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## PIOTR KOCHAŃSKI

The founder of Kochański Zięba & Partners pulls over to talk business

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## On solid ground

**PIOTR KOCHAŃSKI**, FOUNDER OF KOCHAŃSKI ZIĘBA & PARTNERS, ONE OF THE BIGGEST LAW FIRMS IN POLAND, DISCUSSES HOW THE LATEST DATA STORAGE REGULATIONS WILL INFLUENCE COMPANIES AND PEOPLE, AND HOW THE LABOR MARKET IS CHANGING. HE ALSO REVEALS THE SECRET TO BUILDING ONE OF THE MOST SUCCESSFUL LAW FIRMS IN THE COUNTRY

**WBJ:** One of your company's fields of specialization is new technologies, which includes IT in general and big data solutions in particular. We leave tons of data wherever we go, whatever we do: when we pay by credit card, enter a shopping mall, use navigation or visit a website. Some say we live in transitional times, when data sources are ubiquitous, but we're not quite sure who all that data belongs to. How will the introduction of the General Data Protection Regulation (GDPR) (in Polish dubbed RODO) change things for a regular Joe and for the entrepreneurs who collect data?

**Piotr Kochański:** The new regulation will mainly affect companies that process a considerable amount of personal data at a regional, national or international level – that is financial institutions, banks, internet service providers, telecoms and insurers, etc. They will now have to implement a brand-new data protection compliance system that will cover practical, organizational and legal issues. Companies will need to incorporate privacy features from the very beginning of the design process and take into account how data processing may affect a customer's privacy, particularly in cases which involve customer profiling or monitoring of geolocation data collected in public places.



“I came to work one morning and found myself shut out of my own office, standing with my computer in the street

In addition, companies conducting regular and systematic monitoring of data subjects on a large scale will need to designate a data protection officer who, among other things, will inform and advise them of their obligations and monitor compliance with the GDPR. The GDPR aims to give control back to customers over their personal data, meaning the customer will have the right to receive his or her personal data in a commonly used format and have the right to freely transmit that data to another controller. To sum up, this new and challenging customer-oriented regulation unifies personal data protection law in the whole European Union and is widely viewed as a very positive change.

**The two industries that have the most data at their disposal are probably telecoms and banks. We already see banks partnering up with insurers and insurance firms venturing into the world of finance. Will the new regulation impact their business and their clients?**

The GDPR aims to protect customers from having their personal data used against them. This includes data categorized as “sensitive,” for example, data relating to medical and personal health. For instance, assessing whether or not a customer is eligible for credit by way of an automated algorithm will not be permitted without the customer’s ex-

PLICIT consent. Additionally, companies such as telecoms, banks and insurers will need to conduct, on a regular and repeated basis, a privacy impact assessment or privacy risk analysis, which will include an assessment of the risks to the rights of customers. As stated in Article 29 of the Data Protection Working Party, these activities should commence as early as practically possible in the design of the processing operation, even if some of the processing operations are still unknown. In practice, this means that personal data protection shall become a significant part of each and every company’s internal DNA.

**There have been numerous reports about hackers stealing sensitive data or preventing companies from accessing their resources and then demanding a ransom. Does the new regulation change how security breaches are handled?**

According to the new regulation, when a cyberattack has been carried out or following any other personal data breach, the affected companies will have to, without undue delay and, when feasible, not later than 72 hours after having become aware of the breach, inform the data protection authority about the security breach. Moreover, in some situations, the affected company shall communicate the personal data breach to customers as well. Consequently, companies will no longer be allowed to sweep such incidents under the carpet. Subsequently, their incentive to pay ransoms to cybercriminals to avoid the threat of public exposure will be lower, and it is hoped that cybercriminals will ultimately be deterred from carrying out the attack in the first place.

**Will the regulation change the so-called “right to be forgotten” as well?**

Yes, in fact, it will strengthen it. Once the regulation is in force, if a person demands that his or her data be removed (for a legitimate reason of course), the data administrator will not only have to comply with the wish but also inform all other administrators who were given access to the data about the request.

**It seems like a lot of businesses will indeed be affected by the regulation. Do you think Polish companies are prepared for the GDPR? They have less than a year left before the regulation becomes the law.**

The GDPR is a perfect example of a horizontal regulation which is applicable to all European entities in the value chain. According to surveys carried out before July of this year (by the IT WIZ magazine), 26.5 percent of Polish entrepreneurs were planning to start preparations in the second half of 2017, 25.3 percent are waiting for the Polish sector-specific regulations and 41.3 percent have already started preparations. So it is a rapidly changing scene, and I do think we are in the middle of the transformation.

**Employers in Poland are increasingly often faced with a talent shortage. With record low unemployment and increasing employee turnover (according to a recent study, young graduates change jobs twice**

**as often as their colleagues who are only 10 years older). Have you ever had problems with high employee turnover?**

No, not in any of my firms. The youngest generation in the workplace is indeed different to their predecessors. They are well traveled, have more experience of living and working abroad and accordingly their expectations are higher. Their expectations are not unreasonable, however. They are much more comfortable with technology, for instance, which makes them more valuable in many businesses, including law firms. It pays to listen to their needs and respond to them. I believe that this is something positive for Poland as it forces employers to respond to this and improve working conditions. We seek out the most talented young lawyers and provide them with opportunities that few other law firms can offer. A great deal of our focus is on allowing our young lawyers and staff to grow through eliminating the glass ceiling often found at other law firms, through training and development and most importantly through the trust and loyalty that we place in them. As a result, this trust and loyalty is reciprocated.

**You yourself had the opportunity to gain experience abroad as a young attorney. You studied in Kraków, went on a scholarship to France and you were then immediately offered a job in a prestigious law firm in the US. How did all your experience influence you later when you started your own company?**

When I went to France for an internship back in 1988, I was in awe of how law firms operated there. Being a lawyer commanded incredible prestige and respect. And that was also when the first modern law firms in France started to form: rather than individual practices, lawyers began to join forces and create partnerships, and ultimately become the law firms we see today. That is what I am doing here. I love it when people value and trust each other, and combine their strengths to offer clients a more comprehensive and better service. I don’t want to

run a legal office, I want to build an inclusive company, a business that takes chances on people, offers them growth opportunities and is based on mutual business interests and trust.

**Have you ever been burnt by that trust?**

Many times. But it has not changed my approach to doing business. You have to anticipate risks and accept that failure is sometimes inevitable. I was once the target of a major hostile takeover attempt from within my own company. It got really ugly: I came to work one morning and found myself shut out of my own office, standing with my computer in the street, no access to my company network. I couldn’t even get into my own building. There were times I thought I was dead in the water. I was on the verge of giving up. But my mentor from my days at Hogan & Hartson, Bob Glen Odle, told me: “You can’t let them steal what’s yours.” I had to resort to every last legal remedy there was in the book to get my firm back. In the end, I succeeded and even managed

to strengthen my company during the process.

The silver lining was that it happened at the time of the crash of 2008. In 2009, large companies were streamlining and laying people off. After the unsuccessful takeover attempt, my team was about 70 percent of what it had been before. I didn’t have to downsize – on the contrary, I kept everyone who stayed with me through the ordeal.

**Do you still trust people as you did before?**

Yes. You could call me an unreformed optimist but I have learnt a few things since then. I wrote the bylaws of my company in such a way as to prevent any similar takeover attempt from happening in the future. I also learned to rely more on my intuition when choosing the people I work with. Intuition is vital when making decisions and getting to know others. Trust cannot be blind. It has to be based on solid grounds.

**You’ve worked at two major law firms in the US. Do you think that Polish law firms will follow the same patterns – going pan-regional, offering comprehensive services for every sector, with a branch in every major city? Right now, each city in Poland has its own top law firms, and most have several specializations.**

It’s not as easy as it may seem, and not only for Poland. Yes, there will be a period of growth, consolidation and mergers. We are already seeing signs of this. About 10 percent of the firms currently operating on the market will remain: those with the best organization, covering every busi-



BARTOSZ MACIEJEWSKI PHOTOGRAPHY; STYLING BY SANDRA BRONISZEWSKA

## BIO BOX

Piotr Kochański born in 1961, graduated from Jagiellonian University in Kraków in 1985. He was a visiting Scholar at the George Washington University in Washington, DC, where he lectured on Technology Transfer, 1993-1995. He is an attorney, member of the Warsaw Bar and Washington DC Bar. He is the founder of Kochański Zięba & Partners, established in January of 1999. In his early career he established the Polish office for Hogan & Hartson, the third US law firm to open its office in Poland immediately after the first free election and the beginning of the systemic political and economic transition in the 1990s. Later, he was a Partner at another top-tier US law firm – White & Case from 1996 to 1999. He has been awarded distinctions by Chambers Europe, Global Law Experts, Legal 500 EMEA and PLC Which Lawyer. He was named “Patent and IP Star” in the Managing Intellectual Property ranking and ranked three times by European Legal Experts as the Best Polish IP lawyer in 2005, 2007 and 2008. Aside from his many hobbies, which include painting, playing drums and car and motorcycle racing, his favorite pastime is spending time with his wife Kamilla and their two sons at their horse, cattle and bio-plant farm that they run together.

ness aspect, with the best technical support, with the top experts in every field. Clients are starting to group firms into so-called panels encompassing the law firms that they trust with their business.

In Poland, just like in the rest of the world, firms will have to face global competition. It will polarize the market to some extent: large corporations with multi-million-dollar cases will seek representation from the biggest and the best firms. But of course there will also always be room for small firms, handling smaller cases, representing individual people. Highly-specialized firms will also find their niche. It's the medium-sized firms that will face the harshest competition. They will either have to grow or merge with others. Otherwise, they will likely go under.

### Do you plan to branch out into other cities in Poland?

Our objective is to be the first choice law firm for both Polish and international clients operating or investing in Poland. Our current focus is on further developing our Kraków and Warsaw offices. However, whereas in the past top Polish companies that originated in other major cities moved their headquarters to Warsaw, we are now seeing a trend of companies choosing to remain in their home cities. Moreover, we are seeing a growing trend of international companies deciding to locate their offices in other major cities.

We want to be competitive and there is huge value in being located physically close to our clients. Therefore, at some point we will be looking at other cities, but I believe this will arise through mergers with regional firms as opposed to establishing brand new offices. Additionally, we might look abroad for business partners. Our firm is already one of the largest in Poland, and the fastest growing. We wish to grow further, and be the one taking over, as opposed to selling to a global player.

### Can Polish law firms even compete with global giants?

Of course they can! In many cases it is an advantage to be an entirely

Polish firm. Imagine a deal between global corporations in Poland. You need to be sure there is no conflict of interest on the case: that the company representing you doesn't have other international clients whose objectives conflict with those of your own.

Once, when we were competing with other firms to represent a major state-controlled company in international negotiations, we were thoroughly vetted to verify if we had any clients in Russia. If we had had, we wouldn't have been allowed to represent the company.

You have to remember that the success of the global giants (predominantly US and UK law firms) derives from them following their clients internationally. We also understand this and have structured ourselves to do the same. With Polish companies going global more and more, we are with them every step of the way.

### You have successfully built not one but several law firms in your career. What is your strategy when creating a business?

I established our law firm in January 1999, which I then named Kochański & Associates. We were located in Saska Kępa, Warsaw. We called our office our own Silicon Valley. The economy was growing at a crazy rate back then, businesses were expanding, investors were coming to Poland. Our business was booming as well. We occupied the first floor in the first year, then two floors in the second year and before long we were running out of office space. Then came the crash – the dot com bubble of 2001. Suddenly, clients started having problems with payments. I told my employees that I would still continue paying them, even out of my own pocket, although we did have to tighten our belts for a while. We survived the downturn and afterwards I paid off every last penny I owed my employees. I never laid people off.

If you are the best, business will come to you. My co-managing Partner Rafał Zięba and I, and in fact all of our Partners, have a mission to go beyond merely offering legal advice. Companies can get that anywhere. We are a Business Law Firm, which means that we guide firms in their business endeavors. Companies expect us to know their industry as well as they do. They don't have the time to explain the intricacies of their business, so our lawyers are already equipped with that knowledge.

Our Partners specialize in several business areas, including defense and aviation, FMCG, automotive, energy and natural resources, real estate and construction, finance, media, new technologies and pharmaceuticals. This represents huge added value for our clients. We have specialists in each and every one of these fields. There are law firms in Poland with very good M&A lawyers. However, they are not equipped to understand, for example, the telecommunications industry as we do. Our unique selling point is that we not only have excellent M&A lawyers, but if a client is looking to acquire a telecommunications company, we already have the experts in house that understand the business and the industry, its technicalities.

It is my belief that the success of any company derives from listening to the market and our customers. At pres-

ent and for the foreseeable future, across every industry, there is a drive to make the customer-experience more convenient at a lower cost.

In the same way that telephone, internet and cable TV providers have branched out to supply utilities such as electricity and gas, we have established a group of companies that provide services complementary to the core legal business. The KZP Group includes: Kochański Zięba & Partners Accounting & Finance, which provides bookkeeping, accountancy, tax, payroll and audit services; and REACH BFM, which stands for Restructure Effect Access Capital House Business Finance Management company. It provides financial advisory, business matching, advice on mergers and acquisitions and real estate transactions, restructuring, capital structure advice and general strategy. Another exciting development we have been engaged in is the building of a Closed Investment Fund entity for purposes of increasing capital gains for our Firm and business Partners. We have a software house through which we build our most sophisticated advanced software product that allow us to enhance the effectiveness of our communication with clients.

Through the KZP Group companies, we are able to offer our clients a complete package of services, providing a full and convenient one-stop-shop experience. The response from clients to this has been fantastic. Clients greatly appreciate that they only need to go to one place, with one point of contact for all their needs, and at a cost that is less than if they were to seek those services from separate unrelated providers.

To run such a corporation you have to have the best, world-class Partners, Associates and Managers, and all adequately educated support staff. And we have them. Only through and with them have I been able to accomplish what I have so successfully to date. Only then can you offer an exemplary service that your clients expect and are happy to pay for.

I am very fortunate to have met all the wonderful people who work in our firms. ●



Apart from being a successful lawyer and businessman, Kochański is also a big car and sports motorcycle enthusiast. His four-seat, convertible Porsche 911 Turbo S, has been modified to reach 630 horsepower and hit 100 kph in 2.9 seconds. “Launch control in this car is an experience unlike anything else. You almost get a feeling that the car is doing a stand-up wheelie, like a motorcycle,” he says. He has chosen this car also because, unlike most high-performance sports cars, it is a four-seater, which allows him to enjoy rides together with wife and their two boys, “the new generation of car enthusiasts.”