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A guide to business trends in Poland

TRENDBOOK

Poland vol.1

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Andrew Kureth
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Trendbook Poland

Dear reader,

By now you know that Poland was the only EU economy to grow in 2009. You probably also already know that Poland is expected to lead the EU in GDP growth in both 2010 and 2011 – at 2.7 percent and 3.3 percent respectively, according to the European Commission. You know that Poland is the eastern EU's largest internal market, at 38 million people, and that its labor force is well-educated and efficient. You are likely aware that Poland offers a number of incentives for investors, and that it lies at an important crossroads of East and West, in a perfect geographical position to support international trade.

But there is much more to know about Poland's business environment, and *Trendbook Poland* sets out to provide you with the in-depth information you need to do business in its market. We have taken the resources of *Warsaw Business Journal* – Poland's foremost English-language publication – and brought together comprehensive information on the trends and trendsetters shaping Poland's business landscape.

We have set out 10 major trends that anyone doing business or looking to invest in Poland should know about. We examine a diverse array of sectors – from e-commerce to energy, from infrastructure to luxury goods.

We also look at some major macroeconomic trends affecting the market, such as Poland's stability throughout economic and political crises and its program to privatize huge state-owned enterprises.

Politics too, is an important a factor contributing to any business environment, and we take a look at Poland's rising international standing, particularly its growing influence within the EU as it prepares to assume the bloc's rotating presidency in the second half of 2011.

To complement the information about these trends, we have put together several sections showcasing trendsetters in the Polish economy. Who are Poland's richest businesspeople and how are they changing Poland's business landscape? Which Polish cities are leading the drive towards modernization? Who is at the forefront of the development of sustainable solutions? Which companies are making a splash and which real estate firms are leading the market back to recovery? *Trendbook* answers these questions.

Along the way we have also included expert commentary from those who know the issues best, and legal analysis to offer you insight into key regulations governing the market.

Put simply, *Trendbook Poland* gives you the comprehensive intelligence you need to make decisions about your business and investments in Poland.

The drive to converge with the West

Martin Oxley
Chief Executive Officer, British Polish Chamber of Commerce

Poland's short- and medium-term economic future will be predicated above all by the country's full-on drive to converge with Western Europe. Looking back at pre-accession forecasts for how long it would take the new member states to catch up with the old EU 15, it's clear that the process is happening faster than anyone dared to predict in 2004. GDP, industrial production, productivity, consumer spending – all these indicators are growing at a faster pace than in "old Europe." Boosted by EU funds, the Polish economy is set fair to continue to show three to four percentage points of GDP growth more than Germany, the UK, France or Italy.

Poland's growth could be boosted further still by a more concerted effort by the government to lower the bureaucratic barriers that act as a handbrake on the economy. It has to become easier for entrepreneurs to set up businesses, employ people and pay taxes in Poland. If not, international investors and Polish entrepreneurs alike will move to countries where the state is more business-friendly. The BPCC's membership looks forward to meaningful reforms in the Polish state that will curb wasteful public spending, and trim the budget deficit to levels that will enable to złoty to move smoothly into the euro zone.

People – creating strong positive trends for Poland

Peter Tærø Nielsen
Chairman, Scandinavian-Polish Chamber of Commerce

In the countries to the southwest, west and north of Poland, the authorities and industry organizations are facing a growing problem: The younger generations lack ambition for themselves and this leads to a lower degree of education, work and entrepreneurship. Increasing individualism reinforces this development.

Taking Denmark as an example, it is now clear in the statistics that the average level of education is falling if you compare the previous generation to this one.

The archetype of this phenomenon is a young man quitting his educational programs, getting a well-paid job in a warehouse or a call-center, preferably close to where his mother has her kitchen. He buys a second-hand BMW to impress friends and just enjoys life. It's not just that the brains and power of these youngsters is lost to society. They are also developing into a social problem, generating costs for society.

In Poland, the equivalent generations tried the hard times – financially, as well as politically – themselves, or at least their parents did. Further, the Poles traditionally think more about the common good and less about their individual interests.

This creates a completely different attitude. Ambition is motivating the people to work hard and to be higher and better educated, so the overall trend is contrary to that of Western countries.

Such positive trends are visible in Poland – enabling it not only to stay competitive, but also to increase its competitiveness in production, entrepreneurship and innovation.

Poland's stable domestic growth could mean international success

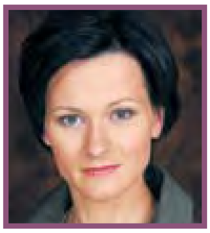
Lars Bosse
General Director, Member of the Board, German-Polish Chamber of Industry and Commerce

Poland passed smoothly through the turbulence of the global economic crisis, and the most recent data allow us to believe that the forecast "crisis after the crisis" will not occur. The European economy is also improving at a faster-than-expected rate – a good sign for Polish exports.

Unemployment growth has not exceeded expectations, creating hope that consumption will remain strong, while on the other hand wage growth has slowed, thanks to which Poland remains cost-competitive, an important argument in the struggle for investors. After the stabilization of the situation on world markets, the inflow of FDI should increase greatly – this has also been confirmed by the Polish Information and Foreign Investment Agency, which now supports over 130 projects.

For the near future, the main sectors in the structure of exports will remain the electromechanical, chemical and food industries. Foreign companies, those from Germany in particular, have long appreciated Poland's products, which are characterized by high quality and very competitive prices. The food industry, for example, still has great potential to reach individual customers with its products – healthy, tasty and largely natural products – at affordable prices. And today's fashion for healthy food is a tremendous advantage.

What many Polish companies are missing is a desire to diversify their products for different markets. Polish kielbasa is definitely the best according to Poles, but the French say the same thing about their own sausage... This applies to many products, especially those targeted at individual consumers. Try employing an expert on the local market, a native – despite the initial cost, this employee could be the proverbial goose that lays the golden egg!



Preparing for future growth – and profit – in Poland

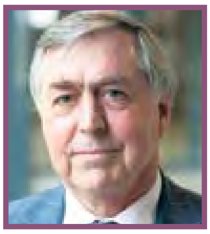
Monika Constant
General Director, French Chamber of Industry and Commerce in Poland

The year 2009 was full of economic events which forced many companies to scrutinize their budgets. However, as Poland is emerging from the crisis relatively unscathed, we may look to the future with optimism.

What will the next few years bring Poland? Certainly one important decision which will affect the economy is the launch of work on the "Polish Nuclear Energy Program." Tapping into new sources of energy is in fact extremely important at a time when Poland is growing so rapidly. In this area we can benefit from French examples and experience, since almost 80 percent of energy produced in France comes from nuclear power plants.

However, this is not the only area in which Poland is making huge improvements. In looking at the achievements of the member companies of the French Chamber of Industry and Commerce in Poland and the solutions they use, we can see a growing interest in renewable energy. New initiatives, such as electric cars, have clearly shown that sustainable development is the direction companies will turn to.

Nor can we forget about Poland's increasing role as one of Europe's major service centers in the business process offshoring sector, mainly in fields such as accounting, financial and IT services, but also in the field of research and development. Although labor costs in Poland will certainly approach the European average in future years, we can use this time to attract as much investment in this field as possible.



The Netherlands – the second-biggest foreign investor in Poland

Fred Hoogerburg
Chairman, Netherlands-Polish Chamber of Commerce

Reflecting on the investment climate in Poland, the Netherlands-Polish Chamber of Commerce considers Poland to be a country with many possibilities for Dutch investors. Poland is by far the biggest of the newcomers to the European Union since 2004 and until 2013 a large amount of EU funds will still be available for further development.

Much of these EU funds will be used for improvements in infrastructure. Consulting and engineering companies from the Netherlands, like Arcadis and DHV, have already won tenders. Many new projects are coming up regarding water- and waste-management. The Netherlands is traditionally strong in these fields, thus we expect many Dutch companies to compete in such tenders.

Other priority areas for Dutch companies are transport, renewable energy and energy efficiency. The Dutch are trying to make full use of the opportunities available through the concerted action of the Dutch government, including the Dutch Embassy in Warsaw, and intermediary bodies such as sector organizations and the Netherlands-Polish Chamber of Commerce.

According to data from the National Bank of Poland, the Netherlands was the second-biggest investor in Poland in 2009. As a Chamber, we can also see the impact, as we currently have over 100 members – an increase of 30 percent compared to a year ago. These are indicators showing that investors from the Netherlands will not miss out on Poland.

High-potential sectors of the Polish economy

In 2009, the year of crisis, FDI in Poland fell only by 16 percent, whereas the global decrease of foreign investment amounted to 40 percent. Clearly, Poland is still attractive to foreign investors

According to preliminary data from the National Bank of Poland, FDI inflow to Poland in January and February 2010 was over €2.2 billion. In 2009, with the economic crisis raging around the world, Poland saw FDI inflows fall by just 16 percent y/y, reaching €8.4 billion.

The figure is one of many factors that testifies to the fact that the crisis did not decrease Poland's FDI inflow dramatically. This, and the visible improvement in the investment climate in Poland, show that when it comes to foreign investment, the country performed better than expected by even the most optimistic analysts.

Beyond the statistics, foreign investors themselves willingly admit that Poland remains attractive: in AT Kearney's Foreign Direct Investment Confidence Index, Poland rose from 22nd place to 6th. The study's participants included managers of companies that combined boast more than $2 trillion in annual income.

Strong fundamentals

The Polish economy and its appeal to investors are based on fundamentals that are strong enough to stand up to the turbulence of crisis. European Union membership, an absorptive internal market, an educated workforce and investment incentive schemes are just some of the factors that make Poland an attractive investment destination.

As of April 2010, the Polish Information and Foreign Investment Agency (PAIiIZ) had been working on 132 projects worth jointly €5.1 billion and with the potential to generate some 35,000 jobs. That's over 50 projects more than at the same time a year ago.

In comparison to 2009, 2010 saw an increase in the number of projects from the modern services sector.

"Our fairly obvious prognosis has come true: Poland has become less attractive for traditional production investments, which require less-qualified workers, and is attracting an increasing number of advanced projects which involve well-educated people with linguistic skills and specialized knowledge," said Sławomir Majman, President of the Board of PAIiIZ.

Every fourth project comes from a US-based investor, while the UK and France round out the top three countries which invest in Poland.

Also, investors from East Asia have been more and more interested in the country. "As expected, after five years of total silence, there has been a slow revival on the part of the Korean and Japanese markets. PAIiIZ is currently conducting nine Korean projects. For the first time, the top set of investors does not include companies from Germany," said Mr Majman.

Here are the sectors of the Polish economy that have some of the best investment potential:

Automotive

Even in the demanding environment of the year 2009, Poland managed to attract new automotive businesses. The start of production of the new Opel Astra IV at the GM plant in Gliwice will have a significant positive impact on a number of suppliers operating in Poland.

Also, suppliers which have recently begun operation, such as BorgWarner, Nidec Corporation, Hoerbiger and Keiper, contributed to the Polish automotive industry's positive results last year.

Of course, that's not to mention the Fiat plant in Tychy, which by exceeding the production threshold of half a million units has become one of the biggest vehicle manufacturing production operations in Europe.

The key regions for locating new automotive investment projects are traditionally those areas which are home to vehicle manufacturing operations, such as Upper Silesia, Wielkopolska and Lower Silesia voivodships. Proximity to clients, good transportation accessibility, availability of qualified human resources and investment-ready plots in SEZs are among the key reasons investors choose those areas.

The majority of investors who are currently coming or are expected to arrive in subsequent months in Poland are based in Asia and the US. Besides newcomers, foreign companies already present in Poland are beginning to play a significant role in bringing in new investments. Impressed with Poland's high-quality and efficient labor pool, they often decide to reinvest earnings in new ventures here.

In the upcoming months Poland will experience a growing interest from producers and parts suppliers of electric cars. This will again significantly change the automotive landscape starting from 2012.

Pharmaceuticals

The pharmaceuticals sector is one of the top-performing branches of Poland's economy, and this was especially true during the crisis. Drug sales and employment in the sector have been constantly growing and are predicted to continue do so in the near future at an impressive pace. This may be ascribed to the fact that no matter the economic status, among all products purchased by the 38 million people in Poland, medicines are usually at the top of the list of priorities.

The Polish pharmaceutical sector doesn't only comprise domestic firms. Well-known multinationals have been making an impact on Poland for many years. Many global players that have established their manufacturing activity in Poland value the conducive investment environment that the country offers.

It is said that Polish plants are some of the most efficient and modern units within the whole of these pharmaceutical groups. It's therefore no wonder that global giants like GlaxoSmithKline, Sanofi-Aventis and Teva have recently announced significant re-investments in Poland.

The future of the Polish pharmaceutical market will definitely be shaped by other reinvestments, takeovers of state-owned companies in the already-ongoing privatization process as well as by the biotechnology sector, which is being treated as a priority by the Polish government.

Electronics

Poland's electronics industry is one of the most significant in Europe. Poland is the largest producer of LCD screens and the second largest producer of household appliances in the EU. The strong position is a result of foreign investments. Many international companies like LG, Sharp, Toshiba, Bosch, Electrolux, Indesit and Whirlpool have decided to establish their manufacturing bases in Poland. The main reasons for this were:

- Poland's favorable location at the crossroads of major trade and transport routes leading from the north to the south and from the east to the west of the continent;
- access to the single European Union market;
- comparatively low labor costs for well-qualified professionals.

The electronics industry is highly innovative. The introduction of new technologies is very often connected with new investments and this could provide an opportunity for Poland. Recent investments by Samsung and Jabil have convinced us that Poland will be very successful in attracting new investors and strengthening its position as a manufacturing center in the EU.

Machinery and steel

The constant growth of Poland's economy over the last few years has boosted the development of the machinery industry in Poland.

In 2009 the sector was influenced by the global economic slowdown, but new trends are being observed. A growing number of wind farms is resulting in rising demand for windmill elements, enticing foreign investors to begin manufacturing turbines, blades and other such components in Poland.

The possibility of including the premises of the former Szczecin shipyard into the EURO-PARK MIELEC Special Economic Zone might additionally stimulate the development of the machinery sector.

Brand new trends are expected in the steel branch as well. Major infrastructure projects connected with preparation for the Euro 2012 soccer championship are expected to boost domestic steel production and consumption.

Aviation

The Polish aviation sector is strongly connected with the global industry. The difficult situation on the world market in 2009 restrained the increase in the total turnover of the sector in Poland, which has been constantly growing since 2003 (the total turnover in 2009 was about zł.2.8 billion, and employment in the sector reached 22,000 jobs).

A plethora of multinational aircraft-industry corporations are present in Poland and over 90 percent of production is exported. Poland's long history of aviation and a skilled workforce have attracted many investments in the form of privatization (Pratt & Whitney, EADS, AgustaWestland, Sikorsky and Goodrich) as well as in greenfield projects (Avio, Hispano-Suiza, GE and MTU).

Regardless of the giants, Poland has a strong base of SMEs constituting a wide chain of suppliers for companies such as Boeing, Airbus and Embraer, as well as producers of light aircraft and gliders.

These companies continue to develop their operational activities, in contrast to the stagnation seen in many areas around the world. Some examples include:

- Avio – design and implementation of a new component for the new GEnx-2B engine;
- PZL Mielec, Sikorsky – production of the Black Hawk helicopter;
- PZL-Świdnik, AgustaWestland – assembly of the complete fuselage and wings for the PC-12 Pilatus.

The future of the Polish aviation sector looks very positive against the backdrop of the global market slowdown, and manufacturers in the sector expect growth this year.

SSC/BPO

The global economic crisis and the economic slowdown in Poland have significantly impacted industrial output. This has slowed the inflow of manufacturing projects, but at the same time increased the need for companies to implement cost-optimization strategies. That has been beneficial for the Polish economy – big multinational corporations were the first to show their interest in setting up Shared Services Centers – be it in finance & accounting, human resources, back-office operations or IT support.

But what has come as a surprise is the growing number of medium-sized companies inquiring about moving part of their operations into Poland. One plausible explanation comes to mind: Survivors from the economic storm have become stronger and are going global. Companies' needs for geographical diversity are well-complemented by the growth of Poland's own internal market, making the country an attractive place to start doing business.

The economic downturn cooled down the SSC/BPO labor market in Poland's largest cities, such as Warsaw, Kraków and Wrocław, and made those locations more stable and predictable in terms of wage inflation and attrition rates.

The boom for SSC/BPO centers in Poland began five years ago. As the market becomes more mature, companies feel more confident about rendering more complex services in Poland. More emphasis than ever is being put on IT and R&D activities, and so the above-mentioned trends are expected to continue in the future.

Text provided by
the Polish Information and
Foreign Investment Agency

STABILITY IN THE STORM

By **Remi Adekoya**

One of the European Union's newest economies has emerged as one of its most stable

Poland has been twice tested in the past two years. The first trial came in the form of the economic crisis which shook the world in late 2008 and has only recently begun to abate.

The second was infinitely less foreseeable, and far more tragic. The April 10, 2010 plane crash in Smolensk, Russia, was the sort of ordeal which truly tests a nation's mettle. Among the 96 lives lost were President Lech Kaczyński, National Bank of Poland head Sławomir Skrzypek, the commanding officers of all of Poland's armed forces and key politicians spanning the political spectrum.

That Poland endured each of these tribulations without faltering bears witness to its stability. That investors reacted only slightly or not at all to the tragedy in Smolensk reveals the faith the Polish economy has earned, as well as its future potential.

"Finance Minister Rostowski in particular can be singled out for keeping his cool during the crisis"

POLAND, POST-CRISIS

Poland emerged from 2009, a year dominated by the global financial crisis, with a GDP growth rate of 1.8 percent, by far the best result in Europe. Moreover, Poland was the only nation in the European Union to maintain positive growth throughout all four quarters of the year. The economic outlook for 2010 and 2011 is even more promising.

The Organization for Economic Growth and Development (OECD) has forecast GDP growth of 3.0 percent in 2010 and 3.6 percent in 2011. The International Monetary Fund (IMF) expects the Polish economy to expand by 2.7 percent in 2010 and by 3.2 percent in 2011. And the European Commission has predicted 2.7 percent growth for 2010 and 3.3 percent for 2011.

MORE THAN MACROECONOMIC

It is important to note, however, that Poland's stability is reflected in other places besides its economic indicators. It is also visible in the populace's perceptions of the national economy, living standards and institutions, which have improved significantly since Poland joined the EU in 2004. Moreover, it is clear that public sentiment in Poland is more optimistic than in many other nations of the Central and Eastern European region.

In a Gallup survey conducted in January 2010, 28 percent of Poles said the economy was improving, by far the highest result among former communist countries in the region. In the Czech Republic, for example, 14 percent of respondents shared this view of their country's economy, compared with just eight percent in Romania and a meager four percent in Hungary.

In the same poll, 31 percent of Poles said their standard of living was improving, and 24 percent of Czechs felt the same way. In Romania the figure was 17 percent, while in Hungary and Bulgaria the figures stood at 13 and seven percent respectively.

Importantly, Polish confidence in national institutions such as the judicial system, the military and the national government has also improved steadily since EU accession, reflecting the country's overall stability and growth. Confidence in the judicial system, for example, has tripled in the past five years, from 16 percent in 2005 to 48 percent in 2010, according to the Gallup poll.

RESILIENT AND OPTIMISTIC

Rafał Antczak, an economist and vice president of Deloitte Business Consulting, attributes the resilience of the Polish economy to the hardship Poles

faced in the early 1990s when the country embarked on economic transformation from a socialist economy to capitalism.

"In the first years of transformation, the country was in a permanent economic crisis. What happened in 2008 was nothing compared to what the Polish people went through in those years, so Poles are used to difficult situations. That's why they didn't panic," he said.

He added that as a result of these tough beginnings, Polish companies had learned to be elastic and flexible, adapting quickly to new realities.

"We are also a nation demographically younger than many Western countries, and are therefore more optimistic about the future in general. Despite the optimism and strong consumption though, Polish companies and households are still not as deeply indebted as their Western counterparts," he said.

Grzegorz Maliszewski, chief economist at Millennium Bank, credited tax-cuts for the the economy's resilience.

"Apart from the flexibility of the Polish workforce, another important factor that has worked in Poland's favor is the personal income-tax cuts, which had been passed before the crisis and came into effect in 2009. This really helped to keep consumption strong," he said.

Mr Maliszewski also pointed to the fact that the Polish economy was not as leveraged as in many other countries, its growth had been stable in the last few years, avoiding overheating, and it had access to EU development funds which have mainly been used for road construction and other infrastructure projects.

"Regarding the calm market response to the Smolensk tragedy, I think it was largely a result of investors' general confidence in Poland and the fact that our Constitution laid clear rules providing continuity of government," Mr Maliszewski added.

POLITICALLY STEADY

In the aftermath of the Smolensk tragedy, Prime Minister Donald Tusk and Bronisław Komorowski, speaker of the Sejm and acting president, moved quickly to fill key roles in the government and military. There was no unrest of any kind on the streets as some might have feared in a democracy just 20 years old. The nation's financial sector reacted calmly. No panic was reported in either the currency or equity markets.

This smooth transition was testament to strong governmental institutions in Poland and increasing confidence in them.

Despite the fact that Poles often complain about their political leaders, it would seem that they too have passed the test thus far.

"On a scale of one to 10, I would give Poland's political leaders a solid seven. Even though they might argue about a host of issues ranging from the vetting of former communist secret service agents to foreign policy, these disputes have no effect on the economy, as all the governments of the past 20 years, be they right- or left-wing, have pursued the same liberal economic policies. This has helped create a stable and predictable economic situation," said Richard Mbewe, an independent economist.

He also said that due to Poland's calm and measured response to these two crises, investors now view the country as a "mature" emerging economy.

"Finance Minister Rostowski in particular can be singled out for keeping his cool during the crisis and not succumbing to the pressure that was being put on him to increase spending as [finance ministers in other nations were] doing," added Mr Mbewe.

Political stability in Poland is a factor that cannot be overlooked when examining the success the country has achieved so far.

The Czechs and Hungarians both saw governments collapse during the financial crisis, while Poland's ruling coalition of Civic Platform (PO) and the Polish Peoples' Party (PSL) remained strong, with Prime Minister Donald Tusk firmly in control of the political situation.

"It is definitely a big plus for Poland that, unlike some other countries in the region, it has enjoyed political stability in these trying times," said Piotr Kalisz, chief economist at Citi Handlowy.

Mr Kalisz also noted that another of the country's major advantages is its well-qualified, relatively low-cost workforce.

FORECAST: STABLE

The Smolensk tragedy hastened a presidential election originally scheduled for autumn 2010. While elections always bring a measure of uncertainty, the tragedy actually eliminated some by forcing Poland to decide on its president earlier. As *Trendbook* went to print, the race was as yet undecided, but Acting President Bronisław Komorowski of the pro-business PO party had a significant lead in the polls.

And although his main competitor, Jarosław Kaczyński – head of the opposition Law and Justice party and twin of the late president – is ill-regarded by many in the business community, he is not exactly anti-business. Personal income tax cuts were passed under his leadership as prime minister and Zyta Gilowska, a respected economics professor known for liberal economic views, served as his finance minister and deputy premier.

Pushing the matter of the presidency to one side, however, it's important to remember that Poland's economic fundamentals are expected to remain stable. Though the government is dealing with a growing budget deficit, it has embarked upon an ambitious privatization plan (see pp. 16-19) to fill that gap. And, as mentioned above, all of the relevant authorities forecast healthy GDP growth for Poland, which will likely continue to set the pace for the continent.

Unemployment levels had fallen to 12.3 percent by April 2010, and while experts had put that down to mostly cyclical factors, they expected unemployment to stabilize throughout the year.

Meanwhile, Poland saw a drop in foreign direct investment of just 16 percent in 2009, much less than that experienced by some of its neighbors, and 2010 may well see positive FDI growth. According to the Thomson Reuters & OeKB Central and Eastern European Business Climate Index, investors in the region are increasingly optimistic about its prospects.

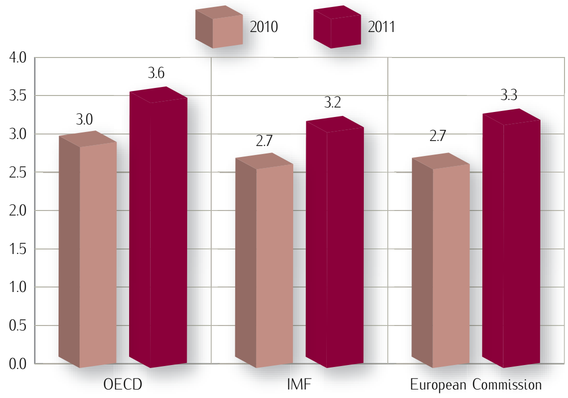
Poland has clearly emerged the stronger from the ordeals of the past two years. It bears scars, but its steadfastness has earned a good deal of respect. This has ramifications for the region as well – stability could become a Polish export. ❃

Views on standards of living in selected CEE countries

	Satisfied with standard of living	Standard of living getting better
Poland	**66%**	**31%**
Bulgaria	24%	7%
Czech Republic	69%	24%
Hungary	43%	13%
Latvia	33%	6%
Lithuania	33%	4%
Romania	42%	17%

Source: Gallup (surveys conducted in 2009 and 2010)

Various GDP growth forecasts for Poland



Sources: OECD, IMF, EC

How Stable Is Poland?

Witold Orłowski
Chief Economic Advisor, PricewaterhouseCoopers

After achieving a 1.8 percent rise in GDP in 2009, Poland has maintained its position as a growth leader in Europe, seeing a healthy three percent expansion of output during the first quarter of 2010. Growth was supported both by accelerating domestic demand (in particular private investment), as well as by increasing exports.

The real question, however, is Poland's macroeconomic stability. Despite its excellent growth record, the economic prospects are overshadowed, once again, by developments on global financial markets.

These days we see several European economies losing credibility with the markets. Greece is close to a sovereign default (the risk has been, at least temporarily, reduced by the huge financial assistance from the IMF and other euro zone countries), Portugal and Spain may soon follow suit.

Many Central and Eastern European countries may once again suffer a huge risk of instability if access to international capital markets is reduced by panic in the market. One can easily imagine that a second wave of the financial crisis, this time caused by the insolvency of governments rather than banks, may be about to hit the global economy. Is Poland prepared to cope with the approaching problems?

Cause for confidence

We should note that the Polish economy proved its high resilience in response to external shocks during the first wave of the crisis in 2009. The astonishingly good performance of the Polish economy can be attributed to a combination of several factors.

Firstly, the country is still benefiting from its attractiveness as a production site. Although the scale of FDI inflows seriously decreased during the crisis, lower labor costs and higher labor-market flexibility led to a much smaller fall in industrial output and exports than seen in Western Europe.

Secondly, Poland's flexible exchange rate regime helped to deal with the global instability and to absorb shocks. The weakening of the złoty, combined with the fall in demand for capital and intermediate goods, led to a steep decrease in imports and supported exports.

Thirdly, the low indebtedness of Polish households and firms, a relatively strong portfolio of banking assets, and the clear readiness of the foreign banks to support their Polish subsidiaries in case of problems, allowed Poland to avoid any major instability in the financial sector.

Fourthly, after some turmoil during the first months of 2009 caused by the sudden reduction in access to foreign financing – enhanced by what was probably speculation against the złoty – the exchange rate stabilized at a level convenient for exporters, banks and creditors.

Fifthly, the country benefited from increasing inflows of the EU funds.

Finally, Poland's macroeconomic policy – albeit not ideal – proved adroit, and helped the country avoid errors made by some other countries in Europe.

Tried and tested

That last factor – the ability of Polish institutions to manage economic policy in difficult times – has been severely tested in 2010. The Smolensk tragedy, which resulted in the deaths of the president, head of the central bank, and many other officials occupying crucial position in the decision-making process, raised questions about the functioning of the Polish policy-making institutions during the crisis.

The outcome, however, was encouraging. The vital functions of the state were not disrupted, and the change in personnel was swift. The markets hardly

"The Polish economy proved its high resilience in response to external shocks during the first wave of the crisis in 200"

noticed any problem, maintaining the stability of the złoty.

Now we face new problems. The rapid deterioration of the mood on European sovereign debt markets, connected with the risk of the Greek default, is likely to lead to a long period of nervousness. Poland is not a member of the euro zone and the financial situation of the country, albeit deteriorated due to the excessive build-up of fiscal deficits in 2009-2010, is quite comfortable relative to many European economies.

Nevertheless, market nervousness may lead, once again, to the serious weakening of the currency, as well as to an increase of interest rates on domestic public debt.

But the overall effect of the turbulence on the Polish economy may not be as dangerous as it looks at first glance. What was likely an excessive strengthening of the currency previously was widely seen as the biggest risk for the real economy during 2010-2011. Now the weaker złoty, due to the Greek disease spreading across Europe, may once again help keep Polish GDP growing and unemployment decreasing.

Risks ahead

Obviously, the list of risks connected with the turbulence is quite extensive and should be closely monitored. An excessive and prolonged weakening of the złoty, as well as problems with access to foreign financing and foreign exchange swaps, could endanger the position of the domestic banking sector once again.

Raising interest rates on government debt, as well as problems with placing the necessary quantity of bonds on the market, may force the government to implement a radical program of spending cuts.

Finally, a possible deterioration of business and consumer sentiment in Western Europe could slow the expansion of Polish exports.

Nevertheless, Poland is well-prepared to deal with these problems. The central bank's reserves are sufficiently high, and the flexible exchange rate regime should help in coping with market instability.

The banking sector has already proven resistant to foreign exchange shocks. The fiscal position of the government, albeit far from ideal, seems to be sustainable in the medium term if only a reasonable effort is made to curb the expenditure increases.

Finally, a weaker złoty may partly offset a possible slowdown in the Western European recovery.

Exaggerated panic

Moreover, the panic about the stability of the euro is greatly exaggerated. Taking note of all the problems of financially weaker euro zone economies, such as Greece, Portugal and Spain, as well as of the exposure of many European banks to the sovereign debt of these countries, one should also remember that the financial fundamentals of the euro zone as a whole are more sound than those of the US. The savings levels are much higher, and the indebtedness levels considerably lower.

Even if several weaker states face serious financial problems, there is no doubt about the medium-term sustainability of the fiscal position of the core euro zone economies (Germany, France and the Low Countries). Therefore, some elements of short-term speculation is visible in the current market approach vis-á-vis the euro, which is not fully supported by fundamentals.

As a consequence, I expect the mood to improve relatively quickly, bringing the current turbulence to an end and paving the way to the further acceleration of growth in Poland and a renewed process of złoty strengthening. ❃

Trendsetting companies

Alior Bank

Alior is one of Poland's youngest banks, but it significantly shook up the market when it entered in 2008. It has since earned several awards and was named Poland's most customer-friendly bank by *Newsweek*. Developed as a greenfield project, in about a year and a half it managed to open about 570,000 individual bank accounts, including about 37,000 corporate accounts.

Alior Bank ranked second in the 2010 ranking of the best places to work according to the Great Place to Work Institute Polska. Bosses and managers work in the same open space as regular employees.

Adamed

This research-driven pharmaceutical company has become a key player in the Polish market. It recently acquired Polfa Pabianice and is a short-listed bidder for Polfa Warszawa. Over the last three years the company has spent about zł.70 million on research and has gained 22 drug patents. The company is also present in Ukraine and expanded into Spain in 2009.

Comarch

Established in Kraków, Comarch has become a respected international IT company, providing ERP and CRM software for about 40,000 clients around the world. With its German subsidiary, it recently strengthened its expansion to the Far East, partnering with a Chinese IT firm. Comarch sees its future in research and development, and has therefore designated about €10 million a year for R&D.

Allegro

Since 1999 Allegro has managed to build a community of about 10 million internet users, becoming the third-most popular website in Poland.

In terms of e-commerce platforms Allegro dominates the market, generating as much as 50 percent of the traffic.

But Allegro group also comprises a number of auction websites, including some that allow internet payments, as well as car and home sales.

Gadu-Gadu

Gadu-Gadu expanded from a small internet communicator to a WSE-listed group including a social website, a phone service and a Twitter-like microblogging service named Blip. The firm has also been in negotiations with Radio Zet to create a large internet radio platform.

PZL Mielec

In March this Sikorsky Aircraft-owned company delivered its first S-70i Black Hawk helicopter fully manufactured in the Mielec plant. Able to produce 20 such aircraft a year, PZL Mielec has become one of the most important points on the map in the global defense industry. The company's success has had a huge impact on the promotion of the region, Poland's "Aviation Valley."

THE DRIVE TO PRIVATIZE

By **Marynia Kruk**

The privatization of state-held assets is building international awareness of Poland and further professionalizing the maket

In 1999, a previous government's decision to sell a 30 percent stake in Polish state-owned insurer PZU to Dutch financial firm Eureko whipped up such a political backlash that Poland launched a decade-long battle with the Dutch investor to claw back ownership and control of what many considered a national champion. The row damaged Poland's reputation as a safe place to invest and raised its political risk profile.

Now, 10 years later, PZU has debuted on the Warsaw Stock Exchange in the biggest initial public offering in Poland to date and the biggest in Europe since 2007. This time around, the debut was not accompanied by criticism from the media or opposition leaders. The lack of media protests against the IPO, which

Major privatizations in 2010-2011			
Company	Sector	Method of privatization	Stake to be privatized
Energa	Energy	Strategic investor	83%
PGE	Energy	Sale of shares on WSE	10%
Police	Chemicals	Strategic investor	59%
Puławy	Chemicals	Strategic investor	50%
Ruch	Press distribution	Strategic investor	55%
Tauron	Energy	IPO on WSE	25%
TP	Telecoms	Sale of shares on WSE	3%
Warsaw Stock Exchange	Finance	IPO on WSE	60%
ZE PAK	Energy	Strategic investor	50%

Source: Treasury Ministry

was made possible after arduous talks between Polish Treasury officials and Eureko yielded a settlement in late 2009, illustrates how far Poland's political class and Polish society have come in accepting privatization.

"The settlement of the dispute with Eureko and the IPO of PZU are positive developments contributing to the development of the capital market in Poland," said Piotr Chudzik, director of Nomura International's Central European investment banking operations. "It also illustrates that the current government officials heading the privatization drive are pragmatic and are not afraid of making decisions"

REVENUES ON THE RISE

In the case of PZU, whose IPO was worth $2.7 billion, the sale of Treasury-owned shares will not fill state coffers, because the funds are needed to compensate Eureko as part of last year's settlement. But plenty of other state asset sales will.

Since taking office in late 2007, the Civic Platform party has been steadily laboring away at a four-year privatization plan which culminates this year and will run until parliamentary elections in the fall of 2011. The Treasury Ministry, led by Aleksander Grad, has forecast it will raise at least zł.25 billion in 2010, from the sale of assets in sectors as diverse as mining, financial services, refining, telecommunications, power generation, chemicals, insurance and retail.

Since hitting a trough in 2006, privatization inflows have gradually recovered, gaining steam. They nearly tripled year-on-year in 2009 to zł.7 billion – though missing a zł.12 billion target – a result analysts said was still impressive.

This year, privatization inflows reached zł.5.4 billion in the first quarter and are expected at around zł.7 billion for each of the next three quarters.

The impressive privatization performance of the first half of 2010 is mainly thanks to sales of largeish Treasury-held stakes in previously listed companies. So far, Poland has sold a 10 percent stake in copper miner KGHM, an 11 percent percent stake in Gdańsk-based fuel refiner Grupa Lotos, a 16 percent stake in power group Enea and 47 percent in coal miner Lubelski Węgiel Bogdanka.

ACTIVE POLICIES

Brokerages and the Treasury said the acceleration in sell-offs through the bourse, compared to last year, is thanks to intensified political will and streamlined, simplified selling procedures that the Treasury Ministry has introduced. Improving market conditions have also helped.

"We are actively going out and seeking out investors," said Maciej Wewiór, the Treasury Ministry's spokesperson. "During a trip to the United States, Minister Grad met with over 30 potential institutional investors."

"Now, two years of trips and meetings is paying off," he added. "People are starting to realize Poland isn't just another country in Central Europe. It's a fast-growing, stable, separate market."

"They can differentiate between Poland and Holland," he said.

Although the government needs these inflows to plug a ballooning budget deficit, the ruling party's conviction that private ownership of companies is preferable to government ownership suggests pro-privatization policies will remain in place following this year's sell-off peak.

A Civic Platform win in Poland's 2011 parliamentary elections could pave the way for another four years of privatization, although, as Citi Handlowy chief economist Piotr Kalisz notes, there won't be that

much to privatize by then. The Polish postal service and railway carrier, both large state-owned assets, do not fall under the Treasury Ministry's jurisdiction.

"While sales of public firms directly attract foreign investors, privatization also represents a commitment to market-economy principles, which tends to raise investors' confidence," the OECD said in a recent report. The OECD noted that in addition to filling state coffers, greater private ownership tends to improve governance of state-owned enterprises and raises efficiency generally.

RIPPLE EFFECT

Although privatization is a slow and steady process, not a dramatic one, its effects tend to ripple out, positively affecting various aspects of Poland's economy.

"One consequence of listing PZU and the big power companies is that the Warsaw Stock Exchange will likely continue to beat the Vienna Stock Exchange in terms of total market capitalization," Michał Popiołek, head of the structured and mezzanine finance department at BRE Bank in Warsaw. "There are many American pension funds that can't invest in companies that are listed on exchanges with capitalizations below a certain threshold."

"Now they can invest in Polish listed companies," Popiołek said.

The big privatizations of 2010 – the PZU debut, a sale of another 10 percent in power group PGE, a sale of an even larger stake in rival power group Tauron, and a controlling stake in Energa, as well as the Warsaw Stock Exchange itself – will attract a lot of publicity to Poland's capital markets, analysts said.

"There's another silver lining," said Scott Salembier, a Warsaw-based analyst at CEEMarketWatch, an independent economic news and research firm. "These privatizations are making Warsaw's large-cap WIG20 index more diversified by adding an insurer and a power group."

"It makes it more representative of the whole economy," Salembier said.

BETTER MANAGEMENT

The privatization process is often initiated by the Treasury listing a stake in a state-owned company on the Warsaw Stock Exchange but keeping a controlling stake.

Although the government isn't exiting these investments completely, a stock market listing is still beneficial to the companies in question and to the Polish economy as a whole, said Marek Juras, head of equity research at UniCredit CAIB in Warsaw.

"Once a company is listed, it needs to meet quarterly reporting requirements," Juras said. "This in itself improves the quality of management."

Following a partial privatization through the stock exchange, a management team answers not only to civil servants at the Treasury Ministry, but to actual and potential investors.

"It makes them work harder," Juras said.

Other analysts noted that a change of ownership to a strategic foreign investor is still accompanied by a transfer of know-how, which is invaluable to a post-communist economy.

The potential for efficiency gains inside state-owned companies is huge. Industry experts say Poland's electricity sector could reduce its workforce by a third without affecting operations. Insurer PZU

"People are starting to realize Poland isn't just another country in Central Europe. It's a fast-growing, stable, separate market"

is currently in the process of reducing headcount by around over 4,500 people, according to daily *Rzeczpospolita*, out of a total of 15,550.

KNOCK-ON EFFECTS

Poland's asset sales also affect the foreign exchange market. In order to buy Polish assets, foreign investors must first purchase złoty in order to pay for them.

"[In 2010] privatization will be a big factor strengthening the złoty, especially in May, June, and the second half of the year," said Piotr Kalisz of Citi Handlowy.

The past and future successes of Poland's many IPOs and sales of additional government-owned stakes in companies such as fuel refiner Grupa Lotos or power group PGE, are underpinned by pension reform which occurred 10 years ago. Private pension funds, in which younger Poles are legally bound to invest a part of their pension contributions, are built-in buyers of state assets sold through the bourse and also long-term investors.

"It's a good half-way point between Treasury ownership and private ownership," said Juras of CAIB.

Certain privatizations have an educational aspect. During the debuts of well-known Polish brands like bank PKO BP, PGE and PZU, tranches were earmarked specifically for individual investors. In learning by doing, Poles are familiarizing themselves with the benefits and pitfalls of equity investing.

"The privatization drive is also giving investment banks and brokerage houses opportunities to make money on fees," said Tomasz Sokolowski, an analyst at BZ WBK in Warsaw.

EMBRACING THE ATOM

By **Martyna Olik**

By 2020 Poland will have its first nuclear power plant – a €10 billion investment that will create an entirely new industry in the country

Since the government announced last year that Poland would start producing nuclear energy by 2020, preparations for the country's first nuclear power plant have been moving ahead at full speed. Experts have already mooted a likely location for the site of the plant, and a publicity campaign is set to start soon.

This €10 billion investment is a major opportunity for investors both at home and abroad. If Poland wants to meet the 2020 deadline, development must take place rapidly. Experts agree that 10 years is the

"Poland will have to build everything virtually from scratch"

minimum amount of time needed to prepare a nuclear energy program; they describe the deadline as ambitious, but possible. Luis Echávarri, director-general of the OECD Nuclear Energy Agency, said during a visit to Poland that such a short deadline required vigorous action from the government.

Poland's largest electricity conglomerate, Polska Grupa Energetyczna (PGE), has been charged with completing the project.

"PGE plans to build two nuclear power plants with 3,000 MW each," explained Marcin Ciepliński, president of the management board at PGE Energia Jądrowa, the company established last year as PGE's nuclear arm.

Poland will have to build everything virtually from scratch. Over 20 years have passed since the country's last attempt at a nuclear plant, which was abandoned after the Chernobyl catastrophe. Specialists and technology will be needed, and the government must overcome significant opposition and update the power grid so that it can handle the extra power generated by the project.

Recent analysis by experts points to Żarnowiec, a village in the north of Poland and the location of the previous attempt to build a nuclear power plant, as the most convenient site for the new nuclear station. PGE president Tomasz Zadroga recently said that the location would be decided by the end of the year.

WHY GO NUCLEAR?

Poland needs to shape up in order to adapt its coal-dependent economy to the CO_2 emission reduction targets set by the EU.

"Starting from 2020, we will be paying a lot for CO_2 emissions, therefore we must try to get the first plant working as soon as possible," explained Andrzej Strupczewski, chairman of the Nuclear Safety Commission at Poland's Institute of Atomic Energy.

Nuclear energy is expected to help keep the Polish economy competitive, balancing out the rising energy prices brought about by connecting more renewable energy sources to the power grid. Hanna Trojanowska, deputy economy minister and government commissioner for nuclear energy, stressed in March 2010 that the plant would provide Poland with a stable source of energy for at least 60 years.

"Nuclear energy is considered one of the most comprehensive and cost-effective generating options – when including carbon costs – and it has the potential to reduce carbon dioxide emissions, meet the ever-increasing demand for electricity as well as make a crucial contribution to energy independence and security of supply," said Maciej Jeziorski, an energy expert at consultancy Frost & Sullivan.

The nuclear energy industry is booming around the world, with an increasing number of countries putting nuclear energy back on the agenda. According to Mr Echávarri, OECD countries now have 350 nuclear plants, producing over 22 percent of their energy. Fifty new reactors are being built or planned around the world.

In the EU, around 30 percent of the energy produced comes from nuclear power plants; France leads the bloc, with over 75 percent of its energy produced using nuclear power.

HOW MUCH?

Estimates on the cost of constructing a 1,000 MW plant hover around €3 billion, although Mr Echávarri estimates the cost at €3.5-4 billion per 1,000 MW. Olkiluoto 3, a 1,600 MW power plant under construction in Finland, is estimated to cost €5.2 billion, or €3.25 billion per 1,000 MW.

PGE has quoted a ballpark cost of around €3 billion per 1,000 MW, with the proviso that the cost of the first reactor will probably be higher, as it will cover the cost of preparing the infrastructure necessary for nuclear energy.

TECHNOLOGY CHOICES

PGE is to choose a partner for building the nuclear plant and the technology by the end of 2010. "By the end of the year we should know with which partner and with what technology we will build the nuclear plant," said Wojciech Topolnicki, deputy president of PGE. His company will retain a 51 percent stake in the consortium.

The technology and key equipment will come from a foreign supplier, and competitors are eagerly awaiting decisions on which nuclear technologies will be adopted, as this might determine further cooperation with subcontractors.

PGE has already signed two memoranda of understanding, with GE Hitachi Nuclear Energy Americas and EDF, and plans more. Other possible partner candidates include Toshiba Corp subsidiary Westinghouse Electric, Czech power producer CEZ and Korea Electric Power. The Polish and Japanese governments signed a memorandum in late March on promoting cooperation in using nuclear energy.

Research institutes, consulting companies, equipment suppliers and construction companies will all benefit from the project. However, the government has stressed that it will try to involve as many domestic entities as possible.

Polish companies and experts are presently gaining experience by participating in the construction of Olkiluoto 3, working in a variety of roles, from assembly to management of the construction site.

Some hope Poland could follow in the footsteps of South Korea, becoming a major producer of nuclear technology. The latter nation began its nuclear energy program from scratch in the 1970s and recently scored a victory over bidders from Asia, France and the US by securing a contract to build four nuclear plants in the United Arab Emirates.

If it is to achieve similar successes, Poland's nuclear industry has a lot of work ahead of it. But that work has the potential to be extremely lucrative. ❋

Renewables gaining momentum

Though the market for renewable energy in Poland is still small – and is receiving for less nudging from the government than nuclear power – experts say the market has significant potential.

In order to adhere to EU regulations, Poland must significantly increase the share of renewable energy in its energy consumption to reach 15 percent by 2020. According to the government, the share of renewables in Poland's energy consumption in 2009 reached only four percent.

"Basically all investments concerning renewable energy in Poland still have a lot of potential," said Tomasz Drzał, a member of the board at the MEWW water and wind energy consultancy. Hefty government subsidies and EU targets make renewables profitable. "I think there is still space for new investors," he commented.

Jochen Hauff of AT Kearney's German office cites wind energy as a sector with particularly significant growth potential. So far, he said, the development of renewables in Poland has mainly been driven by biomass, mostly in co-firing applications, with wind in second place. Biomass is expected to attract more investors now that the government accepted a plan to set up an agricultural biomass facility in every village by 2020.

So far solar energy has not been effectively supported by the government, Mr Hauff noted.

Poland may also become a significant producer of components for renewable energy facilities such as wind farms, because of the considerable size of the market and the advantages of lowering the cost of production and transport. Mr Drzał cited the recent example of Danish firm LM Glasfiber – the company opened a wind turbine blade production facility in the northeastern town of Goleniów in 2009.

Expert analysis

The future of nuclear energy in Poland

Adam Smolik
Board Member at the Economic Chamber for Energy and Environmental Protection; President of the Board, ENERGOPOMIAR

The renaissance of the nuclear energy industry can be observed around the world. There are currently over 50 reactors under construction. Poland is not only a part of this global trend, but is also making up for lost time. In accordance with the government's energy policies, between the years 2020 and 2030 a total of 4,800 MW of power from nuclear plants is to be put into operation.

Government plan

Building a nuclear power plant in Poland will not significantly change the production structure of primary energy, but will allow for its diversification – the share of nuclear energy in Poland's overall production will not even exceed 10 percent. The country's return to plans related to the construction of a nuclear power plant will not only lead to diversification of sources of energy and the improvement of the country's energy security, but will also positively influence the economy, through technical progress and creation of new jobs.

In 2009 the government approved a special bill on the commencement of works on the Polish Nuclear Energy Program and the appointment of a Governmental Commissioner for Polish Nuclear Energy as well as the "Framework schedule of activities for nuclear energy," prepared by the Economy Ministry.

The implementation of the governmental program for nuclear energy development requires the execution of a number of tasks related to legal and administrative issues, as well as education of the scientific and engineering personnel.

A change in society's attitude towards the construction of nuclear power plants is essential. Despite the fact that the level of acceptance for the government's plan is growing, we will see a campaign aimed at raising Poles' awareness and understanding, in order to dispel doubts and fears about the threats of nuclear catastrophe.

Investor interest

It should be expected that as the progress of the governmental nuclear program continues, an increasing number of investors will declare the will to participate in its execution.

High-quality execution of orders, which is required in the nuclear industry due to the necessity to ensure security, will be an essential but certainly feasible condition for the domestic industry to join this process.

For some companies in Poland's industry and services sectors, the construction of a nuclear power plant in Poland is an opportunity to gain new competencies – but mainly it's an opportunity to gain new contracts.

Legal analysis

Practical legal aspects of wind farm development in Poland

Siegfried Seewald
Partner, Legal Advisor, M&A/Energy

Wind power is by far Poland's most important source for generation of renewable energy. However, the development of wind farms in Poland is still being carried out by relatively inexperienced individuals or small entities. Property, administrative and grid-connection conditions are often unsatisfactory for investors. The common lack of zoning plans obliges investors to obtain additional administrative decisions. Land use agreements for wind turbines require careful drafting. Incoherent legal administrative regulations may cause delays and additional costs. Investors are frequently laden with the costs of the grid's modernization. Disputes with the Energy Regulatory Office – concerning connection to the grid in particular – are cost-intensive, time-consuming and exhausting.

Usually land is not acquired by the investor. Instead, lease agreements are concluded with land owners. Signatures must be certified by the notary for the entry of the agreements into the land and mortgage register. However, the entry into the register is often overvalued by foreign investors and the developers themselves.

Access to the grid requires the involvement of third-party real estate. Newly introduced transmission easements allow for the laying of cable. Personal easements in Poland can only be established for the benefit of individuals and not for legal entities. Land easements can only be established for the benefit of the neighboring land owner. Therefore, cooperation with land owners is essential.

Many Polish municipalities have no zoning plans, as there is no such statutory obligation. Consequently, zoning is regulated by a permit issued by the mayor. New legal regulations require that investors obtain an environmental decision before a zoning permit.

Administrative decisions are granted by various authorities and can, therefore, be inconsistent. The most important decisions that must be obtained include the zoning permit, the environmental decision and the building permit. Relevant decisions must be filed together with the application for the building permit. A change in the key factors of the building permit (such as the manufacturer of the wind turbines) may require that the building permit be amended.

Grid-connection agreements are concluded on the basis of Grid Connection Terms (GCTs). Investors often acquire projects with GCTs but without an existing connection agreement. The legal character of GCTs and their transferability are not regulated by statutory laws and are highly controversial.

Significant prepayments must be made upon application for the GCTs with the grid operators. Investors are often charged with the costs of the modernization of the grid, which is most likely not in line with the law. This leads to disputes, which are settled by the regulator in the first instance, but do end up in courts very often.

Sustainable development trendsetters

Impact Automotive Technologies

Impact Automotive Technologies, based in Pruszków, produces two-seater electric vehicles. According to the producer the car takes 10 minutes to charge and can cover a distance of 100 km. Such a trip costs zł.3 – 10 times less than a vehicle that runs on gas.

GDF Suez

GDF Suez has announced that it will build one of the world's largest biomass plants in Poland. The plant will run on agricultural waste and byproducts. The GDF Suez biomass plant will produce 1.2 million tonnes of CO_2 less per year than a comparable coal-burning facility. Output of the plant, which is set to be completed by 2012, could reach 1,800 MW.

Solaris Bus & Coach

Poznań-based Solaris continues to be at the forefront of Europe's bus production market. Its line of hybrid-powered buses, the Urbino 18 Hybrid, provides reduced fuel consumption – some 22-24 percent lower than their diesel-fueled counterparts – while producing a quarter less CO_2 and over 75 percent less particle matter. Solaris is the first company in Europe to produce hybrid buses using volume-production technology.

Skanska Property Poland

The international developer has recently won a LEED certificate for the environmentally friendly design of Atrium City – an energy-efficient, class-A office building in central Warsaw. It also developed the first two buildings in Poland to obtain the GreenBuilding energy-efficiency certificates from the European Commission.

Bioagra

Bioagra has recently completed the construction of a zł.400 million factory which produces bioethanol fuel – a green alternative to fossil fuels. The company plans to produce 140 million liters of bioethanol.

The City of Warsaw

Poland's capital has recently invested heavily in a new buspass campaign – an effort for which it won an environment awareness award from the Ministry of Agriculture. The city's public transport association was commended for the number of dedicated bus lanes, slashing commuter times and promoting public transport use.

ONLINE CAPITALISM ON THE RISE

By **E Blake Berry**

The Polish e-commerce market is fragmented and not entirely profitable, but it's growing at a healthy clip

Poland is a nation of entrepreneurs, a country in which the spirit of capitalism is visible in the number of new businesses started each year. Over 19,000 firms were registered with the National Court Register in 2009 and the last decade saw a steady period of growth of new companies.

It comes as no surprise that Poles have taken to the internet as a natural medium for trade. Just 10 years ago bazaars – both large and small – were a common sight in the nation's capital; today they are an endangered species (though they remain common in some parts of the country) and much of their turnover has moved online. Auction sites are popular and EU funds have encouraged thousands of would-be entre-

"As online sales increase, the trend is accompanied by growth in research-online, purchase-offline behavior"

preneurs to launch internet-related companies.

According to figures from the Polish Direct Marketing Association, in 2008 there were over 7,000 e-tailers active in Poland and around seven million customers, generating combined revenues of more than zł.11 billion. Research by the Centre for Retail Research (CRR) and British comparison site Kelkoo, meanwhile, puts the value of online sales in the Polish market at zł.10.4 billion in 2009, with zł.13.23 billion in sales forecast for 2010.

In fact, CRR and Kelkoo expect Poland to see the fastest growth this year of large European markets – they forecast 36 percent y/y growth, with France next in line at 31 percent growth. This can be explained, they say, by an "explosive rise in the number of first-time customers."

GROWTH POTENTIAL

Experts in e-commerce, speaking with undisguised optimism about the market, find little to disagree with in these figures.

Jakub Połęć, an expert from the Adam Smith Center and president of online comparison site Peryskop.pl, confirmed that the Polish market is expanding at over 30 percent y/y, with growth in certain categories – such as clothing and white goods – exceeding 100 percent. As online sales increase, the trend is accompanied by growth in research-online, purchase-offline behavior.

Up to 60 percent of e-tail transactions involve price-comparison sites, Mr Połęć says, and this is especially true for small and medium-sized shops which don't generally invest in a brand, preferring sell cheaply. He noted, however, that there's now a trend towards quality, which could spell disaster for many smaller, unbranded e-tailers.

"Poles are not just looking for the cheapest products anymore, but for the ones with the highest quality," he points out.

Asked about the next big thing, Marek Borzestowski, co-founder of popular web portal Wirtualna Polska, director of web communications firm Inteliwise and an expert from the Sobieski Institute think tank, mentions Western phenomenon Groupon. This "deal-of-the-day" website harnesses the potential for collective consumerism inherent in the internet, offering massive discounts on services (restaurants, massages, theaters) by directing large groups of people to one service provider.

Groupon seems a natural fit for large urban markets in the US and UK, but is Poland ready for it? "I'm pretty sure that this sort of portal will be started fairly soon in Poland," says Mr Borzestowski. "As far as I know, there's lots of work being done on a project of this sort in all major cities."

Indeed, April 2010 saw two competing initiatives – CityDeals.pl and Gruper.pl – launch in the same week.

PROFIT AND LOSS

The prospects for Polish e-commerce are good, but the market is not without tribulation. Many of the biggest companies engaged in online trade still have significant difficulty turning a profit, for example, even if they see revenue growth.

Online bookseller Merlin, for instance, saw its 2009 sales revenues rise six percent y/y, to zł.101 million, but suffered a net loss of zł.660,000. That was an improvement over the zł.10 million loss it had in 2008, but the company has struggled for years. It boasts a well-recognized brand and good market share, but has been compared unfavorably to its Western peer Amazon.

"This is a company which has never been very well invested," says Marek Borzestowski.

Komputronik – Poland's biggest online retailer in 2009 in terms of sales value, according to Euromonitor International – also endured a net loss. The IT sector firm was zł.3.45 million in the red, compared to a 2008 net profit of zł.3.62 million, although its revenues rose to zł.811 million, from zł.757 million a year earlier. It blamed its fortunes on a significant fall in consumption and investment demand.

The Empik Media & Fashion Group was in a similar position, with its 2009 profit falling 9.6 percent y/y, from zł.96.1 million in to zł.86.7 million last year. Its sales revenues were up 18.4 percent to zł.2.7 billion, from zł.2.29 billion in 2008. EM&F's overall revenues are obviously larger than those of Merlin or Komputronik, but revenues from e-commerce activities are lower.

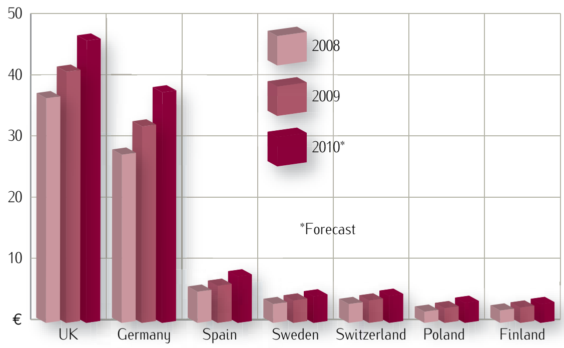
The biggest fish in Poland's corner of the net is Allegro, a capital group comprising the eponymous auction site as well as a number of popular specialty websites and services. According to Jakub Połęć, the Allegro Group accounts for around 60-65 percent of all e-commerce turnover in Poland.

Allegro's auction service has fought off all challengers so far, including global giant eBay, which Mr Borzestowski describes as having been "too ignorant" for the Polish market.

Its owner, South African media giant Naspers, doesn't list separate earnings for Allegro. Naspers' 2009 financial report states that the Polish market grew "soundly" and that its Polish holding contributed greatly to the growth of revenues in its internet division.

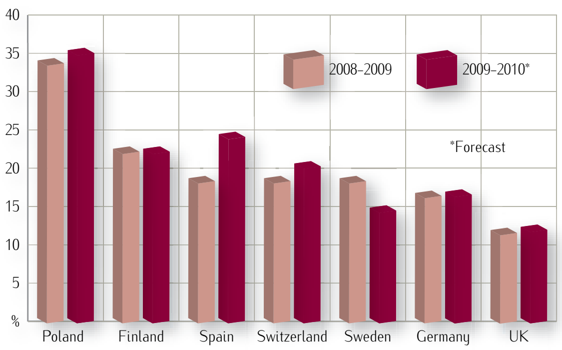
Nevertheless, in Mr Połęć's view Allegro's auction service will have to strive to maintain its preeminence. "Some shops would like to discontinue their cooperation with Allegro and are trying to go to different e-commerce platforms or offer their products elsewhere," he says. Why? "Because of the high prices or margins of the Allegro Group."

Online sales for selected countries (in € billions), 2008–2010



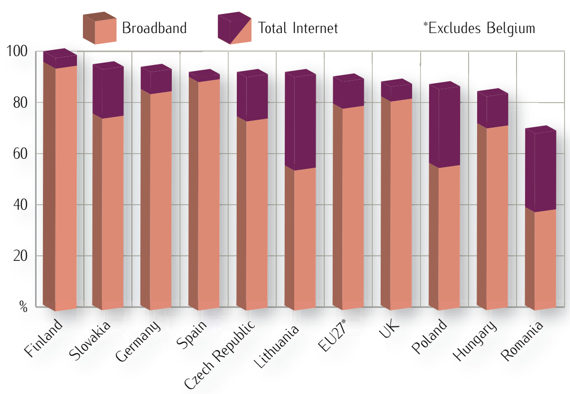
Source: Kelkoo, Centre for Retail Research

Online sales growth for selected countries (in %), 2008–2010



Source: Kelkoo, Centre for Retail Research

Internet access for enterprises (in %) in selected countries, January 2009



Source: Eurostat

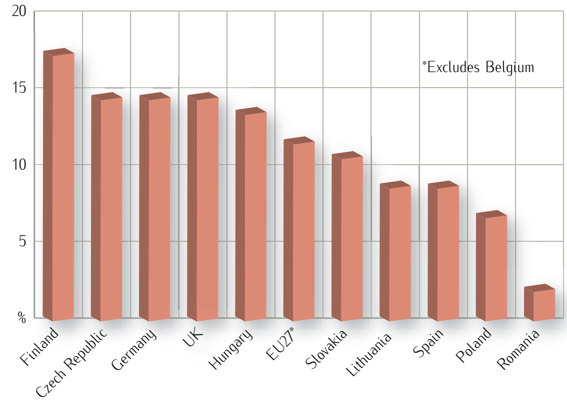
TROUBLING ISSUES

Polish e-commerce – the monolithic Allegro aside – is characterized by a high degree of fragmentation. With so many firms in the market, a wave of consolidation and elimination is now expected.

"There are about 6,000-7,000 e-shops in Poland right now, but the majority of them are unprofitable," says Mr Połęć. "Only about 1,500 or so are profitable enough to continue business."

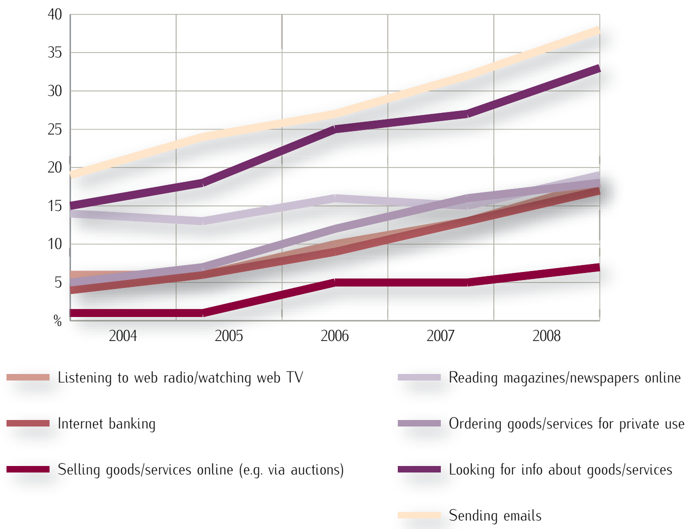
The competition engendered by this situation is naturally fierce, but it's not necessarily beneficial for consumers. The ongoing price war, particularly in electronics and white goods, leads shops to cut margins to unhealthy levels.

E-commerce turnover
as percentage of total turnover, 2008



Source: Eurostat

Take-up of internet services
as percentage of population, 2004-2008



Source: European Commission, "Europe's Digital Competitiveness Report"

Top brands in online retailing in Poland, 2009

Rank	Brand	Percentage of total market value
1	Komputronik	3.6
2	Merlin.pl	2.8
3	Empik	1.9
4	Quelle	0.8
–	Bonprix	0.8
6	Mango	0.7
7	Nu Skin	0.6
–	TV Market	0.6
9	Vorwerk	0.5
10	Bomi	0.4
11	E Leclerk	0.3
12	Neckermann	0.2
–	Amway	0.2
–	Apple	0.2
15	Hewlett-Packard	0.1

Source: Euromonitor International

"If you've bought something in one shop and want to buy something new, but the shop has disappeared because it was unprofitable – is that good for you?" asks Mr Połęć.

The dominance of the Allegro Group isn't healthy for the market either, in his opinion.

Distribution costs comprise another obstacle for market growth. Poczta Polska, Poland's incumbent postal services operator, remains a monopolist in all but name, and experts complain that greater competition is needed in order to ease burdens on e-commerce.

"Distribution costs are still relatively high compared to the price of the transaction … even by European standards," notes Mr Borzestowski.

2010 AND BEYOND

The years 2010 and 2011 are forecast to see moderate consolidation and slow but steady growth. A return to the boom of the mid-2000s is highly unlikely, however.

"There'll be stronger growth than last year, definitely. We'll have more mature players, bigger shops, bigger distributors," says Jakub Połęć. "And I think the customers won't just choose the cheapest price, but will choose good brands, with good service, which are well produced. So they will be more mature in looking for products with after-sales maintenance."

Mr Borzestowski expects to see natural expansion, but no major changes in terms of annual growth.

For now, the strength of Polish brands and high degree of competition pose a barrier for foreign players, leaving acquisitions perhaps the simpliest means of entering the market.

In Mr Połęć's view, "It comes down to the brand – the perception of the brand – so if you're a foreign competitor looking to enter the market, I'm pretty sure that the best idea is to buy out a Polish company." ❃

REGIONAL AIRPORTS FLYING HIGH

By **Marcin Poznań**

Fueled by EU funds and by the expected influx of tourists for the Euro 2012 championships, Poland's regional airports are taking off

Since Poland joined the EU and foreign low-cost carriers began exploring the local civil aviation market, Polish regional airports have been experiencing a boom in passenger activity. Despite a global decline in commercial aviation in 2009, Poland is still among the world's 15 fastest-developing markets, according to IATA.

To cater to the increasing number of passengers, regional airports have been investing in infrastructure. By 2012, about zł.3.6 billion will have been spent on the expansion of Polish airports, according to Polish Infrastructure Minister Cezary Grabarczyk.

All of Poland's regional airports are seeing a surge in investment, but especially those whose cities will hold Euro 2012 games. In February the European Investment Bank agreed to lend zł.210 million for

> *"Despite a global decline in commercial aviation in 2009, Poland is still among the world's 15 fastest-developing markets"*

a new terminal and taxiway at Gdańsk Lech Wałęsa Airport. Copernicus Airport Wrocław has applied to the European Union for a zł.128.1 million subsidy to complete its new terminal and surrounding infrastructure.

But even airports in cities which will not be hosting Euro 2012 games are undergoing development, since they will be serving as secondary airports during the tournament. Last year, Łódź Władysław Reymont Airport launched construction of its zł.190 million, four-storey Terminal 3. A new parking apron and a new terminal are being built at Rzeszów-Jasionka Airport, in southeastern Poland, at a cost of zł.160 million.

ASPIRING AIRSTRIPS

Poland's regional authorities are well aware that having an airport helps put them on the map, and therefore have made airport development one of their top priorities. Last year several local governments together obtained over 2,000 hectares of land, including military airport infrastructure, in a 30-year privileged lease from the Military Property Agency.

Some of the plots involved in the deal neighbor already-existing airports, thus allowing for their expansion. Some of the land is located in areas where regional airports are still in the planning stages, such as in Gdynia, Radom and Modlin, near Warsaw.

"The long period of [the lease] should guarantee that investors see a return on their investment," said Deputy Infrastructure Minister Tadeusz Jarmuziewicz.

"But it will be the local governments themselves who ultimately decide if they need this kind of investment or not. It is obvious how important a regional airport is, but [the necessary political] decisions will require a lot of courage in reconciling conflicting local interests," he added.

Janusz Stateczny, CEO of Gdynia-Kosakowo Airport, one of the beneficiaries of the land handover, is confident that the airport will complement the transportation system in the Tri-city area.

"The military-civil airport is located close to the harbor and the Tri-city ring road, and it may be linked with commuter railroad in the near future," he said.

Before it can be used as a secondary airport during Euro 2012, a navigation lighting system will be installed, a passenger terminal will be built, an existing apron will be renovated and a new one will be built.

STRIVING FOR INDEPENDENCE

Regional airports' ambitions don't end there. The Association of Regional Airports (ZRPL) has recently come up with a plan to develop its own network of domestic routes to serve regional airports directly. Currently, most domestic air transport is carried out via Warsaw by Lot Polish Airlines.

Lot itself also plans to revive its presence at regional airports, deviating from a policy that until now treated regional airports as a feeder for its Warsaw hub.

"One of the reasons we lost our share in the domestic market was our absence in regional airports. Our competitors quickly understood that, launching direct foreign routes from the regions," said Lot's CEO Sebastian Mikosz.

"Also, the enormous market for charter flights that take off from these regional airports shows how great their potential is," he added.

With Poland's poor rail infrastructure and constant road construction, regional airports are expected to flourish. However, authorities at regional airports tend to agree that efficiency can only be reached with all pieces of the puzzle in place.

"Air transport is directly correlated with the transportation system around an airport. This is why the appropriate network of road and rail infrastructure is needed," said Leszek Krawczyk, CEO of Łódź Władysław Reymont Airport. The airport will soon be accessible by rail via a Warsaw-Łódź connection.

Number of passenger served annually (in millions)

Source: PMR Publications

ROUTE TO SUCCESS

From a business point of view, better airport infrastructure and regional tourism should draw air carriers' attention. Cooperation between airport authorities and local governments is key to developing the potential for profit. Most regional airports are jointly owned by their cities or voivodships, which should help.

According to Stanisław Nowak, CEO of Rzeszów-Jasionka Airport, maximizing this cooperation is crucial. "The most important areas are development, mutual promotion and co-financing of investment," he said.

Dariusz Kuś, CEO of Copernicus Airport Wrocław agreed, underscoring the need for support in launching new routes. "We hope that local authorities will engage in promoting our region abroad, which would translate into an increase in air travel," he said.

For airlines, the forecasts for heavier demand have played an important role in deciding on new routes to and from regional airports. Poland's regional airports are crucial to the strategy of traditional airlines, such as Lufthansa, which carries Polish passengers from seven Polish airports to its German hubs. For low-cost carriers such as Ryanair or Wizz Air, they serve as a direct link with regional airports abroad.

While he said he admired the expansion of Polish airports, József Váradi, CEO of Wizz Air, pointed out a significant weakness.

"There is a lack of proper technical capability of Polish airports, which seriously complicates our operations in case of bad weather. I'd rather see Polish airports invest in modern navigation instruments than new terminals," said Mr Váradi.

Traffic data for Poland's major airports

		Q4 2008	Q4 2009	change	2008	2009	change
Warsaw	number of passengers	1,941,481	1,869,795	-3.69%	9,436,958	8,282,035	-12.24%
	number of operations	28,897	27,859	-3.59%	129,718	115,934	-10.63%
Kraków	number of passengers	556,240	587,659	5.65%	2,895,262	2,661,294	-8.08%
	number of operations	6,677	6,868	2.86%	31,323	29,327	-6.37%
Katowice-Pyrzowice	number of passengers	477,771	451,653	-5,47%	2,406,591	2,301,375	-4,37%
	number of operations	4,491	4,110	-8,48%	21,131	20,198	-4,42%
Wrocław-Strachowice	number of passengers	319,323	293,812	-7.99%	1,480,463	1,324,483	-10.54%
	number of operations	4,317	3,967	-8.11%	18,781	17,302	-7.87%
Poznań-Ławica	number of passengers	250,183	243,939	-2.50%	1,255,884	1,248,764	-0.57%
	number of operations	3,687	3,674	-0.35%	16,233	16,024	-1.29%
Łódź	number of passengers	92,427	76,998	-16.69%	341,788	312,225	-8.65%
	number of operations	1,159	931	-19.67%	4,194	4,281	2.07%
Gdańsk	number of passengers	414,302	451,410	8.96%	1,941,515	1,890,925	-2.61%
	number of operations	5,232	5,670	8.37%	23,592	22,524	-4.53%
Szczecin-Goleniów	number of passengers	78,890	52,704	-33.19%	298,576	276,582	-7.37%
	number of operations	1,114	894	-19.75%	4,225	3,771	-10.75%
Bydgoszcz	number of passengers	66,519	57,321	-13.83%	266,982	264,528	-0.92%
	number of operations	1,121	500	-55.40%	4,770	4,016	-15.81%
Rzeszów-Jasionka	number of passengers	54,167	88,115	62.67%	321,034	380,691	18.58%
	number of operations	710	1,113	56.76%	3,450	4,247	23.10%
Zielona Góra	number of passengers	1,394	872	-37.45%	5,237	2,955	-43.57%
	number of operations	143	205	43.36%	614	642	4.56%
Total	**number of passengers**	**4,252,697**	**4,174,278**	**-1.84%**	**20,650,290**	**18,945,857**	**-8.25%**
	number of operations	**57,548**	**55,791**	**-3.05%**	**258,031**	**238,266**	**-7.66%**
Total regional airports (excluding Warsaw)	**number of passengers**	**2,311,216**	**2,304,483**	**-0.29%**	**11,213,332**	**10,663,822**	**-4.90%**
	number of operations	**28,651**	**27,932**	**-2.51%**	**128,313**	**122,332**	**-4.66%**

Source: Civil Aviation Office

> *"Regional airports managed to increase their market share from 54.3 percent in 2008 to 56.3 percent at the end 2009"*

TURBULENCE AHEAD

There are also some legal barriers that could hinder the development of regional airports.

Some of the land leased out by the Military Property Agency may have been seized from private owners after World War II, according to some legal experts. Those who haven't already obtained compensation could decide to press claims at anytime.

An important conflict of interest may prove another obstacle to the development of regional airports. While the authorities may be interested in airport expansion, local residents may have concerns and could demand compensation if their property loses value.

Further legal and financial complications may arise from a pending bill aiming to make airports responsible for maintaining security, which is currently paid for by the Interior Ministry, and thus by taxpayers.

Dariusz Kuś of the Wrocław airport opposes the change.

"If [the legislation] comes into effect it would seriously hurt financial capabilities and investment potential of airports," he said, estimating the additional costs at a few million złoty a year. These costs would have to be included in ticket prices.

"Airports around the world benefit from developing their commercial opportunities. To be able to do this in Poland we need to invest in expansion first. I am not sure how we will do it if we get loaded with more financial responsibilities from the state," he said.

THE SKY'S THE LIMIT

Despite these concerns, construction at most of Poland's regional airports is buzzing. Last year about 900,000 people traveled by air domestically. In line with the global market decline, the number was 4.9 percent lower than in 2008, but compared to the drop at Warsaw Fryderyk Chopin Airport, the regional decrease in traffic was nearly three times lower. As a result, regional airports managed to increase their market share from 54.3 percent in 2008 to 56.3 percent at the end 2009.

Thanks to new terminals, airports will expand their passenger capacity significantly. But the challenge will be to maintain the passenger numbers after the Euro 2012 event is over. Leszek Krawczyk of the Łódź airport said that local governments also bore responsibility for this. He suggested they host concerts, fairs and sporting events to keep up interest in the region and take advantage of the airports' potential.

"This upward trend depends strictly on economic growth," said Stanisław Nowak of Rzeszów-Jasionka Airport. His was the only airport to record large increases in both the number of passengers and flight operations served last year. Mr Nowak was confident, however, that the expansion of Polish airports will not end with the final whistle of Euro 2012.

"Thanks to all the infrastructure improvements, airports will be able to provide a better offer for air carriers and other business partners for years to come." ❃

Legal analysis

Re-structuring airport ownership

Paweł Kuglarz
Partner, Legal Advisor, Real Estate Law and Litigation

Changes in the structure of airport ownership may have a significant impact on the Polish aviation market. From the view of administrative effectiveness, carrying out the commercialization of Przedsiębiorstwo Państwowe Porty Lotnicze ("Polish Airports" State Enterprise, PPL) would be advisable. PPL directly administers only the airports in Warsaw and Zielona Góra.

However, it is also a shareholder of eight companies that administer other airports, among others, in Kraków, Katowice and Gdansk. In general, three options are possible: (i) selling private investors a part or all of the shares PPL holds in regional airports and designating the funds for increasing its commercialized capital, (ii) allowing for the shares to be further held by PPL and (iii) municipalizating the shares, that is, transferring them to local governments.

Balancing act

The most important question, however, is still how to maintain the state's influence on the development of aviation transportation, while at the same time allowing for the participation of private capital and for optimized administration. This is, in my view, essential (the troubles of the rail industry are a case in point), and is one of the most significant tasks for the Ministry of Infrastructure in 2010.

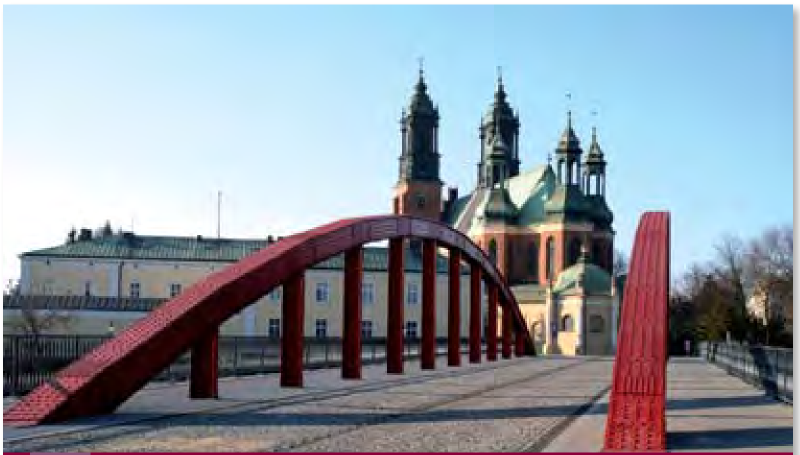
Ensuring passengers' safety is another major issue for the airports. Therefore, it is of great importance to take into account the opinions of the airports' representatives, who have expressed doubts as to whether the changes relating to the legal status and the role of the Border Guard in airports will actually ensure more safety.

Foreign ownership

Moreover, the proposed amendment to the Aviation Law, which would lift the limitations relating to establishing and administering airports by foreign entrepreneurs, could facilitate the development of airports in Poland.

Under current regulations a permit for establishment and administration of a public-use airport may be obtained by companies with foreign investment, which have a registered office in Poland and which are not controlled by foreign entrepreneurs.

The amendment has been the subject of work in the Sejm (Poland's lower house of parliament) for a long time, and the hope is that it will be passed this year.



Poznań

Poznań will be one of the four Polish cities hosting Euro 2012 matches, and is the only one that didn't have to build an entirely new stadium from scratch – it's current soccer stadium is being revamped for the event. Poznań is at the heart of Poland's automobile industry and Polish firms based there – such as bus-maker Solaris – continue to innovate in terms of fuel efficiency and technology.

Wrocław

Known for its young, well-educated populace, Wrocław's authorities have made a successful push to make the city more visible on the national and international stage. Along with raising its cultural credentials, the city has attracted a number of knowledge-based investments recently, including a Google Innovation Center, a HP BPO center and an LG factory. The city is one of four that will host Euro 2012 matches - a new stadium for this purpose is under development in its Maślice district.

Kraków

Aside from attracting investments from innovators like Mitsubishi Electric Europe, Electrolux, IBM and Google, Kraków had the honor of being the first city in Poland in which a public-private partnership project (an underground parking lot) was seen through to completion. Kraków's successful example could finally convince other Polish cities of the benefits of such investments.

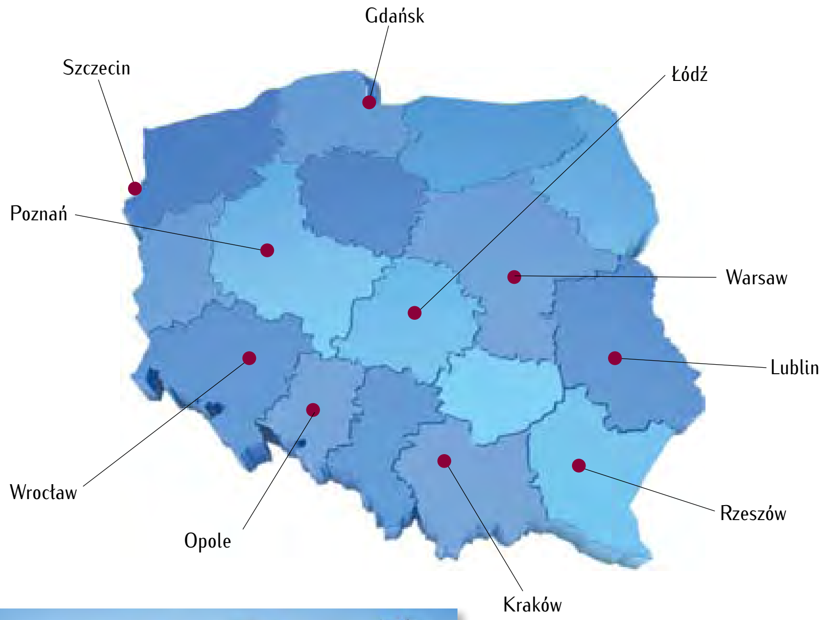
Opole

Opole is the most likely of Poland's mid-sized cities to pass into the top tier in the near future. Regularly ranked high in terms of investment attractiveness, Opole has seen development of retail centers and residences rise sharply in recent years.

Once known only as the capital of one of Poland's most rural regions, the city of Rzeszów has set out on a mission to define itself as a leader in aerospace innovation. The city lies at the heart of Aviation Valley, a cluster of businesses and technology parks devoted to the industry.

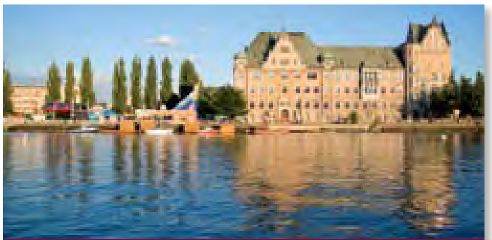
Rzeszów

Trendsetting cities



Gdańsk

The home of Poland's Solidarity movement is getting a makeover – not only will it see the construction of infrastructure and a new stadium for the Euro 2012 tournament, its "Młode Miasto" or "Young City" project will reshape and revitalize the heart of the city by redeveloping its beautiful waterfront. It has also enhanced its status as a trade hub with its Deepwater Container Terminal, the first stage of which was completed in 2007.



Szczecin

Though once wholly dependent on the sea, the western city of Szczecin is branching out. It has seen IT investments such as a UniCredit BPO center, and a city investment scheme will focus on environmental protection programs. It was also recently revealed that the city is planning to build a soccer stadium under a public-private partnership agreement worth hundreds of millions of złoty.

Lublin

This forward-looking city has embarked on a huge infrastructural investment program that will include a ring road and a nearby airport. Rich in history, this city of 100,000 students also produces some of the country's most cutting-edge artists. As the largest city east of the Vistula River, Lublin is the unofficial capital of Poland's "Eastern Wall" – the region including the four easternmost voivodships, which will receive the bulk of the country's EU structural funding over the next decade.

Łódź

The "Polish Manchester" is embracing its role as Poland's cultural hub and emphasizing its industrial history with in its "New City Centre" re-zoning project. Pivoting around the planned Lynch Film Centre, industrial buildings in the town will be converted into a new old town. In 2006 a 19th-century textile complex was given new life as Manufaktura, Poland's largest shopping and entertainment center. Property tax relief and the relatively cheap costs of running a business in Łódź have brought in investments in manufacturing, IT and BPO.

Warsaw

Poland's capital has set out on a bold collection of municipal infrastructure projects. The main stretch of the city's second subway line is expected to be finished sometime in 2013. It will also see the construction of a new national stadium in time for the Euro 2012 soccer championships. Though it is mostly known as a financial and political hub, Warsaw has been playing up its cultural heritage of late, especially connected to composer and pianist Fryderyk Chopin, who was born just outside the city. In terms of investment, Warsaw expects to see some zł.3 billion in 2010 alone.

A STATE OF GROWING INFLUENCE

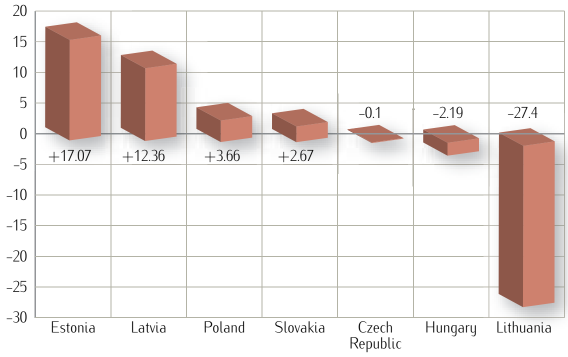
By **E Blake Berry**

It has been no easy feat to gain respect and weight in Brussels, but Poland is on its way to becoming a significant player in European politics

Preparations for Poland's turn at the European Union's rotating presidency, set for the latter half of 2011, are in full swing. Its co-hosting of the Euro 2012 soccer championship with Ukraine will put the two countries firmly in the spotlight, providing opportunities to improve relations with one of the EU's biggest and most fragile neighbors.

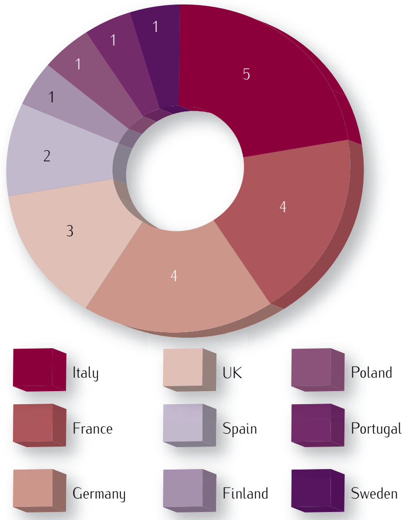
Meanwhile, Poland's economic strength during the global financial crisis has won the respect of its European peers. And the nation's stability in the face of the April 10 Smoleńsk tragedy impressed

Change in turnout for European Parliament elections in selected CEE member states between 2004 and 2009, in percentage points



Source: European Parliament

Number of standing committee chairs* in the 2009-2014 European Parliament



*Includes the Human Rights and the Security & Defence subcommittees

Source: European Parliament

foreign investors. In short, Poland's star is on the rise and its influence on European politics is growing, albeit slowly.

POWER GAMES

Power-sharing in the EU is generally approached as a zero-sum game. No surprise then, that Poland has had to fight to be heard and taken seriously among its fellows.

"Since 2004, Poland has been in a sense trying to find a position for itself. To some degree it has been successful in formal integration … but the three very large states – France, Germany and the UK – don't really like it. I don't think Spain and Italy like it all that much either, because obviously if you make space for a sixth large state then there's a little less space for you, at least as seen in zero-sum terms," says György Schöpflin, a second-term Hungarian MEP and respected academic.

Some of Poland's difficulties have been self-inflicted, others are due to the cacophonous nature of European politics. The country's poor PR image during the 2005-2007 government's tenure is seen by many as a case of the former. Its brusque treatment of other member states – including Germany, which had championed Polish accession – earned it few friends among its peers or the European media.

"Before the 2007 elections Poland was not trusted, it was alienated, singled out. Nobody really wanted to talk to the Poles, they only did so when they really had to, but they didn't want to. They were unreliable, untrustworthy and arrogant. And that label of unpredictability had to be removed by the new government, which they did rather successfully," suggests Piotr Maciej Kaczyński, a research fellow at the Centre for European Policy Studies.

There's a general consensus in Brussels that relations with Poland have greatly improved under the present government. Germany even awarded Prime Minister Donald Tusk its 2010 Charlemagne Prize, for a "valuable contribution in the services of Western European understanding and work for the community." What's less clear is whether better relations have – or even can – translate into political influence in the EU.

MEASURING SUCCESS

Quantifying any nation's influence on EU policy is a tricky business. As Dr Nathaniel Copsey, a senior lecturer in politics and deputy director of the Aston Centre for Europe, puts it, "While the impact of the EU on individual nations is often studied, the reverse is less often true. It's very difficult to measure the impact of member states on the EU."

Nevertheless, Dr Copsey and his colleague Karolina Pomorska, an assistant professor in Maastricht University's department of politics, have attempted to do just that. The conclusion of their forthcoming research is that Poland's influence in the EU has indeed increased since accession, but not significantly, and that its gaffes have had much to do with this.

Copsey and Pomorska have conducted over 70

"There's a general consensus in Brussels that relations with Poland have greatly improved under the present government"

interviews with politicians, officials, businesspeople and others in Brussels and Warsaw and one common complaint is that Poles are still "rough around the edges." For example, one interviewee complained that Poland "needs to learn to play different pianos at the same time."

In other words, when the Poles have been keen on concessions in policy area X, they've tended to dig their heels in and make a fuss about things, frustrating older member states and alienating newer states who might otherwise be allies, but see nothing to gain from engaging in brazen pigheadedness. In the opinions of some interviewed by Copsey and Pomorska, Poland needs to engage more actively in policy areas in which it may have little direct interest, in order to gain leverage for its own ends in other policy areas.

Perhaps the most-cited example of Poland "shooting itself in the foot" is its 2006 veto of a new Partnership and Cooperation Agreement (PCA) with Russia over a ban on some Polish food imports. This was seen as an audacious move and it left Poland isolated, even if some states silently applauded it.

THE EASTERN NICHE

To date, Poland's impact on EU policy is less than it hoped for, but greater than most expected. Its most visible success has been the Eastern Partnership program, which seeks to improve the EU's relations with Belarus, Ukraine, Moldova, Azerbaijan, Armenia and Georgia.

Jas Gawronski, an Italian journalist and five-term MEP, points out, "Few people knew about Belarus and its problems before the Poles arrived. They have had the great merit of focusing the Parliament's attention on what's going on in Belarus, and in Ukraine as well."

That the country has made its mark in this area is perhaps unsurprising, given its size, location and relative stability.

Even so, some observers say that the Eastern Partnership almost didn't happen because many member states are loath to annoy Russia. One sentiment in Brussels, according to Dr Copsey, is that "Putin 'saved' the Eastern Partnership with the [2008] invasion of Georgia." In other words, the Eastern Partnership program was an opportune vehicle for a policy response.

Dr Pomorska calls the choice of Sweden as a partner in creating the Eastern Partnership proposal "excellent," and notes that it marked an improvement in Poland's approach to EU policymaking. Sweden was soon to take over the rotating EU presidency, giving it extra leverage to push the partnership, and it was able to take the Polish project and "translate it into the language of Brussels."

Copsey and Pomorska posit that the experience of the Eastern Partnership helped to teach Poland the value of "constructive ambiguity" in EU policy. Sweden's contribution included bureaucratization and depoliticization where possible, making it more palatable for other member states.

However, as Mr Schöpflin points out, the launch of the partnership was a success, but whether it achieves anything of substance is unforeseeable.

"After all, the Eastern Partnership and the war against Georgia are difficult to reconcile. The the consequences of that war are still around – the fact that Abkhazia has effectively been detached from Georgia for good, or at least for the foreseeable future, says to me that there are serious problems. And I don't see how the Eastern Partnership is going to solve the fact that 20 percent of the territory of Azerbaijan is under foreign occupation," he said.

MUCH TO LEARN

Eastern diplomacy may be Poland's greatest success to date, but it's not the only one. The number of Polish politicians occupying high-profile positions in the bloc is impressive. To name just a few: the presidency of the EP is held by Jerzy Buzek; The EC's budget commissioner is Janusz Lewandowski; the European Conservatives and Reformists are headed by Michał Kamiński; Jacek Saryusz-Wolski is a vice president of the European People's Party and chair of the EU's NATO delegation; and Danuta Hubner chairs the regional development committee.

But even with Poles in key positions in Brussels,

"Poland is the first of the newer member states to learn how to make use of the system for its own benefit"

the decision-makers in Warsaw still have many lessons to learn.

"I would say that Poland is the first of the newer member states to learn how to make use of the system for its own benefit. But the Poles have a top-down approach, they knew how to stop things, particularly at the last minute, and now they are learning how to stop a little bit earlier and trying also to propose solutions," said Piotr Maciej Kaczyński.

There's also a disconnect between officials in Warsaw and Brussels, a feeling of "them" versus "us," which reduces Poland's influence the EU. Better rotation of Brussels-trained talent back into domestic civil service would help this and would reduce "they don't know more than us" resentment.

Yet Poland's relationship with the European Union is long-term and has only begun in earnest. What it has achieved thus far is significant, but its influence will probably grow incrementally.

"I wouldn't exclude the possibility of Poland having a much more salient position," says Mr Schöpflin, noting that Europe has "a certain grudging respect for Poland having weathered the economic crisis quite successfully."

He added, "At the moment I'd say the odds are against [its influence growing quickly], but that could really turn around easily in a short period of time." ❃

A CURE IN PRIVATE HEALTH CARE

By **Marcin Poznań**

With Poland's public healthcare system constantly ailing and no prospects for improvement in sight, more and more Poles are turning to private health care companies

The health care industry is unique in that demand for its services is constant – people fall ill all the time. In Poland, that demand is set to rise sharply: Its population is aging quickly and will need medical assistance more frequently. However, according to a GfK survey published earlier this year, every third patient polled in a large city said that it has become more difficult to obtain access to a medical specialist, while 26 percent of those surveyed complained that access to basic public healthcare was becoming more difficult.

"[There will be] a steady growth in the number of private hospitals in the future, and that is just the beginning of a trend"

In circumstances like these it is little wonder that an increasing number of people are turning to private health care, despite having to pay for it.

"Private health care in Poland has been developing at a pace of several percent a year, and that is despite the recent crisis. I assume that as the economy improves this growth will stabilize at 15-20 percent annually," said Adam Rozwadowski, CEO of Enel-Med Medical Center, a private health care provider in Poland.

Indeed, finding affordable private health care is increasingly becoming less of an issue. Industry representatives reject the idea that private health care services are expensive. Such networks around Poland have come up with plans to fit almost every budget. They also underscore their advantages, which include fast, easy access not only to a family doctor, but also to more sophisticated specialists and equipment.

According to Małgorzata Kowalska, deputy president of the board at Medicover, Poles have begun to understand that they should treat their health as a long-term investment.

"The number of people using private services keeps rising, and the [increasing] purchasing power of society will make these services available to the broader population," she said, adding that this year will see private health services develop even more rapidly than before.

CONNECTED VESSELS

Private health care clinics are part of the same large system. They are also contracted by Poland's National Health Fund (NFZ), as public health clinics are, to perform services for patients that use the public system.

However, as the NFZ's budget tightens each year, it is more often contracting out its services to the more efficient private clinics. Private clinics are profiting as a result. For example, Enel-Med saw a more than 20 percent y/y increase in the value of contracts received for surgeries and diagnostic imaging at its hospital in Warsaw – from zł.10.5 million in 2008 to zł.12.8 million last year.

Though it might seem that the public sector's loss is the private sector's gain, it's not always quite that simple. According to Enel-Med's Rozwadowski, Poland's private health care sector has felt the effects of the lack of reform. Growing numbers of NFZ-financed

patients have been coming to private clinics rather than wait the several months it takes for a specialist doctor's advice in a public clinic. While that means more business, it also means that the private clinics are becoming overcrowded.

At the same time, industry experts pointed to unfair competition in the market. While private players have to invest in infrastructure and personnel and still generate profit, unprofitable public clinics or hospitals are subsidized by the state.

Nevertheless, optimism prevails. "Our industry will be expanding into services which had been reserved mainly for public sector, such as hospitals," said Mr. Rozwadowski.

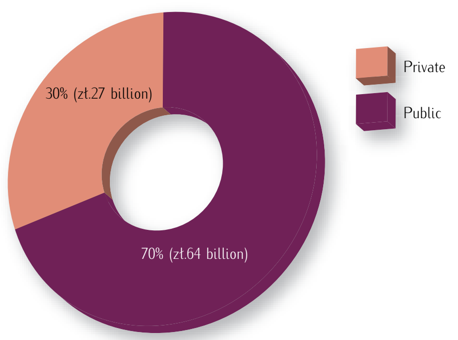
"I expect a steady growth in the number of private hospitals in the future, and that is just the beginning of a trend."

Moreover, these hospitals are expected to continue to benefit from NFZ contracts. Some 70 percent of surgeries performed in 2009 at the Enel-Med hospital in Warsaw were financed with public money. Another private health care provider, Medicover, also offers surgery for public patients at its own Wilanów-based hospital, opened in 2009.

WSE-listed EMC Instytut Medyczny has chosen a strategy of acquiring public hospitals and transforming them into modern, profitable clinics, offering services for both private and publicly financed patients. It has concentrated its operation in the Lower Silesia voivodship, but in late 2009 it leased a county hospital in Piaseczno, near Warsaw, for 30 years.

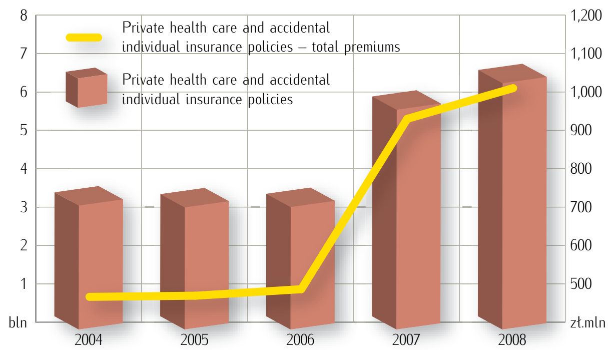
Piotr Gerber, CEO of EMC IM, admitted that it was challenging to change the way of thinking of some personnel, who, after being used to

Market share of public and private health care facilities, 2009



Source: GUS

Health care services market in Poland in 2009 (market share and value)



Source: Ministry of Health

"[In the next 12 months] it will be even more difficult to get access to a public clinic"

working in a public hospital, have had to adapt to new a environment.

And the employees weren't the only ones who had to change their mindsets. "In smaller municipalities it was also difficult to convince patients in the beginning that they don't have to pay for a service despite the hospital being private," explained Mr Gerber.

PRIVATE BOOST

EMC IM's Gerber predicted that commercial health care revenue will continue to rise, also thanks to insurance firms offering more and more medical insurance in cooperation with particular private health clinic chains.

"Even if health reform creates a list of basic services financed by NFZ, insurers will come up with a variety of policies which will cover services not covered by the NFZ program," agreed Krzysztof Piątek, business development manager at insurer Mondial Assistance.

Apart from clinic chains' own subscription plans for individual and corporate patients, medical insurance policies are an important channel of new clients for private healthcare providers.

According to Paweł Kalbarczyk, director of health insurance at PZU Życie, private medical insurance should be considered insurance against "a badly functioning public health care system."

He listed a number of factors that in his opinion will contribute to the growth in the market of medical insurance: The public resources dedicated to health care in 2010 were reduced in comparison to 2009, while national health insurance premiums were frozen at nine percent for 2010.

As a result, it will be even more difficult to get access to a public clinic. Looking for a private alternative, patients will find that it is more affordable to pay monthly installments at a private clinic rather than for each single visit. As a result, revenue in the private health care sector will increasingly come from these monthly installments and from insurance, rather than from direct fees for services.

Mr Kalbarczyk also predicted that a long-awaited regulation that would codify private insurance as a complement to the public system could soon be on its way.

CATALYST FOR CHANGE

Mondial Assistance's Piątek argued that the worsening public health care situation would arouse more patient discontent and would thus be a catalyst for change, especially since Poles are ready and able to pay for quality health care.

According to 2009 Social Diagnosis, a survey on quality of life in Poland, 50 percent of about 28,000 polled stated that they had used private health care at least once, while the average annual spending on private health care amounted to zł.600 per Polish household.

"Considering these numbers, I am confident the market of private health care services will prosper," said Adam Pustelnik, CEO of insurer Signal Iduna Polska.

"It is not only policy holders that benefit from private health care, but also patients of public clinics. Medical insurance policies contribute to shortening the lines in public waiting rooms, thus freeing up more public health care [services]," he added.

Surprisingly, the market for health insurance policies in Poland is still far from saturated. PZU Życie estimates that only about two million Poles regularly use private medical insurance or have a plan with a private clinic.

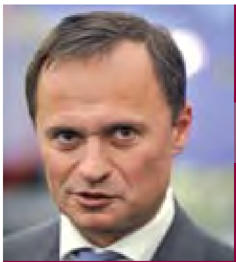
According to Mr Kalbarczyk, total expenditures on private health care in Poland amounted to zł.12.7 billion, from which just over zł.2 billion were covered by such plans, while the whole remainder was paid for individually.

"From the side of providers, the market is also not fully mature. We are and will be witnessing consolidation of private health care providers into larger networks. These will then be able to lower costs and offer quality service on a nationwide scale," he said.

Trendsetting businesspeople

Jan Krzysztof Bielecki

Jan Krzysztof Bielecki is currently the head of the economic advisory council established by Prime Minister Donald Tusk. The council is expected to have significant influence on government economic policy due to the close relationship he and the prime minister have, as their friendship goes back many years. From 2003 to 2010 Mr Bielecki was president of Bank Pekao. He also served as prime minister of Poland in 1991.



Leszek Czarnecki

According to a 2010 ranking by *Forbes*, Leszek Czarnecki is the third-richest person in Poland, with a fortune of zł.4 billion. In 1991, he established European Leasing Fund, one of the first companies to offer leasing services in Poland. In 2004, he formed the holding company Getin, offering banking, leasing and insurance services. He is also the founder of Noble Bank, the first Polish bank specializing in private banking.

Adam Góral

Adam Góral is the president of two of the biggest hi-tech companies in Poland, Asseco Poland and ABG SA. He also sits on the supervisory boards of companies such as Vistula, Asseco Business Solutions and Asseco Systems. Under Mr Góral's leadership, Asseco Poland has made investments in the Czech Republic, Slovakia, Germany and Romania. Mr Góral foresees many more investments in foreign countries from his companies, and says his dream is to build the first Polish conglomerate.

Andrzej Klesyk

Andrzej Klesyk is currently the president of Polish insurance giant PZU, which just recently debuted on the Warsaw Stock Exchange. Mr Klesyk has made a number of difficult decisions, including laying off thousands of workers in order to optimize efficiency at the firm. He is also the co-creator of one of the first internet banks in Poland, Inteligo. He received the 2010 "Player of the Year" award by *Forbes* magazine in the category of finance. The award is given to people expected to be trendsetters in a given year.

Alicja Kornasiewicz

Alicja Kornasiewicz is the CEO and president of the management board at Bank Pekao. Before taking her present seat, she was the head of UniCredit CAIB Poland and supervised investment banking operations of the UniCredit group in CEE. She worked at the EBRD as a senior banker and then as its representative in Poland from 1993-1997, later serving as secretary of state in the Polish Treasury Ministry. Ms Kornasiewicz chaired the supervisory boards of Bank Pekao and Bank BPH.

Jan Kulczyk

According to *Forbes*' 2010 ranking, Jan Kulczyk is the richest person in Poland, with an estimated fortune of zł.6.4 billion. His investments are wide-ranging, and his companies include the leading dealers and importers of Skoda, Volkswagen, Audi and Porsche automobiles in Poland. He also holds shares in Autostrada Wielkopolska and Autostrada Wielkopolska II, companies holding a concessions to construct and operate the A2 motorway in western Poland. His recent investments have mainly centered around the energy sector. His firm Kulczyk Investments holds shares in oil and gas exploration companies operating in Central and Eastern Europe, Brunei and Syria.

Mateusz Morawiecki

Mateusz Morawiecki is the president of Bank Zachodni WBK. Under his leadership, the bank became the third-largest universal bank in Poland. He was a member of the team that negotiated the conditions of Polish accession to the European Union in the areas of banking and finance. In 1997, he co-authored the book "European Law," which was the first book on European law and economic integration in Poland.

Józef Wojciechowski

Józef Wojciechowski is number 10 in *Forbes*' 2010 ranking of the richest Poles. The company he established in 1993, JW Construction, is the biggest Polish developer. In 2010, Mr Wojciechowski decided to diversify the activities of JW Construction by branching out into the office segment and intensifying its activities in the hotel segment.

Wojciech Sobieraj

Wojciech Sobieraj is a banker and co-founder of Alior Bank, which since is launch in 2009 has received plaudits from many corners. Mr Sobieraj is considered something of a maverick among his peers – he doesn't have his own office, but sits with his staff in an open-plan space and is known to have an informal manner towards his employees. His motto for the company is "back to basics," meaning a return to a personal approach to individual clients. Before becoming head of Alior Bank, he worked for the Boston Consulting Group and Bank BPH.

Zygmunt Solorz-Żak

According to *Forbes*' 2010 ranking, Zygmunt Solorz-Żak is the second-richest Pole, with an estimated fortune of zł.6.2 billion. He is the owner of Polsat, which was the first private TV station in Poland when it started transmission in 1992. Apart from TV Polsat, he owns pay TV platform Cyfrowy Polsat and has financial, telecom and electricity holdings. With the launching of broadband internet services within Cyfrowy Polsat in 2010, Mr Solorz-Żak is looking to capture a segment of the Polish internet market which he believes has been wrongly neglected by other providers – small cities and villages.

THE LUXURY MARKET'S TOP-SHELF POTENTIAL

By **Martyna Olik**

The Polish luxury market is still small, but shows plenty of promise

Poland has the largest economy of the European Union's new member states, and is the only member of the bloc whose GDP grew in 2009. The total wealth of the 100 richest Poles increased by 40 percent last year and an increasing number of them are making it into *Forbes*' World's Billionaires list.

Thus, Poland would seem to have no shortage of clientele for luxury goods. But Poland's high-end market is still young – it has only had 20 years since the fall of communist rule to develop – and is a particularly challenging market.

SLOW TO DEVELOP

According to CPP Luxury Industry Management Consultants, Poland's luxury market has been devel-

> *"Although the Polish luxury market did not suffer much during the crisis, it remains one of the least-developed in the region"*

oping slowly over the past decade, mainly due to the fact that wealthy Poles prefer to buy abroad and are less driven by a need to flash their social status than their counterparts in the region. Although the Polish luxury market did not suffer much during the crisis, it remains one of the least-developed in the region.

Other experts point out that demand is relatively low because the Polish market is immature, with no established tradition of buying luxury brands. Nor is it a market with significant social stratification, as opposed to, for example, Russia. But as Poles become wealthier, they are bound to spend more on luxury.

Another distinguishing factor is that for Poles, luxury is somewhat defined differently than in the West. Often that which is treated as luxury in Poland is considered merely "premium" in richer societies – that includes labels such as Hugo Boss, Tommy Hilfiger or Lacoste. Experts say this further demonstrates the market's immaturity.

Despite all this, luxury brands continue to open up stores in Poland, indicating that they see strong potential for growth.

TOP GEAR

At the beginning of 2010 Poland's luxury market was dominated by luxury car producers. Aston Martin opened its first dealership in Poland together with AML Polska in March. Bentley, present in the market for two years, was due to open an independent dealership in June, and Ferrari is also expected to open a dealership soon. Bentley sold seven cars costing around zł.1 million each last year.

BMW does not plan to open a Rolls-Royce dealership in Poland yet, but Bielsko Biała-based InterWelm recently became its first authorized service station and parts dealer.

Aston Martin has high hopes for Poland. "We have been inundated by Polish customers who have expressed a strong desire to buy our cars. Finally, we have the right partner and the right facility in place to serve them directly," said Dr Ulrich Bez, CEO of Aston Martin.

"The luxury car market in Poland is expanding, both in sales to individuals and businesses. Warsaw will be fundamental to our growth further through Eastern Europe, an important goal in our network development strategy," he added.

The first Aston Martin sold by AML Polska in Poland was the Rapide, which costs zł.890,000 in its basic variant.

The company plans to sell 20-25 cars a year. "We have set ourselves the following goal: By the 100th anniversary of the Aston Martin, which falls in 2013, we want to sell at least 100 new cars," the vice president of AML Polska, Marcin Dąborwski, told auto industry analysis firm Samar.

Premium and luxury brand importers are confident when it comes to the market's prospects. "The sales of such cars are very stable, as normally companies buy them for their bosses and exchange them," Jakub Faryś, head of the Polish Association of the Automotive Industry (PZPM), told *Rzeczpospolita*.

According to Samar, in 2009 a luxury car in Poland cost an average of zł.990,000.

HIGH-END HOUSES

The Polish luxury real estate market is also holding up well, with prices relatively unaffected by the economic downturn and forecasts of demand soon outstripping supply.

Market experts say that high-end residential projects are a safe investment in both bull and bear markets.

"According to our observations, bargain prices practically never occur in this market," said Michał Abramczyk, a real estate market advisor at Noble Bank.

Infinite Investment, a wealth-management company, estimated that the number of luxury residences on the primary market is still meager compared to the rising demand, and that wealthy Poles face problems finding suitably luxurious apartments.

"The real estate market, in general, is currently seeing a slowdown. In the luxury apartment segment, however, supply is still lower than demand and, as a result, interest is not waning," agreed Mr Abramczyk.

Typically, the most luxurious residential projects in Poland cost over zł.20,000 per sqm, with some reaching up to zł.40,000 per sqm.

The largest number of exclusive residences are constructed in the vicinity of Warsaw. They include such investments as Solea, Konstancin Gardenville and Oakland Park.

Marcin Gutaj, president of residential real estate firm Magnolia Polska, stresses that the wealthiest Poles are not only looking for great projects, but also pay attention to additional services.

"The most demanding and aware [clients] want to feel unrestrained in a well-designed building, with surroundings that offer additional comforts – fitness facilities, a nearby café, an interesting neighborhood," he said.

Developers are responding to demand and now offer a range of additional services, including concierge services. TS Investment included such services in its offer in the Tesoro Ivory Residences luxury residential complex near Gdynia. Platinum Towers, a development comprising two 22-storey towers in Warsaw situated near the Hilton hotel, offers the Platinum Residence program for some of its residents – lodgers leasing apartments are provided with additional services such as cleaning, concierge service and free membership at a high-end fitness club and spa.

FLYING IN STYLE

There is also an increasing demand for private air transportation. Grzegorz Czwartosz from Heli Invest, an importer of Eurocopter helicopters, says his company sells several units a year. That there is increased interest in helicopters in Poland was confirmed when the authorities of Polish ski resort town Zakopane announced in February 2010 that they plan to build a helipad for private helicopters to cater for wealthy tourists.

Private jets are also becoming more popular among affluent businesspeople. "More and more Polish businesspeople need unlimited access to first class air transportation," said Mats Leander, managing director of NetJets Europe. He believes the healthy state of the Polish economy will double the demand for corporate aviation services within the next five years, a trend facilitated by increased public investment in local airports. The company estimates the market comprises around 200 clients.

In 2009, NetJets Europe served around 300 flights in Poland, compared to almost 6,500 in Spain and around 8,000 in Germany. Customers can buy shares in one of the planes and use it accordingly or buy a card with a specified number of hours to use. Twenty-five hours of flight in a light jet costs €139,000.

LUXURY LOCATIONS

Other luxury brands set on entering Poland include Louis Vuitton, which confirmed in early April that it would open a store in Poland by the end of the year.

In March 2010, Rolex opened its first Polish mono-brand store, in cooperation with local jewelery company W. Kruk. The most expensive watch in the store costs zł.116,000. W.Kruk has been selling Rolex watches for over three years now, with 100 sold in 2009. The company's representatives estimate that the number will grow by up to 40 percent over the next three years.

Some experts say that one of the barriers to more luxury brands entering Poland is the lack of suitably luxurious locations. Polish cities, including Warsaw, lack prestigious shopping streets and exclusive shopping centers, they say. Some infrastructure investments intended to spruce up locations with strong luxury potential have been postponed, as infrastructure investments for the Euro 2012 soccer championships currently have top priority.

However, things are looking up. Bracka street in Warsaw may soon become a mecca for Polish luxury lovers, as Poland's first luxury department store, Wolf Bracka, is to be completed there in Q4 2010, with 21,000 sqm of usable space and almost 12,000 sqm of leasable space. The investor, Wolf Immobilien, has not revealed which brands have already leased out space, but it is rumored that tenants might include LMVH, owner of such brands as Givenchy, Louis Vuitton and Kenzo. ❃

ROAD CONSTRUCTION GAINING SPEED

By **Adam Zdrodowski**

The process of developing Poland's new highway network is set to shift into high gear

The lack of modern road infrastructure has long been one of Poland's most challenging and seemingly insurmountable problems, but there is hope that a whole network of highways and express roads could be delivered on time for the Euro 2012 soccer championships.

With the self-imposed 2012 deadline quickly approaching and EU funds widely accessible, construction work on the planned roads seems to have finally gotten off the ground in earnest in 2009. While at the end of 2008 there were just 219 kilometers of under-construction highways in Poland, in December 2009 that figure had already grown to 635.

"Poland will become the largest road-construction site in Europe over the next 12 months"

This acceleration has been of crucial importance to crisis-stricken construction firms. Over the last year the number of companies participating in road tenders grew radically, from approximately 30 to over 270.

As preparation work on most of the major road projects scheduled for delivery by 2012 has now been completed, analysts and market players predict 2010 will see a continuation of the growth trend in Poland's road-construction sector.

CONTINUED MOMENTUM

The value of road-construction work should continue to rise this year, due to numerous contracts signed in 2009, according to Bartłomiej Sosna, a senior construction analyst at PMR Publications. The market will therefore see some much-needed continuity of the investment process.

"Due to the environmental impact assessments obtained for new projects in 2009 and the first months of 2010, the number of announced road tenders should remain at the same level as last year, which was satisfactory for contractors," Mr Sosna said. He added that stable numbers of road tenders would, in turn, lead to similar numbers of road contracts signed in 2010.

But Lech Witecki, head of the General Directorate for National Roads and Motorways (GDDKiA), predicts more than just continuity. He said he believes that Poland will become the largest road-construction site in Europe over the next 12 months.

The directorate's plans for this year include the start of construction on over 536 kilometers of highways and almost 712 kilometers of express roads. Total expenditure on road construction in Poland for 2010 is expected to exceed zł.31 billion.

Skeptics point out that last year the value of road construction contracts in Poland was also expected to be approximately zł.30 billion but in the end amounted to just zł.18 billion. GDDKiA argues that those numbers were largely the effect of savings resulting from competing contractors' low bid prices.

ROADMAP TO SUCCESS

Construction companies themselves admit they foresee a profitable 12 months.

"We expect many tenders for the construction of express roads as well as several for the construction

"While at the end of 2008 there were 219 kilometers of under-construction highways in Poland, in December 2009 that figure had already grown to 635"

of highway stretches," said Dariusz Blocher, president of the management board of Budimex.

"Road construction firms will increase their sales due to the realization of large contracts signed in 2009."

He added that the share of road construction contracts in his company's portfolio would rise to 70 percent in 2010, from 63 percent last year.

Equally optimistic was Krzysztof Andrulewicz, president of the management board of Skanska's Polish branch, who said that his firm had started the year with a large portfolio of orders related to infrastructure investments.

"This year we hope for an increase in the number of tenders announced for the construction of express roads as well as the modernization of national roads," he said. "We hope that in the 2010-2012 period the funds earmarked for road construction will increase in comparison to 2009."

AN END TO UNDERCUTTING?

How prices will react to a continuing high level of construction activity and a seemingly improving macroeconomic situation remains largely unknown, however.

Last year growing competition among contractors caused by the emergence of new international players in the Polish market, as well as a considerable decrease in the volume of orders from the residential and commercial property sectors, brought about widespread price wars in the road-construction segment.

"Last year the bid prices in infrastructure investments decreased by more than 20 percent; there are even tenders in which the lowest price amounted to 40 or 50 percent of the investor's cost estimate," said Skanska's Andrulewicz.

That price war is set to continue, industry insiders say.

"The consequences of the financial crisis will force companies from depressed markets to target Poland, a major construction site in Europe. Another factor contributing to the price war is the arrival to the Polish market of companies from Asia," said Sonia da Fonseca, deputy commercial director for Mota-Engil Central Europe, a civil engineering and infrastructure construction firm.

"Also, we cannot forget that big international groups, which already have a lot of experience in the Polish market, will continue to fight for their market share," she added.

According to Budimex's Blocher, contractors do not have much room left to undercut prices. On a more optimistic note, PMR Publications' Sosna believes that price trends in the Polish road construction sector could actually rise in the second half of this year. Bid prices offered by contractors may not reflect the rise of concrete construction costs, but they will probably not be as shockingly low as they were in 2009.

"It is clearly visible that the construction market is picking up – many firms are not as anxious about their near future any more due to new contracts that they have secured in the recent months," Mr Sosna said.

"The consequences of the financial crisis will force companies from depressed markets to target Poland, a major construction site in Europe"

INCENTIVES FOR SPEED

A trend that is most likely to intensify this year is the cancellation of road contracts when construction projects run into considerable delays. As the deadline marked by the Euro 2012 soccer championships approaches, the need for quick and decisive action when a particular project seems to be in danger will doubtless be increasingly recognized.

Such a situation occurred recently, with GDDKiA canceling a €230 million contract with Austrian concern Alpine Bau for the construction of a stretch of the A1 highway in December 2009. The directorate cited repeated failures on the part of the contractor to meet construction deadlines as the reason for its decision.

Industry insiders say that the government now seems to have no tolerance for contractors who lag behind. The Alpine Bau case shows that the government will consider termination of contracts when the delay seems irreversible.

That means there will likely be a rise in the number of road-construction-related legal battles. According to new regulations in Poland's public procurement legislation, contractors who have caused damage by failing to perform or by improper performance of a contract will be excluded from tender proceedings.

Thus with the Euro 2012 deadline, with road construction forming a considerable part of contractors' income, and with new regulations punishing sluggishness, everyone involved has a stake in driving the modernization of Poland's road network forward. ❃

Legal analysis

Uncertainty and conflicting regulations in building infrastructure

Peter Daszkowski
Partner,
Legal Advisor, M&A

In view of the approaching Euro 2012 soccer championships, standard forms of FIDIC contracts have become an essential part of commercial construction activities in Poland. The publication of the first standard contracts in 1999 was a response of the Federation Internationale des Ingenieurs-Conseils to the growing needs of employees and contractors for greater certainty and efficiency in the conclusion of the construction contracts.

The FIDIC standard forms may be relied upon by professionals, since their execution is supported by the knowledge of experts with international experience. Currently, out of six different types of FIDIC standard forms which are in use, the Conditions of Contract for Construction (the Red Book) are recommended for building or engineering works designed by the employer or by his representative.

Uncertainity in interpretation

The use of such standard forms in construction contracts concluded through public tenders leads to a facilitated comparison and evaluation of tenders. Nevertheless, the termination procedures are subject to uncertainty in interpretation since, in principle, three major types of potentially applicable legal provisions intersect when it comes to road construction contracts. The provisions concerned include the FIDIC clauses, the Polish Civil Code and the Polish Public Procurement Act.

The recent experience of Euro 2012 preparations has shown that termination clauses of such contracts are of major practical importance. The current Public Procurement Act enables the employer to terminate the contract if the further performance of a contract is no longer in the public interest, provided that such circumstances were not foreseeable at the conclusion of a tender offer contract.

Neither doctrine nor jurisprudence have developed a common view on this matter yet. The Polish Supreme Court tends to uphold the applicability of Civil Code provisions to the extent not explicitly restricted by the Public Procurement Act.

This stance may open the door for a more far-reaching interpretation according to which the rule of contractual freedom should also be applicable, meaning that the termination provisions foreseen by and under individual FIDIC contracts should be respected as lex contractus (law of the place where the contract is made).

Nonetheless, potential disputes must be settled based on the Polish Civil Code and building law since FIDIC model contracts fail to provide for a detailed procedure of settling such conflicts.

Source of conflict

Further, it is important to note that from the formal perspective, the former court decisions should be seen as a general guideline, while FIDIC constitutes the soft law only, in contrast to the Public Procurement Act and the Civil Code which are the commonly binding hard laws.

Since the contract termination issue is not clearly regulated, it is often the source of conflicts between the employer and the contractor. In practice, such conflicts are either settled by common courts or by the arbitration court established by the parties to the contract.

This results in a "competition" between the two court authorities. Such situations have not been avoided recently during the implementation of major highways and soccer stadium investment projects being realized for Euro 2012.

Trendsetting real estate firms

Echo Investment

As one of the few developers to secure bank financing in 2010, Echo Investment was able to go ahead with major investments in a troubled commercial market. Echo's €100 million credit agreement with Eurohypo was particularly momentous and allowed the developer to expand the Galeria Echo shopping center in Kielce.

Dom Development

WSE-listed Dom Development remains one of the largest residential market players in terms of the number of units sold. In recent months, the company has led the rebound in the housing segment, having already started a number of new projects since the beginning of 2010.

ECE Projektmanagement

ECE Projektamanagement obtained €111 million in bank financing from Landesbank Berlin and Berlin Hyp, which will enable it to develop its Galeria Kaskada shopping center project in Szczecin. At the moment, ECE manages five shopping centers in Poland which are located in cities including Gdańsk, Kraków, Wrocław and Łódź.

Ghelamco

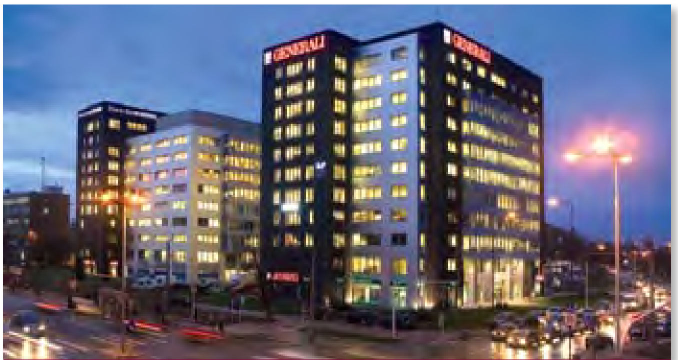
Ghelamco's announcement in 2010 that it will develop the Warsaw Spire tower – set to be the largest skyscraper in Poland's capital – may have finally marked the return of confidence to the commercial segment in Poland. One of the most active office market players in recent years, the company has also revealed it will soon go ahead with construction on a new office building in downtown Warsaw.

GTC

Present in 10 markets throughout Central and Southeastern Europe, Warsaw-based GTC remains one of the regions' leading real estate companies. Among GTC's most recently announced projects is a major shopping center scheme that the company will develop in cooperation with Polnord in Warsaw's Wilanów district.

Mayland

Retail developer Mayland has in recent years been at the forefront of regional shopping center development in Poland and continues to expand its operations into the country's medium-sized and small cities. Among the company's latest realizations are projects in Opole, Dàbrowa Górnicza and Słupsk.



Skanska Property Poland

Skanska Property Poland has been a leader in terms of implementing sustainable solutions in Poland. The company's Deloitte House and Marynarska Point were the first office buildings in Poland to have obtained the European Commission's GreenBuilding certificates of energy efficiency. Recently, Skanska announced that its own offices in the former facility had been granted the LEED (Leadership in Energy and Environmental Design) certificate.

UBM

UBM has been behind many prestigious commercial and residential projects in the country, including the InterContinental hotel and the Warsaw Towers office scheme in the capital. The company is currently developing Poleczki Business Park, one of the largest ongoing commercial schemes in Poland.

Panattoni

Since entering the Polish market in 2005, logistics real estate developer Panattoni Europe has developed 21 distribution parks, delivering approximately one million sqm of modern industrial space on the outskirts of major Polish cities. In terms of new lease contracts signed in 2009, the developer had a 44.5 percent share of the market last year.

Warimpex

Known in particular for its hotels, Warimpex has been active in the CEE region over the last few years in developing conference hotels under its four-star Angelo brand and now intends to focus on developing budget brands Campanile and Premiere Classe. The four-star Andel's Hotel Łódź, which Warimpex co-developed with UBM, was recognized for its outstanding design and restorative value.

BANKS IN CHARGE OF REAL ESTATE RECOVERY

By **Adam Zdrodowski**

Recovery in Poland's real estate market will be driven by the slow but steady loosening of lending policies

Poland's property market may not have been among those most severely hit by the outbreak of the global financial crisis in 2008, but the effects of the slowdown still took a heavy toll.

The past year and a half has arguably been one of the most challenging periods in the history of Poland's young residential and commercial real estate segments. Developers from both sectors suffered heavily from the shortage of funds for financing new projects.

After years of prosperity which saw property prices

> *"Investment funds are now increasingly willing to discuss financing of planned and under-construction projects"*

in Poland rocket, benefiting local developers and banks alike, the crisis brought painful lending policy corrections that quickly translated into a considerable decrease in market activity.

With the first signs of economic recovery in Poland and its European peers as well as an ostensible rise in demand for housing and commercial space, there is hope that 2010 could finally bring back growth in the beleaguered property market.

But this will largely depend on banks, and how they will react to the seemingly improving market is still unclear. Some developers admit to expecting the stringent lending rules to ease somewhat this year, but most players remain cautiously optimistic.

DRIED-UP WELLS

Banks' influence on the property market was particularly visible at the beginning of 2009 when the financial taps were almost completely turned off. The situation improved a bit later in the year but many lending restrictions remained.

As Jarosław Fijałkowski, president of the management board of Parkridge Retail Poland, pointed out, many banks froze their commercial investment financing transactions in 2009 and others even abandoned such services altogether. Financial institutions were reluctant to take over loans taken out in other banks, and many also focused exclusively on existing projects or refinancing.

Many banks also clearly favored prime projects being developed by established market players. "Banks now only select the best projects from reputable developers. The procedure to obtain financing is much longer than previously, due to banks' risk analyses, more detailed due diligence and security documents," said Jeroen van der Toolen, managing director for Central and Eastern Europe at Ghelamco Poland.

Małgorzata Szwarc-Sroka, director of the economic department at JW Construction Holding, had a similar view, saying that trusted developers with good business plans could count on obtaining financing even in the difficult times. She noted that her own company had managed to increase the level of financing for its investments a couple of times in 2009.

Even if banks have seemed more willing to lend in recent months, deals are still being struck on their terms. Ms Szwarc-Sroka pointed out, for instance, that banks now require 20-30 percent of units in residential projects to be pre-sold before granting a loan, a difficult feat to achieve in a market with so many completed apartments. Additionally, banks are now demanding that a developer have ownership of the land before they even agree to consider its application for a loan.

BANK BASHING

Admittedly, the situation has led to some resentment on the part of developers, who often claim that banks' risk aversion has gotten out of hand.

"In contrast to the previous crisis of 2002, when their profits were very small, today developers continue to keep the margins big, retain financial liquidity of a kind and, as demand picks up, are able to prepare new investments. A gap between demand and supply is not threatening us," said Mariusz Gawron, president of the management board of Grupa Inwestycyjna Hossa.

He added that the prosperity of 2006-2007 had not been created by developers, but by the financial sector, which also triggered the collapse.

According to Jarosław Szanajca, president of the management board of Dom Development, banks' reaction to the financial crisis was often dictated not by the local situation, which was relatively mildly affected by the slowdown, but rather by circumstances in Western markets.

"Banks have owners abroad, and these have been shaping the financial institutions' lending policies according to sentiments in their mother countries," Mr Szanajca said.

ENDURING TREND

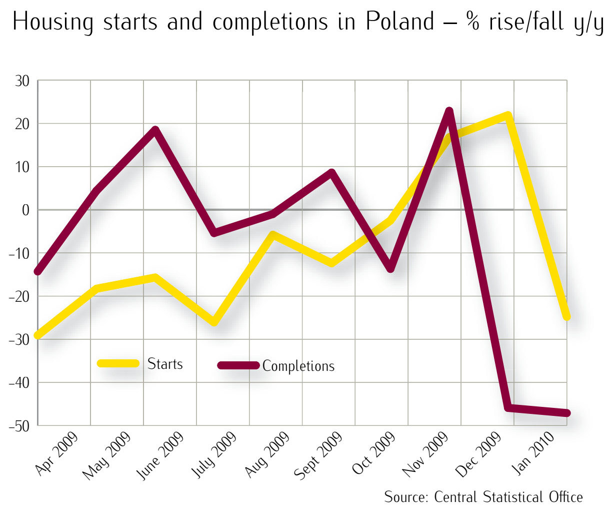
Whether their current policies are justified or not, banks are expected to largely retain them throughout 2010. Referring to the mortgage market for residential property buyers, Jerzy Tofil, president of the management board of Pekao Bank Hipoteczny, argued that interest rates would not decrease because the cost of money in the inter-bank market is still high.

He added that despite the fact that Q4 2009 was good in terms of the volume of granted mortgages, certain practices typical of the prosperous period of 2006-2007, notably a liberal approach to the assessment of buyers' creditworthiness and the level of required down payments, would not return in 2010.

No radical overhaul of banks' policies is expected in loans for developers either. "The year 2010 will not see a sea change as far as financing commercial projects is concerned. We are hoping, though, that a complete turning off of the tap will not occur, as was the case in the first and second quarters of 2009," said Grzegorz Iwański, financing department director at Echo Investment.

CAUTIOUS OPTIMISM

Though it remains likely that severe loan policies will be maintained, real estate market players predict some improvement will take place this year. Mr Iwański, for one, was of the opinion that Poland's resilience to the crisis will be of major significance in 2010. He believes that this will lead to financial institutions investing their money in the country's property market – both invest-



"Banks have owners abroad, and these have been shaping the financial institutions' lending policies"

ment funds and mortgage banks, a theory partly confirmed by mortgage banks refinancing and financing a number of major commercial projects in the second part of last year, including Galeria Mokotów in Warsaw and Galeria Echo in Kielce.

Parkridge Retail Poland's Fijałkowski shared a similar opinion, saying that investment funds are now increasingly willing to discuss the financing of planned and under-construction projects. He added, however, that negotiations are still rather difficult.

Daniel Pałasz, financial director of Blue Ocean Investment Group, was even more optimistic about the prospects for the next 12 months. According to him, when it comes to commercial real estate financing, Poland is witnessing the end of a transition period following the turbulence caused by the global economic crisis.

"Some universal banks, which eagerly offered commercial real estate financing products in the past, are still struggling to decrease [the weight of] such loans in their portfolios. However, only a few of them will not re-launch active crediting activities in the near future," said Mr Pałasz.

He added that once the market stabilizes there would be no sound reason for banks to renegotiate price conditions for loans or to attempt to reduce their own engagement in projects, and that cautious optimists in the banks now seem to have the advantage.

"For certain, investors have already arranged the launch dates of most of their new investments. And, from my point of view, banks have reached an advanced stage of preparation to relaunch investment financing," Mr Pałasz concluded.

Legal analysis

Tax planning before refinancing

Adrian Jonca
Partner,
Tax Advisor,
Corporate Law

With the world economy having slowed down and interest rates decreasing, the real estate market is focused on restructuring processes. However, there are still some issues that must be taken into consideration when it comes to tax planning in order to avoid the cash leakage that comes from unnecessary tax payments during refinancing proceedings.

Loan refinancing is currently one of the most important issues for the real estate business. The way such refinancing is performed may significantly affect cash flow. As a consequence, the proper tax planning can generate important benefits.

Foreign-currency loans

Polish projects are mostly financed through bank loans granted in foreign currencies. Thus, the debt restructuring taken under consideration would result in a crystallization of foreign exchange differences on the loan principal and the overdue interest, which, for tax purposes, can be either positive (and therefore taxable income) or negative (a deductible cost).

Due to the fact that the foreign exchange differences are recognized for tax purposes when effectively realized (unless during the investment phase), significant taxable foreign exchange differences for tax purposes may not be considered a desired solution. That is often the case if the exchange differences are positive.

Deductibility of interest

Another major issue in the current real estate market is the full tax deductibility of interest as a consequence of loan-restructuring proceedings. The interest constitutes a tax-deductible cost when paid or compounded with the loan principal, unless it increases the initial value of the fixed asset during the investment phase.

Depending on the restructuring method, such as whether the debt is effectively repaid or extended, the interest may be recognized either as a deductible cost or not. Should any tax loss occur due to the debt refinancing proceedings, if the real estate company is not capable of absorbing tax losses in the future, this tax asset would be effectively lost. The reason for this is that according to Polish tax law, a loss may be carried forward for five years under the condition that in any one of those five years no more than 50 percent of the loss carried forward is utilized. It is not possible to offset a loss retroactively.

Therefore, project refinancing should be planned carefully. Due to the recent high volatility of foreign exchange rates the tax deductible cost or the taxable income crystallized in this way may be of significant importance.

Optimization and certainty

There are certain solutions for optimizing the amount of taxable income and the amount of deductible costs resulting from the refinancing. Investors can obtain certainty regarding the results of the tax optimization procedure through a binding ruling from the Polish tax authorities before the structure is implemented.

Paweł Kuglarz
Partner, Legal Advisor,
Real Estate Law and Litigation

Legal trends in Poland

Several major amendments which are expected or have already been introduced into the Polish legal system will have an effect on conducting business activity in Poland in the near future. This article provides an overview of these regulations.

AMENDMENTS TO CONSTRUCTION LAW

On April 23, 2009 Poland's parliament adopted amendments to the country's Construction Law which were aimed at simplification of the construction process. Under the new provisions it is no longer necessary to obtain a building permit.

Instead, investors are only obliged to notify construction work to the competent local administrative authorities, who will be responsible for maintaining construction registers. In addition, the new law abolishes an obligation to obtain an occupancy permit.

In principle, the construction of a building will require an entry in the construction register. The law allows construction to start if the relevant administration authority does not object within 30 days.

The amended law also introduces a new concept called "urban planning consent." This is understood as the provisions of the local zoning plan or a decision on the conditions of development, a decision on the location of a public utility or another decision if – under separate regulations – these form the basis for drawing up a construction design and registering a construction project.

Registration of a construction project will be possible on condition that it is compatible with the terms of urban planning consent. Registration is prohibited if the project and construction work could significantly affect the environment or a Natura 2000 area, and is not directly connected with protection of that area nor results from such protection.

Presidential challenge

The late President Lech Kaczyński referred the amendment to the Constitutional Tribunal. He took the view that the law could result in land-use violations, as the proceedings to obtain consent for a project do not involve neighbors owning real estate near the planned project. Indeed, they would not even be informed of the project.

Under the current construction permit proceedings, neighbors can take an active part and appeal the construction permit at a higher-level administration authority, and if they find that decision unsatisfactory, they have the option to file a complaint with an administrative court. The amended law does not provide the option for this kind of complaint.

The President Kaczyński also felt that the 30-day deadline for the administration body to oppose a project's registration is too short.

Energy certification

In addition, on August 27, 2009 Poland's Construction Law was amended to change regulations concerning energy certification of buildings. Under the new provisions, the group of experts entitled to issue energy performance certificates for buildings has been expanded.

The group now includes all of the members of the Polish Chamber of Civil Engineers and the National Chamber of Architects, regardless of their education and professional qualifications. There are now around 150,000 specialists entitled to issue energy performance certificates for buildings. Owners of buildings are not allowed to issue the certificate for their own buildings.

Other participants of the building process are allowed to issue the certificates under the condition that they have a license. The amendment has unfortunately failed to solve problems connected with the implementation of the European Energy Performance of Buildings Directive (EPBD) in Poland.

ZONING LAW AMENDMENTS

Another major draft amendment was presented in December 2009 by the Ministry of Infrastructure to Poland's Zoning Law. The draft provides for fundamental changes aiming to simplify the investment process and reinforce cooperation between all involved in the zoning process. In particular, the draft provides for:

- the introduction of an urban planning and infrastructure agreement to be concluded between investors and the *gmina* (local community), which will provide greater convenience for the investor and optimum principles of cooperation for developing technical and social infrastructure, as well as for complying with local and national requirements and regulations;
- the introduction of the institution of the mediator, responsible for counterbalancing the individual and public interests in the *gmina*'s zoning policy. The mediator's aim is to ensure an agreement is reached be-

tween particular members of the local society as well as between the local society and the *gmina*;
- the introduction of local urban regulations alongside the local plan, which will allow for the simpler and cheaper establishment of rules for the area's development, including development conditions for areas where the local plan is not required.

The new regulations for investment locations where no zoning plan exists work by eliminating decisions on development conditions and replacing these with decisions on the urban development plan. This has come as a result of extensive criticism of the decisions on development conditions, which many feel are arbitrary and result in corruption.

In locations where there is no zoning plan, an investment may be approved with a decision on the urban development plan which adopts such a project. The investor must submit a motion for such approval.

Public purpose investments, farmstead developments and sports and tourist facilities, such as ski lifts and hostels, are excluded from this rule.

Local urban regulations

In addition, the amendment provides for the introduction of "local urban regulations." According to the proposal, the local urban regulations would constitute local law, but their role would be limited. This proposal is intended to enable the realization of zoning policies in areas intended for development but not included in any local plan.

The areas for which the full implementation of local plans is not necessary or useful may be subject to the urban regulations in a limited scope, referring only to some principles of the area's development. These proposals are designed to adapt to the various requirements of a diverse array of local laws.

Urban development agreements

An urban development agreement is an agreement concluded between an investor and the *gmina*, which provides for development of the area or establishment of social infrastructure outside a building plot.

This agreement should be specific as to how the investor will fulfill the agreement's terms, as well as the contractual penalties for failing to perform or for improper performance of the agreement. It should also specify the rules, methods and dates by which the expenses borne by the investor will be returned, if the development falls within the *gmina*'s own duties.

The urban development agreement should be concluded in writing and be subject to publication in the Public Information Bulletin (Biuletyn Informacji Publicznej), so that an analysis of the investor's fulfillment of the terms can be conducted.

The analysis is subject to an opinion of the provincial urban and architectural commission. The urban development agreement cannot be concluded without a positive opinion. Non-issuance of the opinion within 21 days is deemed a positive opinion.

If the investor fails to present the information as mentioned above, the *gmina* or city executive will refuse to conclude the urban development agreement.

AMENDMENTS TO PUBLIC PROCUREMENT LAW

The end of 2009 and beginning of 2010 have brought major changes to the Public Procurement Act. Under the so-called "big amendments," the EU Directive on the right of appeal was introduced into Polish law.

In particular, the major changes apply to means of legal protection. These changes are fundamental indeed, since the most common method of obtaining legal protection – that is, for a contractor to file a protest against the decisions of the ordering party – may no longer be applied.

Two-step process

Now, contractors may first lodge an appeal with the National Chamber of Appeal (KIO). If dissatisfied with the KIO decision, contractors may file a complaint directly with the district court.

The system has thus been simplified by introducing a two-step process for fighting decisions made by administrative authorities.

The amendment is controversial. Its opponents claim that new, considerably higher fees for filing a complaint with the district court can mean that an appeal to the KIO will in fact become the only means of legal protection. Some contractors will simply be unable to afford the court payments, which in the worst cases can amount to several million złoty.

On the other hand, supporters of the amendment are right to claim that previously the filing of protests had unreasonably lengthened public procurement procedures. Filing protests was an easy way to object to almost any of the ordering institution's decisions.

Under the new regulations, cases are generally heard and decided by one KIO judge. Only disputes that are particularly complicated are subject to a decision of a three-member panel of KIO judges. Previously, it had been standard for the three-member panel to decide such cases.

Considering the complicated nature of the cases heard by the KIO and the fact that a decision made by a KIO judge may in practice be final, the single-judge system has raised some justified fears.

Single-bidder contracts

Another change relates to the application of procurement contracts with single bidders, a procedure which had previously been heavily abused in Poland.

Upon introduction of the amendment, ordering parties must notify their intention to award such a contract by placing the relevant information in the Public Procurement Bulletin (Biuletyn Zamówień Publicznych) or the EU's Tenders Electronic Daily (TED), depending on the value of the contract.

Previously, since such notifications were not required, the ordering institutions often used this procedure to award contracts on a non-competitive basis. This had left considerable room for abuse.

Now, contractors at least have the knowledge that a given procuring institution intends to apply the procedure and can file an appeal if they have any suspicion that the law is not being followed.

Other provisions

Interestingly, under the amendments, contractors may now rely on the knowledge, experience and technical potential of persons capable of performing the public procurement contract, irrespective of the legal relationship between these persons, be they companies or natural persons.

Contractors only have to present to the contracting party proof – for example a reliance letter – that they may rely on the person's or company's capacities during the performance of the contract.

The application of this new provision will show how the contracting institution reacts to a situation in which a contractor intends to rely only on capacities of other entities because it has none at its disposal.

Moreover, under the new regulations private entities such as funds, associations and entrepreneurs acting as ordering institutions for services or goods partly financed by public funds no longer (with some exceptions) have to apply public procurement provisions to receive auxiliary public funds, in particular from the EU.

CHANGES TO CIVIL LAW

It should be noted that the Polish Codification Commission for Civil Law is in the course of finishing work on introducing a new legal institution into the Polish Civil Code, namely the hereditary building right.

This right will allow landowners to encumber real estate with the right to build, develop or use existing buildings or other facilities above or below the surface of the land.

Unlike the perpetual usufruct right, the hereditary building right may also extend to facilities under the surface of the land.

Buildings and other facilities – either existing or constructed – upon or under the surface of an encumbered property will be owned by the holder of the hereditary building right.

Establishing new perpetual usufruct rights will become impossible upon the entry of the hereditary building right into force.

Consequently, as intended by the authors of the draft, the hereditary building right will eventually replace the right to perpetual usufruct.

Separate ownership

That separate ownership of premises can be established on a property under the hereditary building right definitely deserves special notice. This is particularly important for the housing market and developers who would use the right to establish separate ownership of housing premises developed on the land encumbered with a hereditary building right.

Without such a possibility, the introduction of the new right would make no sense at all for many potential investors.

Under the draft, the hereditary building right may be established for a period of 30 to 100 years and may be subject to further extension. However, unlike with perpetual usufruct, a hereditary building right holder will have no right to claim this extension.

If the hereditary building right is not extended for another period in a respective agreement, once it expires, ownership of the constructed buildings will pass to the landowner after due compensation is paid to the holder of the hereditary building right.

Benefits for investors

This new regulation is inconsistent with a recent trend to reinforce the ownership right through, for example, graduate liquidation of a cooperative member's ownership right to premises.

From this point of view, the introduction of the hereditary building right seems to be a step backward. But to a certain degree this new right will be beneficial for investors.

The hereditary building right can be established not only on public property but also on land owned by individual persons.

Such an option could be used by landowners who are interested in developing their land or realizing an industrial investment project, but have no funds for it and at the same time do not wish to sell their land.

From an economic point of view, this new legal institution will simply make the realization of certain investment projects easier. When it comes to public use investments, it may also help to avoid the expropriation of privately owned land for public purposes.

The introduction of European standards with respect to the protection of the buyer's premises is necessary for ensuring the proper development of the residential real estate market, especially as currently no legal regulation in Polish law would protect such a buyer against an unfair and incompetent developer. An obligatory escrow account is a solution used in many countries in such cases. Introducing such an account in Poland (which we already suggested with Prof. Fryderyk Zoll almost 10 years ago), along with an information prospectus and a special security against the insolvency, would civilize that market. For years that concept has had its supporters among various government authorities. Now, it is time to act – "verba docent, exempla trahunt" (words teach, examples lead).

Last but not least, the abolishment of commercial courts raises serious doubts among the business environment. Undoubtedly, the hitherto defects of that model should be rectified, as depriving entrepreneurs of such legal proceedings when pursuing claims would rather complicate the process, instead of facilitating it.

Key partner:

BEITEN BURKHARDT has been present in Poland for 10 years and has longstanding experience in providing legal support for investments in Poland.

Beiten Burkhardt in Poland offers comprehensive restructuring and business recovery services to domestic and international enterprises. Our lawyers have extensive experience in corporate, financial, commercial and tax restructuring.

The Warsaw office currently employs 32 Polish lawyers. They are fluent in Polish, German and/or English.

We use our local and international experience to offer the full spectrum of restructuring and operational effectiveness services, including:

- Mediation and litigation including arbitration
- Corporate restructuring and Insolvency
- Tax structuring and optimization
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In cooperation with:

The Polish Information and Foreign Investment Agency (PAIiIZ) has been servicing investors for 17 years. Its mission is to create a positive image of Poland in the world and increase the inflow of foreign direct investment by encouraging international companies to invest in Poland.

The Agency offers foreign entrepreneurs quick access to information regarding the economic and legal investment environment, assistance in finding a convenient investment location, help in obtaining investment incentives, guidance through all the necessary administrative and legal procedures and advice throughout each phase of the investment process.

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PricewaterhouseCoopers is a professional services firm supporting clients with audit, business advisory, as well as tax and legal services. It comprises over 163,000 people in 151 countries. PwC in Poland has a successful record of cooperation with the largest local and international businesses and government institutions. Its Polish Tax & Legal Department was awarded the prestigious title "National Tax Firm of the Year 2010" by *International Tax Review* monthly. The firm has been recognized for the high quality, innovative nature and broad scope of its international tax structuring advisory. It was also named the "European Transfer Pricing Firm of the Year."

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The Renewable Energy Association (Stowarzyszenie Energii Odnawialnej, SEO), was founded in 2001 and is a growing, active organization dedicated to promoting knowledge about renewable energy and environmental protection.

SEO is a platform for the exchange of experience between members of the association, and serves as an information base for administrative organs, beginning with authorities from the ministries and state funds, and ending with municipalities, local governments and environmental NGOs. It also brings together major companies from the electricity sector.

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Polish Chamber of Power Industry and Environment Protection (Izba Gospodarcza Energetyki i Ochrony Środowiska) is an industry organization whose main objective is the joint action of its members for the development of the Polish energy engineering sector. The Chamber has over 120 associate members. The activities of the chamber include:

- cooperation with state administration, the parliament and senate, as well as social and economic organizations;
- economic and organizational consulting, as well as organizing trainings, exhibitions, fairs, conferences, symposiums, economic missions;
- creating a bank of economic data, financial data and other information required for members to conduct business activity.
- promoting members' products and services
- promotion of modern techniques and technology with regards to renewable energy
- activity on behalf of environmental protection

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The British Polish Chamber of Commerce (BPCC) is an independent, non-for-profit organization which assists in the development of British-Polish business links. The current membership represents the broadest range of industrial and commercial sector. The BPCC holds around 75 events annually and partners in over 200 across the UK and Polish regions. The BPCC has established Policy Groups to promote best business practice – often transferring knowledge and experience from the UK – and to encourage structural and regulatory reforms in Poland. The BPCC has promoted business, trade and cultural relations between Poland and the UK since 1992.

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Scandinavian-Polish Chamber of Commerce (SPCC) is one of the biggest bilateral chambers in Poland. It was established in 2004 as a merger of the Danish-Polish Chamber of Commerce, the Finnish Trade Guild, the Swedish Business Club and the Norwegian Business Forum. The main office is located in Warsaw, and Regional Representatives are present in Kraków, Poznań, Wrocław, Szczecin and Tri-city. At the moment SPCC has 330 members. SPCC organizes a wide range of meetings for members, such as networking business mixers, seminars, conferences and breakfast meetings with renowned personalities from the political and economic world.

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The German-Polish Chamber of Industry and Commerce (AHK Poland) is the largest bilateral organization of economic self-governance in Poland and one of the most influential German chambers of industry and commerce in the world. It represents around 1,000 member companies and has been working to develop German-Polish relations for almost 15 years. The organization's offer includes professional consulting for German and Polish companies, facilitation of contacts between them and finding of trustworthy business partners, as well as market analysis and help in setting up new companies abroad.

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French Chamber of Industry and Commerce in Poland (CCIFP). The French Chamber of Industry and Commerce in Poland is an employers' association uniting over 330 French and Polish firms. For 16 years CCIFP has been working for the interests of Polish and French investors by acting as a platform for networking and for the exchange of business experiences and best practices between companies.

CCIFP works to influence the transformation of the Polish economy and create favorable conditions for business development in Poland.

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The Netherlands-Polish Chamber of Commerce's mission is to promote business contacts between our members and between the Netherlands and Poland through events, networking meetings, our magazine, *Bulletin*, and our website. The chamber's main activities are monthly business drinks, educational services, business breakfasts and lunches and regular meetings with ministers and senior government officials. An interest in the Netherlands is all that is required to join.

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The American Chamber of Commerce in Poland (AmCham) is a leading business organization that strives to serve and promote its member companies as an important voice of business in Poland; to foster a positive relationship with the government; and to promote the free market spirit for the benefit of the Polish business environment.

AmCham achieves its goals through a number of activities, including Monthly Meetings and Business Mixers. At present there are 18 committees that represent all aspects of the economy, from agriculture and food to IT, outsourcing, taxation and real estate. And to promote its values and know-how AmCham runs its own monthly magazine, *American Investor*.

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Dobre miejsce na nowoczesny biznes

Mimo pozornie szerokiej oferty powierzchni konferencyjnych w Warszawie, brakuje wciąż wysokiej klasy miejsc, w których można by zorganizować spotkanie biznesowe, szkolenie, konferencję czy prezentację na wysokim poziomie.

Warszawa – wybijająca się z reszty Polski, odstaje jednak od Europy. Cały czas, w biznesowych dzielnicach brakuje odpowiednich miejsc. Na warszawskim Służewcu otwarto nowy obiekt tego typu, który powstał w konsultacji z event managerami – Centrum Konferencyjne Adgar Plaza. Twórcy Centrum postawili na nowoczesne rozwiązania, kompleksową obsługę oraz doświadczony zespół działający od wielu lat w branży eventów. Centrum zlokalizowane jest na ulicy Postępu w bezpośrednim sąsiedztwie kompleksów biurowych oraz Galerii Mokotów, trzy kilometry od lotniska Okęcie. Do centrum Warszawy można się dostać już w ok. 15 minut.

W czterech salach konferencyjnych zasiądzie łącznie 300 osób, po spotkaniu goście mogą zrelaksować się w dwupoziomowym Calypso Fitness Club, w którym skorzystają z basenu, siłowni, aerobiku, SPA, a także kortów do squasha.

Dane kontaktowe: tel. (+ 48) 22 337 40 70 www.adgarplaza.pl

Możliwości konferencyjne i bankietowe

W Adgar Plaza zmieści się nawet 300 osób. Pojedyncza sala pomieści od 60 do 80 osób. W zależności od potrzeb sale można łączyć ze sobą, tworząc salę 160-osobową lub 250-osobową. Wielką zaletą obiektu jest dostęp do światła dziennego, jak i możliwość całkowitego zaciemnienia sal – cecha, o której duża liczba projektantów zapomina. W salach znajdują się ekrany, podwieszane projektory oraz indywidualne nagłośnienie – wszystko sterowane za pomocą dotykowych paneli. Przed każdą z sal wiszą dodatkowo dwa 19-calowe ekrany, które można wykorzystać w celach informacyjnych lub promocyjnych. Na terenie całego Centrum skorzystać można bezpłatnie z bezprzewodowego internetu.

Parametry techniczne:

Powierzchnia Centrum	750 m²
Liczba sal konferencyjnych	4
Liczba miejsc w ustawieniu teatralnym (największa sala)	250
Liczba miejsc w ustawieniu bankietowym (największa sala)	100
Nagłośnienie	tak
Projektor	tak
Klimatyzacja	tak
Zaciemnienie sali konferencyjnej	tak
Internet bezprzewodowy	tak
Maks. obciążenie sufitu	brak możliwości podwieszania sprzętu (sufit jest podwieszany)
Maks. obciążenie podłogi	300 kg/m kw.
Maks. rozpiętość bezkolumnowa	25 m
Liczba wind osobowych	4 (lecz Centrum jest na parterze)
Liczba wind towarowych	1
Gastronomia – rodzaj kuchni	każdy – kompleksowa obsługa cateringowa
Dziedziniec	tak
Wielkość bramy rozładunkowej	brak, najszersze drzwi do sal 100 cm
Liczba miejsc parkingowych	600

Poleczki Business Park - Phase 2

Poleczki
BUSINESS PARK

Phase II – completion by end of 2011
Buildings B1 & C1 - offices / services space

Area to let:	21.000 sqm
Minimum rental area:	300 sqm

- Low-rise modern buildings
- Supreme location
- 3116 parking places
- Flexibility in expansion space

UBM
CA IMMO International

www.poleczkibusinesspark.pl

Poleczki Business Park. 124 Hołubcowa Str. / Poleczki Str.. Warsaw - Southern End of Mokotów