

Featured Interview

Section Feature

Managing Partner of RULG - Ukrainian Legal Group

IRINA PALIASHVILI

Energy sector is expecting most serious investment projects that the other sectors of economy are lacking

The last several months were the most dynamic in the past 20 years in terms of changes in legal regime for oil and gas sector: a new, less attractive, regime with expressed preferences for national companies will be offered, but it will carry real investment opportunities

The demand for legal services in oil and gas sector is high and growing. Besides, oil and gas industry is one of the few where legal market players predict strong growth within the next several years. No doubt, this is explained by the fact that our State now has to develop its own energy capabilities to reduce the economic cost of domestically produced goods. Certainly, "Yurydychna Gazeta" could not miss this vital topic and decided to ask the experts, who render competent legal services in oil industry, to share their ideas on whether a law firm has any good perspectives in being involved in the services within this market sector.

Irina Paliashvili, President of "RULG-Ukrainian Legal Group" law firm, an expert with many years of experience, is sharing her ideas concerning current problems with the legislative regulation of oil and gas industry, the challenges practicing lawyers normally face in this area of business, reactions of business community to constant changes in legal regime for energy market, and expected tendencies for the oil and gas market and its players.

Photo

PROFILE

Name: Irina Paliashvili

Company: RULG - Ukrainian Legal Group

Position: Managing Partner

Company partners: 2

Lawyers in the company: 20

Key areas of expertise: investment and corporate law, merges and acquisitions, pharmaceutical industry and public health services, oil and gas sector and production sharing agreements, labor, intellectual property protection, antimonopoly legislation, anticorruption legislation, personal data protection, agriculture, real estate, construction, land.

Background: Taras Shevchenko Kiev State University School of International Relations and International Law: Master of Law; PhD in Law; George Washington University (Washington DC); LL.M. in International and Comparative Law.

Legal experience: 25 years

Previous positions/experience: Until 1992 - chief counsel for foreign-economic relations in two major Ukrainian production associations "Elektronmash" and "Microprocessor", also until 1990 - professor of Civil Law at Kiev State University School of Law.

Interviewed by Olga Dedova

"Yurydychna Gazeta"

Irina, the 6th CIS Local Counsel Forum was held in Kazakhstan in the summer of last year, on 22 - 24 June. Your firm has been organizing the Forum since it was established. What were the special features of the Forum last year?

That was our first experience in Asia. We expected a very interesting trip, Kazakhstan being third largest economy in the CIS region (it should be noted here that from the Forum perspective the "CIS" abbreviation has exclusively economic, and not political meaning since our Forum is outside of politics). We were hosted by Aequitas, a prominent Kazakhstan law firm, which is the leader of the Kazakhstan national market. Our Aequitas colleagues were excellent Forum hosts and added their national flavor to our cultural program. Due to their efforts Forum participants included members of Kazakhstan Parliament and members of the Supreme Court, lawyers from best national law firms and leading local and international companies that operate in Kazakhstan, so we were able to meet the best part of their legal community. We very much enjoyed the incredible hospitality of our hosts.

It should be noted that each Forum is fascinating in its own way. I always say that if a Forum was held on the Moon instead of the Earth, the participants would have a great time there anyway. The Forum is attended mainly by managing partners and senior partners of the CIS economic region law firms as well as international law firms from around the world. Approximately 40% - 50% of Forum delegates are the veterans who attend almost all Forums. Then each time we have new delegates too. Harmonious relations between all delegates always creates warm and friendly atmosphere at the Forums. If a local Forum host shows all the best its country has to offer, that, of course, is an added bonus.

What was the main idea behind the 6th Forum, does each of these events feature its own topic?

The program format for the Forum is mostly the same. Wednesday is always the first Forum day devoted to an informal internal meeting of CIS law firms, which is held in Russian, but because most international delegates also arrive on Wednesday, we provide simultaneous English translation. We discuss primarily internal affairs of CIS law firms, the first notable subject being CIS inter-jurisdictional professional standards, i.e. ethical and professional aspects for law practice, and any law firms that operate on the regional market can voluntarily adhere to these standards. Alexander Khvoshchinskiy, a well-known expert in CIS legal business, presents this project at the Forum.

Another Forum subject is antimonopoly matters. At our 3rd Forum in St. Petersburg we had Igor Artemiev, Head of the Federal Antimonopoly Service from Moscow. This authority is the Russian equivalent of the Ukrainian Antimonopoly Committee, and Mr. Artemiev is a well-known person in Russia. Speaking at the Forum he noted that Heads of CIS Antimonopoly Committees and Services had united to create their own organization, and suggested that the private lawyers working on antimonopoly matters also unite for future meetings to share information and experience. That was the initiative of the 2008 St. Petersburg Forum. Subsequently, several Moscow law firms formed such an organization for promotion of competition that includes law firms from many

other countries of the region. Today, it is still in existence and at each Forum its representatives tell us about the latest news in antimonopoly matters. When heads of the Antimonopoly Committees meet at their forums at the inter-governmental level, as for example they did in Bishkek, our law firms organize a parallel conference, and our firm's attorney specializing in antimonopoly matters participated in that event.

Another event at the Forum is a round-table on customs matters. New Customs Union was the principal topic of the Forum held last summer in Almaty. Although it was not directly relevant to Ukraine and many other countries represented at the Forum, at the time we were in Kazakhstan such countries as Russia, Belarus, and Kazakhstan were joining the Customs Union, and everyone wanted to know how this process was prepared and was being implemented. The discussion was led by Galina Balandina of a leading Moscow law firm "Pepeliaev Group", who had worked in the Russian Customs and has the high rank of a General. While working at Customs, Ms. Balandina was actively involved in the Customs Union preparations, and Forum delegates were able to hear her first-hand observations.

Thursday is the most important day of the Forum with the highest number of attendees. As a sign of hospitality to our international delegates and as reflection on the global nature of our profession we use English as the dominant language of communication (with simultaneous Russian translation). This day is dedicated to news from the regions, first the European part, then Caucasus and Central Asia. The news review is done fast, it features annual updates by regions, including legislation, court practice and investment climate, overview of the industries most attractive to our clients, news about the regulations that affect our profession, etc. It becomes a virtual legal tour through all countries of the region, focusing on legal market news.

Then, corporate lawyers take the floor. The conference is attended mainly by law firms, while corporate lawyers come, so to say, as guests. Nevertheless, Forum organizers offer them the opportunity to speak along with law firms to initiate the discussion. Last year we introduced a new feature - Larry King Live/Pierce Morgan Tonight style interviews (CNN format) involving two corporate lawyers well-known in the region: Natalya Thotahewage, then Head of Legal Department of Johnson & Johnson LLC, and Samat Azenov - General Manager of Legal Department of an international Kazakhstan company "Tengizchevroil", both interviewed brilliantly by Alexander Domrin, Head of the "Pepeliaev Group" Department for International Programs. This live interview with provocative questions raised exceptional interest of the audience and the delegates were able to ask "live" questions. After the interview, we all experienced a bittersweet moment sending off with flowers and warm applause our great friend Natalya Thotahewage, who completed her corporate counsel career to switch to the business side within her company.

The corporate counsel panel of the Forum is followed by a panel on legal marketing or "support of legal market industry", as the delegates call it. This panel covers not only marketing, but also the companies that render various services (consulting, publication, ratings, etc.) to law firms. Managing partners of law firms lead discussions with these analytical companies.

Four substantive panels, with the rotating topics, are held at the Forum Friday morning: merges and acquisitions, intellectual property; in Kazakhstan, of course, it was oil and gas, energy resources, dispute resolution, etc. Dispute resolution topic is discussed every year, each time with a new specific angle (disputes with the State, enforcement of international arbitral awards, etc.).

Friday afternoon is usually spent in workshops, which are a kind of training sessions, for example Mr. Khvoshchinskiy held his master classes twice. The delegates choose one of two suggested workshop options (one of them for example was mediation conducted by London mediators). We also had a workshop on taxes.

Once the conference is over, we have a Forum Cup football match played between the Host Country Lawyers Team and Forum International Team consisting of delegates from all other countries. This is my favorite, interesting and fun moment of the Forum, and although I've never knew much about football, thanks to the Forum Cup I begin to understand the game and became a fan, and I always support the Forum International Team (but of course I will switch to supporting the Host Country Team when the Forum is held in Kiev or Tbilisi!). When football match was included in the Forum program for the first time in Minsk, we had a great time, the female wing of the Forum made most of the audience while the majority of the men were on the field. By the way, the number of women participating in the Forum is growing, as most of managing partners previously were men (fortunately, within the last 7 years the number of women at the Forum has increased from the original 10 percent to approximately 35 percent). Alexander Khvoshchinskiy and Alexander Bolkvadze of a Georgian law firm are unsurpassed commentators of the Forum Cup.

And who won the match?

Host Country (Belarus) Team won the Forum Cup two years ago, and in Almaty the Forum International Team took revenge in the game against Kazakhstan lawyers! I would like to mention that Ilgar Mehti, the Managing Partner of the Azerbaijan law firm "Ekvita", saved the team in Almaty as the goal-keeper, playing with incredible professional skills. I am proud that our law firm's Counsel Yaroslav Shkvorets also contributed to the victory.

That is basically how the Forum program looks like. The evening social program is also very active. Day one is Welcome Reception, Thursday is Gala Dinner and finally Folk Dinner - a visit to a host-country national-style restaurant with folklore performers.

Taking this opportunity, I want to invite managing partners of Ukrainian law firms with international ambitions (from all regions of our country!) to participate in the 7th CIS Local Counsel Forum to be held 6 - 8 June 2012 in Yerevan, with an additional separate event in Tbilisi on 11 June. Details are available at www.rulg.com/cisforum. Registration will begin in April.

How would you characterize the end of the last year and the beginning of this year from your personal and your company's perspective?

Our team started legal practices on the Ukrainian market about 20 years ago, and has always specialized in providing comprehensive legal support to international corporate clients that represent various industries and do business in Ukraine and other CIS countries, as well as rendering local counsel services to international law firms. Within those 20 years of practice our clients and we have endured through all stages of Ukrainian market development, and the present period is not the easiest: on-going global economic crisis combined with our local challenges raise concerns of the investors, which operate on the market, and constrain new investments. The

result is very low activity on the market of merges and acquisitions, stock market, limited number of new serious projects. Fortunately, our existing clients continue to develop their businesses despite the problems in our country, and we indeed do our best to support them.

Summarizing the results of the period 2011 - early 2012 we believe it was successful for our company in many respects. Within the last year we have strengthened our practices in various areas of law, such as investments, merges and acquisitions, pharmaceutical industry and public health services, agriculture, real estate, construction, land, labor, intellectual property protection, antimonopoly, anticorruption legislation, personal data protection, etc. We continue developing one of our strongest areas of expertise - oil and gas and production sharing agreements.

As to this year's legal market tendencies, we reiterate our opinion that middle-size, dynamic and flexible law firms (15 - 25 experienced lawyers of universal range with additional specializations) are best suited for fast changes, including crisis-related changes in modern Ukraine's economy. Of course, we will adapt if the situation changes, in particular we will think about expansion options and implementing new reforms!

Oil and gas is one of your company's areas of expertise. Please share with the readers of "Yurydychna Gazeta" your own observations concerning the current problems with the legislative regulation of oil and gas industry?

Oil and gas industry (and energy sector in general) is expecting most serious investment projects that the other sectors of economy are lacking. We annually publish an article in major international professional publications that contains an annual analytical overview of the legal regime for oil and gas industry, and our new overview covering 2011 and the beginning of 2012 will be published next week, so we are pleased to share our most recent conclusions.

The developments are very dynamic, so what we are discussing today may change or develop further within the next few days and weeks. The following key tendencies are currently notable in the sector: preferential treatment and strengthening role of Ukrainian national companies (especially those with State-owned interests) on the legislative level, for example special subsoil use permits are issued without auctions to the companies in which the State holds 25% or higher interests or the required mandatory participation of a national company (in which the State's share has not been specified yet) as a partner of an international investor in production sharing agreements. Everybody understands that national companies lack resources and technical capabilities and count on financing from investors.

Legislative Amendments that would finally allow the assignment of subsoil use rights to investors or pledging of same are currently pending, so for the first time there will be conditions for the development of a civilized modern market in the sector. Under the currently available legal vehicle for oil and gas investments - joint activity agreements - the investor has no rights to use subsoil. Besides, this vehicle on the one hand was offered by the State to investors as the key and almost the only option, and on the other hand was compromised by the State because of numerous attacks and the restrictions imposed on it by State authorities and courts. Oil and gas projects require considerable money, are long-term and raise serious commercial and political risks. Investors are fed up with cat-and-mouse games with joint activity agreements and are expecting either radical changes that would allow assignment of subsoil use rights, or the ability to

set up joint ventures and obtain for them special permits (Subsoil licenses), or production-sharing agreement projects. Serious players are not prepared to invest in the Ukrainian oil and gas sector on any other terms.

What problems do your company lawyers face when they work on oil and gas sector projects? What changes can be expected next year in the legislative regulation of this industry?

Archaic and confusing legislation and, most importantly, lack of political will, loss of trust in the State and in national companies as partners for the investments in this sector. The last several months were the most dynamic in the past 20 years in terms of changes in legal regime for oil and gas sector: a new, less attractive, regime with expressed preferences for national companies will be offered, but it will carry real investment opportunities. These changes have not been completed yet, and it is too early to discuss how the investment community would react to them, whether it will accept the new rules of the game and whether the reforms will be sufficient enough to restore trust and attract serious investments.

What tendencies can be expected in 2012? What can the market and its players expect?

The main event expected by everyone is tenders for the conclusion of production sharing agreements ("PSA") with respect to Olesska and Yuzivska Subsoil areas. The tenders have not been announced, but the Cabinet of Ministers of Ukraine already issued two resolutions No. 1297 and No. 1298 dated 30 November 2011, which contain key conditions of the future tenders. Many investors are getting ready to participate in the tenders, and the investment community will evaluate industry prospects in general based on how transparent and civilized the tenders will be.

Please share with the readers of "Yurydychna Gazeta" your company's achievements in oil and gas industry.

Oil and gas industry is indeed one of the key areas of our firm's expertise since it was created in 1992. In addition we have special knowledge and experience in production sharing agreements (PSA) because our law firm drafted the respective legislation and also represented Hunt Oil, a main participant of the tender held with respect to Prykerchenska area of Black Sea Deepwater sector in 2006. Later, in 2009 - 2010, I acted as an independent expert in a dispute between Vanco, which won that tender, and the Ukrainian Government in Stockholm International Arbitration. We frequently publish articles in major international professional editions, speak at specialized conferences, for example in May 2012 I will be presenting our annual overview at the 17th conference of Balkan and Black Sea Petroleum Association (BBSPA) in Vienna.

It should be noted that within the past several years we have been focusing primarily on Ukrainian market, although previously we also worked on projects in Russia, Kazakhstan, Azerbaijan and Georgia. Our team has accumulated a broad experience that we use for the benefit of our clients, including major European and US oil and gas companies, as well as international law firms that work on oil and gas projects where we act as their local counsel in Ukraine.