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Corporate M&A

Croatia

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Trends and Developments

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Market Overview

The dynamic of the Croatian M&A market continued throughout 2020, albeit subject to slightly different rules, as a consequence of the crisis caused by the COVID-19 pandemic.

From global concerns such as the general insecurity caused by the crisis and restrictions leading to economic and transactional difficulties, to social and practical problems such as the inability to meet in person – which caused the due diligence procedures and negotiations to last much longer than they did previously – the pandemic has certainly made its mark on the M&A market.

Even though the number of recorded M&A transactions in Croatia was only down by one compared to 2019, in 2020 the total value of recorded M&A transactions amounted to USD380 million – 40% less than in 2019. However, several high-value and high-profile deals attracted the attention of the public.

In 2020, the largest merger and acquisition transaction in Croatia was the acquisition of Infobip, an IT and telecommunications company, by One Equity Partners (an arm of the US investment bank, JPMorgan Chase). One Equity Partners paid just over EUR170 million for this transaction. Infobip's valuation thus surpassed USD1 billion, making it the first Croatian unicorn company.

The runner-up is the acquisition of Nanobit, a global mobile game development studio head-

quartered in Zagreb, by the Swedish Stillfront Group, which amounted to EUR85.4 million.

Both companies represent success stories of start-up companies which have managed to achieve a significant market presence without major investments prior to 2020. This shows a continuation of the rising trend of tech companies in Croatia, announced by the EUR80 million acquisition of Rimac Automobili by Hyundai Motors and Kia Motors in 2019.

The third most valuable transaction was the acquisition of Fidelta, a pharmaceutical company originating from the Research institute of PLIVA, where the blockbuster antibiotic azithromycin, later licensed to Pfizer, was discovered. Selvita S.A. acquired 100% of the outstanding shares in Fidelta for an enterprise value of EUR31.2 million plus the customary adjustments for net cash and working capital. The transaction was finally closed in 2021.

Other M&A transactions in the top five included the acquisition of real estate and hotel companies.

Therefore, in 2020, the IT industry was the leader in high-value M&A transactions, which is in line with global trends, followed by the pharmaceutical industry. The real estate and tourist industries have a long-standing share in the Croatian M&A market and managed to maintain this in 2020.

Recent Legal Developments

On 19 April 2019, amendments to the Companies Act were published in National Gazette No 40/2019, as well as amendments to the Court Registry Act. The goal of these amendments is easier and more efficient incorporation and termination of limited liability companies, which also affects mergers.

These amendments include:

- incorporation of limited liability company can now be done remotely, using the advanced electronic signature and without presence of a public notary;
- removal of business activities from articles of association;
- no need to deposit signatures of authorised persons with the court register;
- shortened period for registration of new companies.

From June 2019, after closing an M&A transaction in Croatia, the management of the target company is obliged to file a notification with the Ultimate Beneficial Owners (UBOs) Register – maintained by the Croatian Financial Agency (FINA) – to update the registration with respect to the beneficial owners who ultimately own or control a legal entity. This applies if a direct or indirect owner holds shares or voting rights of more than 25% in a company, whereas if no beneficial owner can be identified, the members of the management board of the legal entity are considered to be beneficial owners. All existing companies were obliged to file this notification until 31 December 2019. Also, all changes must be reported on an ongoing basis within 30 days of the change taking place. Failure to do so could result in monetary fines.

As of 19 February 2020, data in the UBO Register is made public, meaning that any person can request an extract from the register about

any legal entity without having to demonstrate any specific reason or legitimate interest. The Register is available on the following link: [click here](#). The public extract contains information on the legal entity's name, address, register and register number and legal form as well as information regarding the direct or indirect beneficial owner's forename and surname, month and year of birth, citizenship, country of residence and the nature and scope (percentage) of the beneficial ownership.

The Capital Market Act was also amended in 2020, by the Act on Amendments to the Capital Market Act (Official Gazette, No 17/2020).

These amendments introduced new thresholds for which an approval of the regulator is needed in case of an acquisition or disposal of shares in the investment company. Consent of the regulator is now needed if, following the acquisition or disposal of shares in the investment company, thresholds of 10%, 20%, 30% or 50% of shareholding in the investment company are reached, surpassed or fallen below, or in case that following an acquisition or disposal of shares in the investment company, the investment company becomes or ceases to be a daughter company of such person acquiring or disposing of shares.

Implications of the COVID-19 Pandemic and Problems in Practice

With regard to corporate law and the COVID-19 pandemic, the Croatian legislator did not adopt any amendments to the existing laws nor it has adopted new laws that would facilitate the functioning of companies during the crisis. This relates especially to general meetings and the problem of the physical presence of shareholders at general meetings. Companies usually hold their general assemblies at the end of the first quarter of a given year, to adopt decisions regarding financial reports and to decide on the utilisation of profits. However, given the cur-

rent pandemic and strict measures introduced in order to minimise the further spread of virus, there was an increase in postponing general assemblies. This applies mainly to public limited companies, with more shareholders.

Although the existing Commercial Companies Act contains provisions regarding the digitalisation of the general assembly, those amendments are rather new and apply only to those companies whose articles of associations provide for such possibility. However, companies which did not introduce this possibility in their articles of association prior to the COVID-19 pandemic do not have the possibility to hold virtual general meetings, and are subject to the restrictions in numbers of persons that can attend a meeting, so are unable to hold a physical general meeting and adopt necessary decisions. While there were certain legislative proposals for adapting new legislation that would serve to decrease the consequences of the pandemic to the functioning of these companies, such proposals were not accepted.

The Prospect Ahead

From a market viewpoint, all predictions for the M&A market in Croatia in 2021 can be summed up into one word – insecure.

Even though the Croatian market is still too small to be entirely determined by global trends and wider economic indicators, the Croatian economy has undoubtedly taken a hit from the pandemic-induced crisis we are all witnessing. According to the prognosis of the European Commission, the Croatian economy is antici-

pated to drop over 9% compared to the previous year. This year, 2021, was envisaged as the year of recovery, but considering the second and third waves of the pandemic and the recurring restrictions, it is not possible to estimate if such predictions will be realised.

However, some analysts predict that the COVID-19 crisis should have a limited impact on the M&A market, both globally and in Croatia. This is particularly due to the high liquidity of the financial market and low financing costs, because many private equity funds are looking for investment opportunities and are estimated to have an investment pool of EUR1.7 billion.

The major M&A transactions that happened in 2020 have not only attracted significant capital to Croatia, but also put the country on the M&A map of Europe and the world. It is to be expected that these transactions will have a positive impact on the perception of investment security in Croatia and serve as an “ice-breaker” for other major investments in the future.

The positive outlook is also supported by Croatia’s anticipated entry into the eurozone, which minimises the currency risk of potential investors.

However, more so than global trends, the development of the Croatian M&A market will depend primarily on internal factors – ie, business conditions in Croatia such as legal certainty, tax legislation and the attractiveness of companies and technologies seeking investors.

CROATIA TRENDS AND DEVELOPMENTS

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Vukić & Partners is amongst the top four law firms in Croatia, with a team of 55 lawyers and support staff. The firm deals with financial and corporate issues, banking, mergers and acquisitions, corporate restructuring, competition, insolvency, mortgages, individual and corporate borrowers. In connection to corporate restructurings, mergers and acquisitions, it has extensive experience in the conduct of legal due diligence and provides up-to-date advice and assistance on all aspects of law relevant

to each particular M&A transaction. Apart from purely corporate issues, the firm's clients benefit from expertise in complementary areas such as employment law, real estate law (relating to the acquisition of property of all sizes, the leasing of offices), taxation law, public tenders and dispute resolution. The firm collaborates closely with several law firms in Italy and Slovenia, and is also part of an international legal network, TerraLex.

AUTHORS



Zoran Vukić is the founding partner of Vukić & Partners. In the Croatian Bar Association he served on the Executive and Management Board, and holds memberships in the IBA and

ABA. Zoran has served on the supervisory boards of leading Croatian companies and is currently a trustee of a major private trust fund. He is an arbitrator with the Permanent Arbitration Court with the Croatian Chamber of Economy and, as of 2017, he serves on the Panel of Arbitrators maintained by ICSID. From 2013 to 2018, he was an examiner with the Bar Examination Committee. As from 2020, Zoran is the honorary consul of Hungary.



Iva Sunko has been a lawyer at Vukić and Partners since 2006. Her main areas of practice are commercial and corporate law, M&A, commercial contracts, dispute resolution/litigation and

intellectual property. Iva graduated from the Faculty of Law, University of Rijeka in 2006, passed her Bar exam in 2008 and joined the Croatian Bar Association in 2012. She is also a sworn court interpreter for English, first appointed in 2009 and reappointed in 2013. In 2017, Iva obtained a certificate for a special training programme in the field of public procurement.



Ana Bukša has been a lawyer with Vukić and Partners since 2008. She has a generalist profile with a focus on tax law, commercial and corporate law, M&A banking and finance, civil, commercial and tax litigation. Ana graduated from the Faculty of Law, University of Rijeka in 2007 and passed her Bar exam in 2009. In 2016, she passed the Aptitude Test for EU Qualified Lawyers organised by the Law Society of Scotland, thus gaining the necessary qualifications to become a Scottish solicitor. She is a sworn court interpreter for English.



Ema Vukić is a trainee lawyer expected to pass the Croatian Bar exam and to be admitted to the Croatian Bar Association in July 2021. Prior to joining Vukić & Partners, she worked in Paris in a leading commercial international law firm in the IP litigation and international arbitration departments. In 2020 she obtained her LLM degree in International Business Law from IE University, where her main focus was on M&A and international arbitration. She is fluent in English, French and Spanish and works professionally in all three languages.

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