŠ: The register is another duty that was added, and it is neither simple nor cheap. On the other hand, it only concerns those who want to do business with the state. I believe that the right of the state to know who they are doing business with outweighs the right of the individual not to be bothered with some additional red tape. I understand it posed a new burden on businesses and I believe it can be done differently. What I don't like about it is that there are too many*

registers. I believe it would be enough to have one register gathering all the information the state needs, without introducing special registers. But that would only make the existing system more efficient. It is not an argument against the register of partners of the public sector.

**TSS: The most discussed issue around the EU this year was the GDPR. Is personal data protection sufficient? Could it become a hindrance to business?**

**PŠ:** As a lawyer and as a citizen, the main concern of our times is the loss of the right to privacy. Personal data protection is only part of the right to privacy. I do not see the new rules around the GDPR as an obstacle for businesses, although they do make doing business harder. Small and medium-sized companies tend to suffer due to the implementation of the GDPR rules the most, since they are forced to spend a relatively large amount of money and time for extensive documentation. They often try to save money by buying cheap sample documents from various newly-emerged GDPR advisory companies, thinking they've properly implemented the rules. But those documents are often incomplete and do not reflect the actual requirements for the processing of personal data. Bigger clients have the financial and personnel means to treat GDPR implementation more responsibly, but they are then faced with demanding red tape and lack of application of the new rules.

**TSS: What are the positives of the new rules?**

**PS:** I would see GDPR positively if it applied to these big companies, transnational corporations, internet services and IT apps providers and companies doing business in specific areas, like health care providers. GDPR was needed to define the complex framework of personal data processing in the EU, but the practical and real personal data protection is still only being created.

**TSS: So what about the right to privacy? What are your main concerns?**

**PŠ:** When I was younger I read 1984 by Orwell, thinking it described the regime we lived under before 1989. Recently I read it again and it strikes me as a description of a regime we are headed towards. If the state is to have access to everything, from your bank account, the history of your credit card payments, information about your movement, you've got your phone on you with GPS. It is a big topic. We talk about cryptocurrencies, we talk about privacy on the internet. There are attempts among people to avoid the system, cut themselves off of the internet. It seems like humans of the 21st century have understood the dilemma between security and privacy. We are experiencing it now, linked to the Kuciak case. Thanks to the suppressed right to privacy we are able to find and accuse the perpetrators, on the other hand there will be more and more people who will want to stay outside the system.

**TSS: We live in an atmosphere where security is above all else, many people seem to be ready to give up a big part of their privacy if they get the promise of security in return. Is this process reversible in any way? What do you mean when you say we will need some rules? How will we be able to protect our privacy in the 21st century?**

**PŠ:** It depends on the freedom of the individual, how much they want to protect their privacy. You cannot ban people from coming to the main square, shouting out offences at somebody.

*Much the same on the internet. It would be naive to think the internet is an anonymous environment, everyone can be found. We are not anonymous in real life, after all. On the other hand, if I don't want publicity, I don't go out to the square, I have the right to my privacy. It's my own business, unless I interfere with the rights of other people and nobody, including the state, should tell me what to do. With the increase of a "secure environment", this will disappear. That is why some take the radical steps of going offline.*