

Sanctions against Russia: many questions, few answers

The state, either using its own resources or European Union finances, should establish a contact point to help businesses navigate sanctions against Russia, says Igor Vranka, who represents the Soukeník – Štrpka law firm in eastern Slovakia.

A war has been raging on the borders of Slovakia for many months. Have you felt its effects in your work?

The current tragedy in Ukraine has brought with it situations we have not faced before. Initially, it brought an influx of “new” people and, of course, we all helped as best we could. Even within our law firm, we tried to respond to all inquiries from people who had to leave their homes overnight and needed legal help. As part of our pro bono projects, we provided help to people who turned to us. At the same time, we also provided our personnel capacities to non-governmental organisations. Today, however, there is little demand for such activities.

What problems did the war bring for companies and entrepreneurs you work with?

The war in Ukraine has also affected the business environment, and I don't mean just the energy crisis but also the sanctions that were imposed against Russia.

If it were up to me, I would ban all trade with Russia. However, entrepreneurs are currently facing two basic problems – depending on whether their activities with Russian companies are on the sanctions list or not.

If they are not on the sanctions list, they face a moral dilemma – whether to supply anything to



Igor Vranka (Source: Courtesy of Soukeník - Štrpka)

Russian subjects at all. If they decide to deliver, they have to look for possible transport. If they decide not to deliver, then questions arise regarding possible liability.

The decision to supply or not to supply to Russia is not about me

simply stopping supplying and the matter is then settled. The goods are produced, you have made input investments, and you have unfinished production that could be in the hundreds of thousands to millions of euros, so it's a difficult

decision. The availability of various components is another current problem. There are many questions, but few answers.

What usually happens if a contract cannot be fulfilled due

to sanctions? In such a situation, issues of contractual penalties probably come into play.

There is what is officially known as the institution of the impossibility of performance, which is used when a person cannot fulfill their obligations for some reason. In such an event, they should inform the contractual partner that they cannot fulfill the contract and try to terminate the contract - ideally by agreement. However, they have to return any advance payments. They cannot hand over unfinished production and tell the client they are keeping the deposit.

Another question arises here: how to return the advance payment to the Russian client if the Russian bank is on the sanction list? In that case, they have to ask the contractual partner to designate another bank that will process the payment.

Banks operating in Slovakia are now giving warnings to their clients if a recipient is a bank on the sanctions list. However, they approach such payments individually. For example, clients can be asked for additional information - say why they want to send such a payment.

How helpful is the state in these situations?

I think that the state, using its own resources or European Union finances, should establish a contact point with experts on this issue. These people should advise businesspeople on what to do and alert them to risks.

I often see international contracts with Russia that were negotiated with the help of business associations. Our clients turn to these associations with their questions but only get generic answers. However, if there was a person designated by the state to answer these questions, then the responsibility would also be transferred to someone else. The entrepreneur would act in accordance with a

recommendation given to them by a state authority.

For comparison, I recently met with a certain association of businessmen. They offer a service whereby a person who wants to do business with Iran can speak to a designated individual in their organisation who knows exactly which activities come under sanctions, and which are not. It is such a paradoxical situation because trade with Iran is approximately €12 million per year, which is very little.

An amendment to the Commercial Code should enter into force next year simplifying the establishment of limited liability companies through the state's electronic service system. What do you think of this?

It's something that will simplify bureaucracy, so I definitely welcome it. Planned simplification, however, comes with many limitations. A company established as a limited liability company can have a maximum of five shareholders, a supervisory board may not be established, and the company is only allowed to perform certain basic activities...

I think there is room for the system of founding a limited liability company to open up more and for such an electronically established company to resemble a classic limited liability company as much as possible.

We are talking about changes to the Commercial Code which were originally meant to apply from January 2023. However, this will apparently not happen and the legislative procedure may be fast-tracked. What do you think?

Today, many amendments to legislation and even new laws are adopted in a fast-tracked procedure, behind closed doors and without any professional discussion, even though there is no reason to do so. However, it is

only through the standard legislative process that we can create high-quality legislation.

Even if your intentions are good, in a fast-tracked procedure you have no chance of uncovering all the implications of the change. You will end up having to change it again.

Can you think of specific examples of such failures?

There are many examples, but one, in particular, is the Institute of Temporary Protection of Entrepreneurs, which had to be repeatedly altered. Or also Commercial Register obligations for businesses in connection with ultimate beneficiaries. This change was mismanaged at the beginning.

In 2022 the "cleaning" of the Commercial Register, which began two years previously, was still unfinished. At the beginning of the year, the last entities that had previously failed to fulfil their obligations could apply for a renewal of registration. Is the register now free of inactive companies?

I don't know of a company that was removed [from the register] as part of this process. Even companies that have only two members of their supervisory board instead of the mandatory three were not taken off it. There is just a note in the register to say that the process of ex-offo deletion has begun due to non-fulfilment of conditions. However, this began in October 2021 and they still have the same status today. In other words, some processes have started, but they have not been completed.

We have hundreds and thousands of inactive companies that do not fulfil any obligations. In my view, they should have been deleted immediately.

So the state is too benevolent in this sense?

Yes, it extends deadlines, and it gives entities too many opportunities to clean [the situation] up.

Companies, on the other hand, often complain that they have a problem, for example, with the registration itself in the Commercial Register. Have you come across this?

Yes, many processes take a long time and often overrun statutory time limits. For example, proceedings on changes to the Commercial Register should normally take place within 5 days from the payment of a court fee. But currently, it takes weeks or months in some registry courts. And this has a significant impact on all acquisitions that take place within trading companies.

Let's take an example of an investor who wants to join a company, and wants to invest in this company, but without being officially registered in a trading company, they do not want to invest in it, which is, of course, a logical requirement. After weeks of intensive negotiations on his entry into the company, the wait is much longer than had been agreed, even though this is only a formal entry in the Commercial Register. Sometimes it takes two months or more.

It is very difficult to explain such a situation to clients, especially foreign ones. The worst thing is that today courts don't even announce deadline extensions, even though they should, so we don't even know when decisions are going to be made.

A state or public administration body needs sufficient personnel for it to function within deadlines, and that is not happening.

By Peter Kováč

Who is Igor Vranka

A partner at the Soukeník - Štrpka law firm, Igor Vranka leads the firm's eastern branch in the High Tatras and Košice. He has been a member of the Slovak Bar Association since 2010, and specialises in corporate and business law.

Top deals in company sales and mergers

2022 has been a rich year for mergers and acquisitions. The largest law firms active in Slovakia in this field have provided to The Slovak Spectator and the Sme daily details of the biggest and most interesting deals that they have dealt with in the past 12 months.

From miners to a shopping centre

Slovak company GA Drilling became famous for its so-called plasma technology, which is used for deep drilling to access geothermal energy. In April 2022, it received a significant investment from US company Nabors Industries, a global oil and gas drilling contractor that owns the largest land drilling fleet in the world.

The American company says the investment has the potential to develop deep drilling and build geothermal power plants.

The Slovak company was advised on this important business step by the TaylorWessing e/n/w/c law firm, which ranks third in the M&A category of the latest Largest Law Firms ranking.

“The agreement will enable Nabors Industries to provide GA Drilling with an investment of \$8 million,” said Juraj Frindrich, partner at TaylorWessing.

Lawyers from the same law firm were involved in another transaction – the joint acquisition of the Optima Shopping Mall in Košice, the largest shopping centre in eastern

Slovakia. It was previously owned by the Dutch company Atrium, but changed hands in June 2022. The complex is now owned by Optima HoldCo, composed of two firms: SIRS Portfolio Fund and Cronos Optima. The latter was represented by TaylorWessing.

“The total acquisition costs amounted to €118 million, which represents the largest investment transaction in Slovakia so far in 2022,” said Frindrich.

The sale of Motor-Car

Just before summer, the car sales sector saw the acquisition of Motor-Car Group, which has 17 sales offices in Slovakia, Hungary and Czechia. The group was originally owned by German firm Wiesenthal Autohandels, and sells mostly Mercedes-Benz and Kia brand cars via Motor-Car. The buyer was legally advised by the PRK Partners law firm. Even though the firm did not specify the name of its client, other sources suggest it was the Swedish company Hedin Mobility Group, which is thus expanding into central and eastern Europe.

“Our mandate included complex due diligence coordinating three jurisdictions, assistance on the rectification of identified issues and real estate documentation, and assistance with the drafting of the transfer documentation,” said Eva Hromádková from PRK Partners’ M&A practice group.

Water park in Poprad

A new financial partner entered eastern Slovakia’s AquaCity Poprad water park in April 2022 – the Pro Partners Holding investment group. It bought a share in the company from its owner, Letheby & Sons Limited.

The water park is awaiting a complex restructuring in the coming years, aimed at getting the business back on its feet after the pandemic. The new investor is preparing new development projects on the land around the water park, among other things.

Legal assistance to Pro Partners Holding was provided by the Bratislava-based office of the Kinstellar law firm, which tops the current ranking in the M&A category.

“The transaction is the biggest Slovak transaction in the hotels & leisure sector in recent years,” said Viliam Myšička, partner at Kinstellar.

The law firm also advised the NN insurance company on the acquisition of a majority share in Finportal, a financial mediation company. The insurer became a majority shareholder after purchasing the share from the Arca investment group, which was advised by the Dentons Europe law firm.

Banks founded a joint venture

Five banks – namely Slovenská Sporiteľňa, VÚB, Tatra Banka, ČSOB and 365.bank – created a joint venture in 2022. Its main objective is to develop activities focused on providing services related to cash processing. The HKV Law Firm played a key role in this business.

“Our task was the creation of documentation to create a joint venture and complex assistance on its creation and setting of internal mechanisms,” said Roman Hamala, the law firm’s partner.

HKV Law Firm also provided complex legal advisory to the Austrian investment company viridiusLAB AG on several acquisitions of labs

in Slovakia. The law firm reports that the transactions amounted to “several million euros”.

The sale of radiological services

The Bratislava-based team of lawyers from Havel & Partners provided legal assistance to the Centene Corporation company, which is active in the health sector. The US firm decided to sell its business in Spain and central Europe in 2022, with the Spanish company Ribera Salud being at the core of the transaction. The transaction concerned Slovakia as well, since the Slovak Pro Diagnostic Group belongs to Ribera Salud. It is a provider of health care in radiology and nuclear medicine in a total of 14 private medical facilities in Slovakia.

Havel & Partners also provided assistance to Finab Trade on the sale of the Bukóza group to a new investor, starting already in 2018.

“The previous sale of the BUKÓZA/Bukocel group to Arca Capital Slovakia in 2020 was not completed, despite the permission of the Anti-Monopoly Office, due to the financial problems of the Arca group,” said Ondřej Majer, partner of the law firm.

PET-bottle recycler

General Plastics, a company previously controlled by the business group of Ján Sabol through GP Alliance, is among the three largest recycling firms in Slovakia. It processes 55 tonnes of plastic material a day. In late 2021, two big producers of non-alcoholic beverages entered the firm with their capital – Mattoni 1873 and Kofola. Together, they acquired two-thirds of its shares. Part of the transaction was an increase in basic assets, which was legally advised by the G. Lehnert law firm.

“Aside from advisory on the sale of shares, we helped the clients and the shareholder to prepare and negotiate the shareholder agreement with the new shareholders,” said Norbert Smaho, partner of the law firm. “We

10

LARGEST LAW FIRMS 2022



MERGERS & ACQUISITIONS

1. Kinstellar
2. Allen & Overy
3. TaylorWessing e/n/w/c
4. HAVEL & PARTNERS
5. HKV Law Firm
6. G. Lehnert
7. Aldertree legal
8. Dentons Europe CS LLP
9. Advokátska kancelária RELEVANS
10. PRK Partners

Ranking created based on the following criteria (values for 2021): number of M&A deals with regard to reward law firm received for them (70% weight); sales revenues (10% weight); number of attorneys (10% weight); number of associates practicing > 3 years (6% weight); number of associates practicing < 3 years (4% weight). The ranking reflects also the proportion of each firm's hours spent on this category.

were working on the transaction for more than six months.”

Microsoft invests

Microsoft announced its acquisition of the Slovak company Minit in late March 2022. The Slovak startup is a leader in so-called mining, i.e. a technology that enables users to automatically analyse processes in companies based on data from their IT systems. This can then provide managers with an overview of the company's operations and potential improvements.

Legal advisory was provided by Dentons Europe, which represented the Slovak startup.

“It was the largest acquisition in the IT sector in Slovakia in 2022,” said Stanislav Ďurica, partner at Dentons.

U.S. Steel Košice refocuses

U.S. Steel Košice sold its stock in the RMS Košice company to Termostav – Mráz, saying it wants to focus on the core of its business, i.e. the production of steel products. However, it counts on deepening its cooperation with its supplier of refractory products, i.e. Termostav – Mráz.

The legal assistance to the steelworks on the sale through auction was provided by Allen & Overy Bratislava. The transaction included measures related to the sale and rent of related plots and buildings and a purchase option on certain land, said the law firm's partner Tomáš Búry.

Allen & Overy, the second largest law firm in the M&A category, also provided assistance to the buyer in one of the most significant transactions on the financial market in the past year. Thanks to the purchase of Impuls-Leasing Slovakia, the Tatra-Leasing company cemented its position among the most important leasing companies in the country. The transaction, which started in 2020, was completed in 2022.

GPS monitoring

Solitea, a Brno-based IT holding company whose majority owner

is Slovak private equity company Sandberg Capital, is buying the Slovak company Commander Services, which deals with GPS monitoring of vehicles. The transaction is currently being assessed by the Czech Office for the Protection of Competition, which is due to make a decision by the end of 2022. Legal assistance to Solitea is being provided by the Relevans law firm.

The same law firm contributed to another business transaction, in which it represented the developer JTRE Properties Limited. The deal concerned the sale of the administrative part of the Klingerka project. The new owner of this office building became the Erste Realitná Renta fund managed by the asset management department of Slovenská Sporiteľňa bank.

“We have been providing legal assistance to the developer since the project started, as well as on its construction,” said the law firm's partner, Marián Masarik.

The sale of Aupark

Bratislava-based shopping centre Aupark was purchased by Wood & Company in 2021 for €450 million from the Unibail-Rodamco-Westfield company. Wood & Company cooperated on the transaction with Tatra Asset Management, and acquired a 60 percent share. The remaining 40 percent will be gradually transferred in the years 2022, 2023 and 2024. The completion of the trade via legal assistance is supervised by the Aldertree Legal law firm.

Its lawyers have also been providing assistance to the German company Vaillant, which plans to build a €120-million plant in Senica to produce heat pumps, employing 800 people.

“Our advisory includes matters related to investment aid, the purchase of real estate, engaging contractors based on the FIDIC contracts, and the incorporation of an investment vehicle,” said Juraj Fuska, managing partner of the law firm.

By Jozef Tvardzik

Largest firms' major deals

(law firms listed alphabetically)

Advokátska kancelária RELEVANS

Deal: Solitea (2022 – Ongoing)
Providing legal services to the buyer in the course of the acquisition of a company dealing with the operation of GPS vehicle monitoring.

Deal: JTRE PROPERTIES LIMITED (2022 – 3Q/2022)

Providing legal services to the seller on the sale of an administrative building in Bratislava via a share deal to the real estate fund.

Aldertree legal

Deal: Wood & Company a.s. (2022 – Ongoing); Advising Wood & Company a.s. in connection with the next phase related to its €450 mil. acquisition of the Aupark Bratislava Shopping Centre.

Deal: Vaillant GmbH (2021 – Ongoing)

Advising Vaillant GmbH in connection with the greenfield investment project for the construction of a production plant in Slovakia. Deal value: €120 mil.

Allen & Overy

Deal: Tatra-Leasing, s.r.o. (2020 – 3Q/2022); We advised on the acquisition of IMPULS-LEASING Slovakia, s.r.o. With this acquisition, the client strengthened its position to No. 3 in the local leasing market.

Deal: U.S. Steel Košice, s.r.o. (2020 – 4Q/2021)
We advised U.S. Steel Košice on the sale of RMS Košice, s.r.o., its refractory subsidiary, to Termostav – Mráz as a competitive auction sale.

Dentons Europe CS LLP

Deal: Minit B.V. (2022 – 2Q/2022)
Advising on the largest acquisition in the information technology sector in Slovakia in 2022, the sale of Minit to Microsoft.

Deal: Arca Investments (2022 – 2Q/2022)

A cross-border team advised in connection with restructuring the sale of Finportal, a financial intermediation service provider in Slovakia.

G. Lehnert

Deal: General Plastic, a. s. (2021 – Ongoing)
The sale of 2/3 of the shares of the recycler/producer General Plastic to Mattoni 1873 and Kofola, with a capital increase and shareholders agreement.

Deal: ST. NICOLAUS a.s. (2021 – Ongoing)

Sale of a minority package of its own shares at an expert price on the basis of the obligation arising from the Act on Securities and Commercial Code.

HAVEL & PARTNERS

Deal: Centene Corporation (2021 – 2Q/2022)

Legal advice to the Centene Corporation on the sale of Ribera Salud, a Spain-based healthcare provider operating hospitals and providing other healthcare.

Deal: FINAB TRADE (2018 – Ongoing)

Legal advice to the seller, FINAB TRADE, on the sale of the BUKÓZA/Bukocel Group companies.

HKV Law Firm

Deal: Slovenská sporiteľňa, VÚB, Tatra banka, ČSOB, 365.bank (2021 – 2Q/2022)

The creation of a unique banking joint venture.

Deal: viridiusLAB AG (2022 – Ongoing); Comprehensive legal advisory services to an Austrian private equity firm in several acquisitions of laboratories in Slovakia.

Kinstellar

Deal: NN Group (2021 – 2Q/2022)
Kinstellar advised the NN Group on the acquisition of a majority share in Finportal.

Deal: Pro Partners Holding (2021 – 1Q/2022)

Kinstellar advised Pro Partners Holding on its acquisition of the AquaCity Poprad water park resort from Letheby & Sons Limited.

PRK Partners

Deal: private sector client (2021 – 3Q/2022)

Legal advice to the purchaser on the acquisition of Motor-Car Group with 17 sales offices in Slovakia, Hungary and the Czech Republic.

TaylorWessing e/n/w/c

Deal: Cronos Optima (2019 – 2Q/2022)

Advisory to one of the purchasers in a joint acquisition of the Optima Shopping Mall in Košice as one of the biggest shopping malls in Slovakia. Deal value: €118 mil.

Deal: GA Drilling (2022 – 2Q/2022)
Advisory on a partnership and investment from the US company Nabors Industries related to deep-drilling technologies.

Deal value: €8 mil.