

# schönherr

## schoenherr attorneys at law

Schoenherr is a leading full-service law firm in Central and Eastern Europe. About 300 professionals service national and international clients from our offices in Austria, Belgium/EU, and throughout the entire CEE region. Operating in a rapidly evolving environment, we are a dynamic and innovative firm with an effective blend of experienced lawyers and young talent. As one of the first international law firms to move into CEE, we have grown to be one of the largest firms in the region. Our offices and country desks provide comprehensive coverage of CEE, allowing us to offer solutions that perfectly fit the given industry, jurisdiction and company.

## team eu & competition

Schoenherr's eu & competition practice advises clients from across all industries in merger control, anti-trust and state aid matters at European and national levels throughout the firm's comprehensive network in the CEE region, and its office in Brussels. In addition, the practice supports other teams when specific issues under European law arise, for instance under the Accession Agreements of new member states.

## merger control

Schoenherr is widely recognised for its expertise in European and national merger control. In Austria, it is one of the leading firms in this area and handles about 60 domestic filings per year, which accounts for roughly 20 % of all filings submitted to the Austrian Federal Competition Authority. Schoenherr's share is even higher in complex cases which merit an in-depth investigation such as the phase II mergers involving Axel Springer and Funke Medien Gruppe, or Heineken/Brau Union's acquisition of sole control over VKB. Schoenherr's competition team is equally well equipped for merger control in its other jurisdictions, as demonstrated when providing advice to, for instance, Intel regarding merger control approval in Hungary for its acquisition of Lantiq to Ericsson in an outsourcing project with Deutsche Telekom's subsidiary in Croatia, or to Geberit in safeguarding merger control clearance in Poland for its acquisition of Sanitec. This allows the practice group to act as a one-stop-shop for clients in multi-jurisdictional transactions. For example when América Móvil acquired control over Telekom Austria, Schoenherr led the merger control process and ensured merger control clearances in seven jurisdictions in Central and Eastern Europe. The team is also regularly retained for notifications to the European Commission and has demonstrated its ability to "get things done" for instance in the complex merger of AGRANA Juice with Ybbstaler Fruit. Recent clients which the team advised before the European Commission include EVO Payments (payment card joint ventures with PKO and Raiffeisen), Generali and Zurich (pension funds JV), and Coop/Transgourmet (acquisition of C+C Pfeiffer).

## anti-trust

Schoenherr has built up a notable track record in antitrust cases (cartels and abuse of market dominance), and non-litigious competition matters (cooperation agreements, JVs, distribution agreements). The practice group on behalf of clients from a wide array of industries, including pharmaceutical, paper/packaging, banking and insurance, construction, energy, oil & gas, food, sanitary, engineering, waste management, media and trade. The team has participated in virtually all noteworthy antitrust cases in Austria in the past. Recent cartel mandates include advice to the Heineken Group's subsidiary Brau Union (in the Breweries Cartel), DHL Austria (in the Freight Forwarders Cartel), KONE Austria (in the Elevators Cartel) and Agrana (in the Sugar Cartel). In vertical (RPM) cases the firm has advised inter alia REWE, Philips and various food/beverages producers. In this context, Schoenherr does not only assist clients in public enforcement cases, but is also at the forefront of private enforcement actions, for instance with regard to damage claims following the Elevator and the Payment Cars Cartels, as well as in action for cease and desist (e.g. in the current proceedings between Linz Strom and E.ON). The team is recognised



The team is very specialised, excellent, pragmatic and value for money.

Client, Chambers (2017)

## services

- merger control/multinational filings
- antitrust investigations
- compliance programmes
- strategic cooperations/joint ventures
- distribution agreements
- private enforcement
- state aid
- general EU law

## contacts



AUSTRIA

Franz Urlesberger, Partner  
+43 1 534 37 50196  
f.urlesberger@schoenherr.eu



AUSTRIA/BELGIUM/EU

Volker Weiss, Partner  
+43 1 534 37 50291  
v.weiss@schoenherr.eu



AUSTRIA

Hanno Wollmann, Partner  
+43 1 534 37 50152  
h.wollmann@schoenherr.eu



AUSTRIA/HUNGARY/SLOVENIA

Christoph Haid, Partner  
+43 1 53437 50119  
c.haid@schoenherr.eu



BULGARIA

Galina Petkova, Attorney at Law  
+359 2 93310 83  
g.petkova@schoenherr.eu

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for its anti-trust expertise in its other jurisdictions as well, where it has been involved in numerous proceedings before national authorities, e.g. for Mladinska Kniga and Samsung Electronics in Slovenia, Akzo Nobel in Poland, OMV in Bulgaria and Romania, for several insurance and pharma companies in Serbia, as well as telecom companies in Bosnia and Montenegro. Based on its strong position in the CEE region, the group has assisted its clients in several investigations by the European Commission into alleged anti-competitive behaviour, and naturally also represents its clients in subsequent appellate proceedings before the European courts. Siemens AG Österreich and the former VA Tech Group (in the GIS Cartel), Eurofoam, the Austrian collecting society AKM (in the CISAC Case), as well as the Slovenian utilities company HSE (in the Calcium Carbide Cartel) are among clients the team has recently represented at a European level. Schoenherr further carries out compliance programmes for clients from a wide range of industries, such as cement, food retail, pulp and paper, building materials, insulating and energy, to avoid potential competition law issues. These programmes entail assistance in the building up of compliance organisations, preparation of compliance manuals, ongoing training of employees and auditing compliance with competition rules (including mock dawn raids).

## state aid

Schoenherr's eu & competition team also features one of the region's most prominent practices in the field of state aid. Not least, at the peak of the recent financial and economic crisis, the team advised Austrian banks on how to apply and implement the EU's framework for state aid in the financial crisis. Also, the team is regularly retained to ensure that privatisation efforts in several jurisdictions comply with EU state aid rules. By the same token, companies turn to Schoenherr to enquire about innovative ways to challenge alleged illegal state aid of competitors. Schoenherr's state aid lawyers routinely assess innovative projects on the availability and compatibility of state aid. The team also handles complex issues of ad-hoc aid and recovery procedures, as well as problems involving private enforcement of state aid violations, such as in the recent Bank Burgenland case.

## eu law

From its Brussels office Schoenherr's eu & competition team advises clients on all aspects of EU law, such as assisting companies in respect of member state measures which conflict with EU law, and in particular the EU fundamental freedoms (e.g. free movement of goods, freedom of establishment and free movement of services). This includes, among others, advice in relation to nationalisations, failure of member states to implement EU law, and measures of member states restricting access to their markets.



### CROATIA

Miriam Simsa, Partner  
+43 1 53437 50472  
m.simsa@schoenherr.eu



### CZECH REPUBLIC/SLOVAKIA

Claudia Bock, Attorney at Law  
+420 225 996 505  
c.bock@schoenherr.eu



### HUNGARY

Anna Turi, Attorney at Law  
+36 1 870 06 92  
a.turi@schoenherr.eu



### POLAND

Paweł Halwa, Managing Partner  
+48 22 223 09 00  
p.halwa@schoenherr.eu



### ROMANIA/MOLDOVA

Georgiana Bădescu, Partner  
+40 21 319 67 90  
g.badescu@schoenherr.eu



### SERBIA/ALBANIA

### BOSNIA & HERZEGOVINA/NORTH MACEDONIA/MONTENEGRO

Srđana Petronijević,  
Partner (Belgrade)  
+381 11 320 26 00  
s.petronijevic@schoenherr.rs



### SLOVENIA

Eva Škufca, Partner  
+386 1 200 09 82  
e.skufca@schoenherr.eu



### TURKEY

Levent Çelepçi, Partner  
+90 212 230 17 00  
l.celepci@schoenherr.eu