



Cementing its position as the gateway to Central Europe, Austria's sophisticated legal market has broken new ground in the past year. Although the M&A market took a battering, if there are any major corporate deals in Central or Eastern Europe then they are likely to be struck in Vienna. At the same time they will be subject to scrutiny over state aid, which remains a major issue for Austria and the European Commission in Brussels. The real estate market is trundling along, banking has seen a bumper year (as long as you are on the big-ticket mandates) and insolvency is witnessing some key changes, as the country's lawyers can testify.

CORPORATE

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We have certainly seen a change in corporate work during the past year. M&A work has declined considerably and has been replaced by rescue transactions, both in the industrial and finance sector.

State aid is a big topic. An example is the

Austrian Airlines (AUA)/Lufthansa transaction where Cerha Hempel represented ÖIAG, AUA and the Republic of Austria in the privatisation process against the backdrop of the emerging airline crises, and before the European Commission to get state aid and merger control approval, which turned out to be quite a challenge for all parties involved.

It remains to be seen how other mid-sized European airlines will survive if they cannot find strategic partners, and how the Commission will navigate consolidation in the airline sector while upholding its strict merger control policy.

Another new field is state guarantees and participation capital both for banks and industrial enterprises, such as Raiffeisen Zentralbank Österreich's placement of €500m (£440m) of its participation capital, which it took under Austria's financial market stabilisation package.

Firms are also being instructed to test new territory with deals that are not pursued and quite often work on dual-track transactions for more flexibility. Sometimes this way of working is frustrating as far as the outcome is concerned, but nevertheless interesting. This is a trend that, in my opinion, will prevail for at least the next two years.

INSOLVENCY

Alexander Isola, partner, Graf & Pitkowitz



In this time of economic crisis, media and political attention is increasingly focusing on companies' insolvencies. In practice, too, attorneys in Austria are being called on to advise on financial restructuring early and more frequently.

The Austrian government is addressing the increased requirements for insolvency law with profound legal reform.

The ministerial draft of the 2009 Act on the Amendment of Insolvency Law is on the table. The reform's first-priority objective is the timely initiation of insolvency proceedings, thus improving chances of successful financial restructuring.

Composition proceedings will be abolished. However, numerous provisions ensure that the going concern will be incorporated in the Austrian Bankruptcy Code.

The reform also redefines the part attorneys play. The debtor should generally enjoy self-administration, provided that a restructuring plan is timely presented.

Austrian insolvency law experts are already noticing an increased demand in top-quality consultancy on issues of crisis management. Although a surge in bankruptcy cases being initiated is not an issue (yet), it is reasonable to assume that the banks and creditors are giving the companies at risk a little more time.

Insolvency experts consider it a success if a mandate never goes public. Hence, Austrian attorneys specialising in insolvency law become involved much earlier in important issues of corporate assessment. From that angle, the industry's fate is similar to that of specialists for dermatology and venereal diseases – it cannot and will not boast about its clients.

BANKING

Martin Ebner, partner, Schoenherr

In general, although most Austrian banks have substantial CEE/CIS exposures, the economic downturn in parts of this region has not caused any Austrian bank failure – the only nationalisation of an Austrian bank has been the sale of 100 per cent of the shares in Kommunalkredit Austria to the federal government, which closed in late 2008.

However, all large Austrian banks (except UniCredit Bank Austria, which has not yet finalised its negotiations with the government) have tapped the government's bank recapitalisation scheme and have issued participation capital to the state.

In terms of corporate lending, Austrian banks are increasingly eager to share or transfer risks by arranging syndicates for deals of moderate size, such as the debt finance portion of Renaissance buying into listed Austrian construction company Porr.

Recently, the Austrian state not only offered equity and liquidity to banks, but also launched a scheme to support corporate lending, aiming to allow financially sound corporates access to state-supported bank loans. Since the relevant law only came into force in August, there are no examples of deals under the new regime, but it is generally believed there will be lot of demand for it.



ENERGY

Kurt Retter, partner, Wolf Theiss

The key feature of the Austrian electricity industry is still its high level of public ownership – most businesses are owned or co-owned by the federal and provincial governments and municipalities.

Austria is crucial to the European gas market, since much of the gas carried on the Austrian network is in transit (for example to Italy, Slovenia and Germany).

In recent years, legal and financing work has been picking up in the context of projects relating to gas transit infrastructure.

The long-term development of domestic energy generation is characterised by a substantial increase of the renewable energy sector. The use of renewable energy amounts to approximately three-quarters of domestic energy generation.

In 2008, the promotion of green electricity and combined heat and power was amended substantially by the Austrian legislator. Due to the complexity of this new legal framework and the focus on renewable energy in Austria, as well as the appetite of investors, this field is expected to provide work for lawyers in the future.