

White-collar crime

Avoiding common pitfalls

Foreign management board members should know that they can be held criminally liable when things go wrong in their companies

The increasing number of foreign firms investing in Poland should be aware of the risks they face, and not just the financial ones.

This warning came from top defense lawyers at law firm Wardyński & Partners, who discussed criminal liability for white-collar crime in Poland with prominent English-speaking managers last week at a business breakfast organized together with *Warsaw Business Journal*.

Dorothy Hansberry-Bieguńska, a senior partner at W&P, noted that certain things which are prohibited under Polish law might catch foreign businesspeople by surprise. Moreover, it is important to know that criminal liability goes up the chain of management in Poland. If no one is found to be at fault, management may carry the burden of legal infringements.

The most common charges against managers, according to W&P lawyer Dominika Stępińska-Duch, are acts considered detrimental to the company, such as paying "too much"

for services.

Meanwhile Janusz Tomczak, a W&P lawyer, explained how conflicts of interest between members of a management board and a company that they represent are often handled.

Playing dirty

In the case of public tenders, it is not uncommon for the competition to tip off the prosecution if they see something suspi-

"If you wouldn't run your family home that way, don't run your business that way"

cious in their rivals, Ms Stępińska-Duch said.

One should also be careful when firing staff, since disgruntled former employees often use their knowledge against their former bosses.

Once tipped off, public investigators often resort to phone tapping, which is very popular and easily accomplished in Poland, as well as to searching properties and seiz-



Dominika Stępińska-Duch, Wardyński & Partners

ing anything considered to be evidence. This includes documents necessary to run the business. Making copies is therefore a wise move.

Staying safe

There are a number of ways in which managers can safeguard themselves, or at least prepare for a worst-case scenario.

Having a well-established division of responsibility, as well as internal regulations and codes of conduct, which are unfortunately still unpopular in Poland, should be a priority. If a business cannot show the prosecution that it has such regulations and that they were fol-

lowed, the case will likely end up before a court, Ms Stępińska-Duch explained.

"It's also good to have an audit once in a while," she added.

In the event a management board member is interrogated as a witness, he or she isn't obliged to answer questions right away and has the right to a translator, not just in English, but in his or her native tongue.

But the most important thing is to use common sense, said Adam Kapitan Bergmann of Bergmann & Associates, a corporate intelligence firm.

Managers should mitigate their risk by depending on various professional services offered by lawyers, accountants and advisors, he said.

"Using common sense is an obvious way to avoid pitfalls. If you wouldn't run your family home that way, don't run your business that way," concluded Mr Bergmann.

Alice Trudelle and Victoria Ziarkowski

WBJ's Business Breakfast was held in cooperation with Wardyński & Partners and Le Regina Hotel



Dorothy Hansberry-Bieguńska, Wardyński & Partners



Esko Kilpinen, Valkea Media, Tim Hyland, Travel Express



Andrew Kureth, Warsaw Business Journal



Guests enjoyed a breakfast prepared by Le Regina Hotel



Janusz Tomczak, Wardyński & Partners



Adam Kapitan Bergmann, Bergmann & Associates