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RETAIL SECTOR: WHAT'S NEW ON THE LEGAL SIDE?

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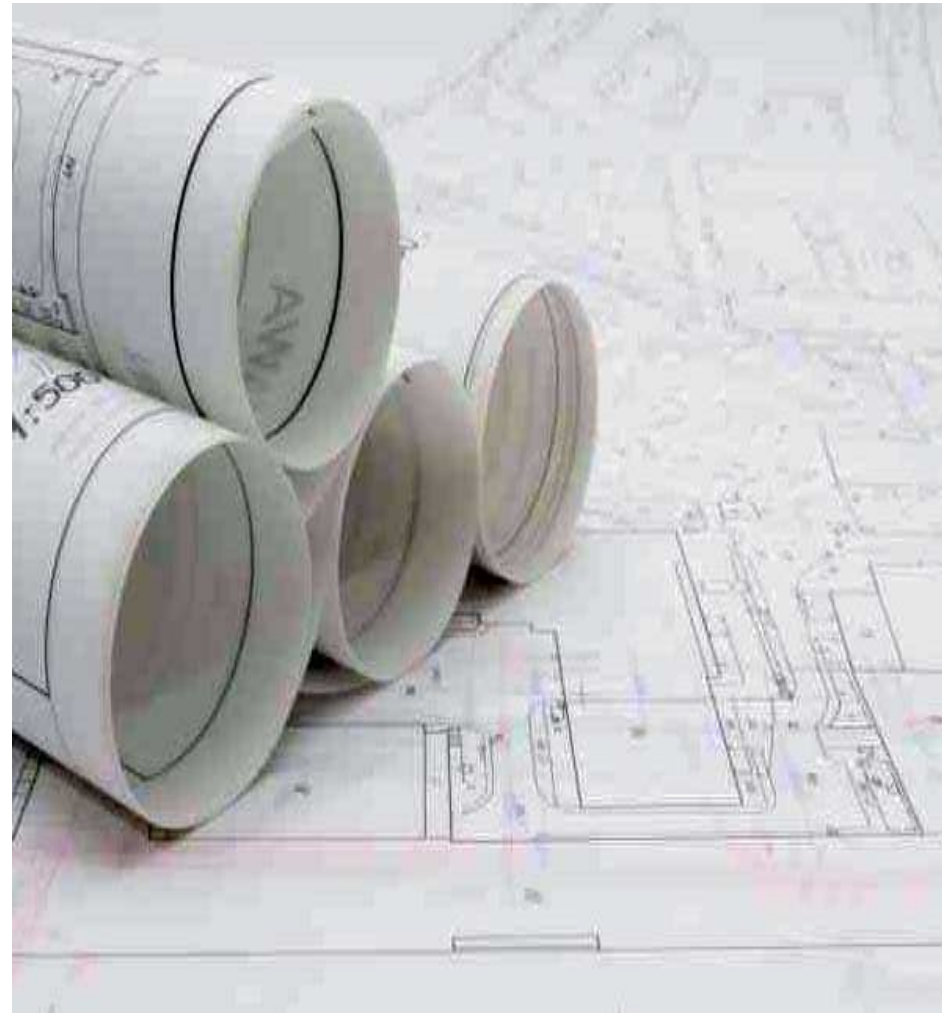
Why Legal Updates?

- Because
 - The Romanian legislator is very “hard-working”
 - Important legal amendments are sometimes “squeezed” in through secondary pieces of legislation and need to be “fished” and sorted out carefully
 - Knowledge is power!

- Hot Topics on the Agenda at the Moment
 - Urbanism/Town Planning (“TP”)
 - Cadastre/Real Estate Publicity
 - New Code on Civil Procedure: Eviction from Unrightfully Held Properties
 - Legal News from various other fields
 - New Insolvency “Code”

Town Planning Regulations | 1

- **Law 190/2013 (in force as of July 13, 2013)**
 - Good news for investors vs “bad” news for the civil society (NGOs)!
 - Private investors are allowed to initiate derogations from PUGs, whereas
 - ✓ the land use coefficient (“CUT”) can deviate once up to 20% and
 - ✓ even more than 20% in case of PUZ for industrial parks, technological parks, supermarkets, hypermarkets, commercial parks and service areas
 - Land use percentage (“POT”) can be amended also based on a PUD documentation
 - PUZs and PUDs prepared before February 1, 2012 (before GEO 7/2011) can now be endorsed and approved, whereas preliminary permits are updated and (tacitly) considered approved

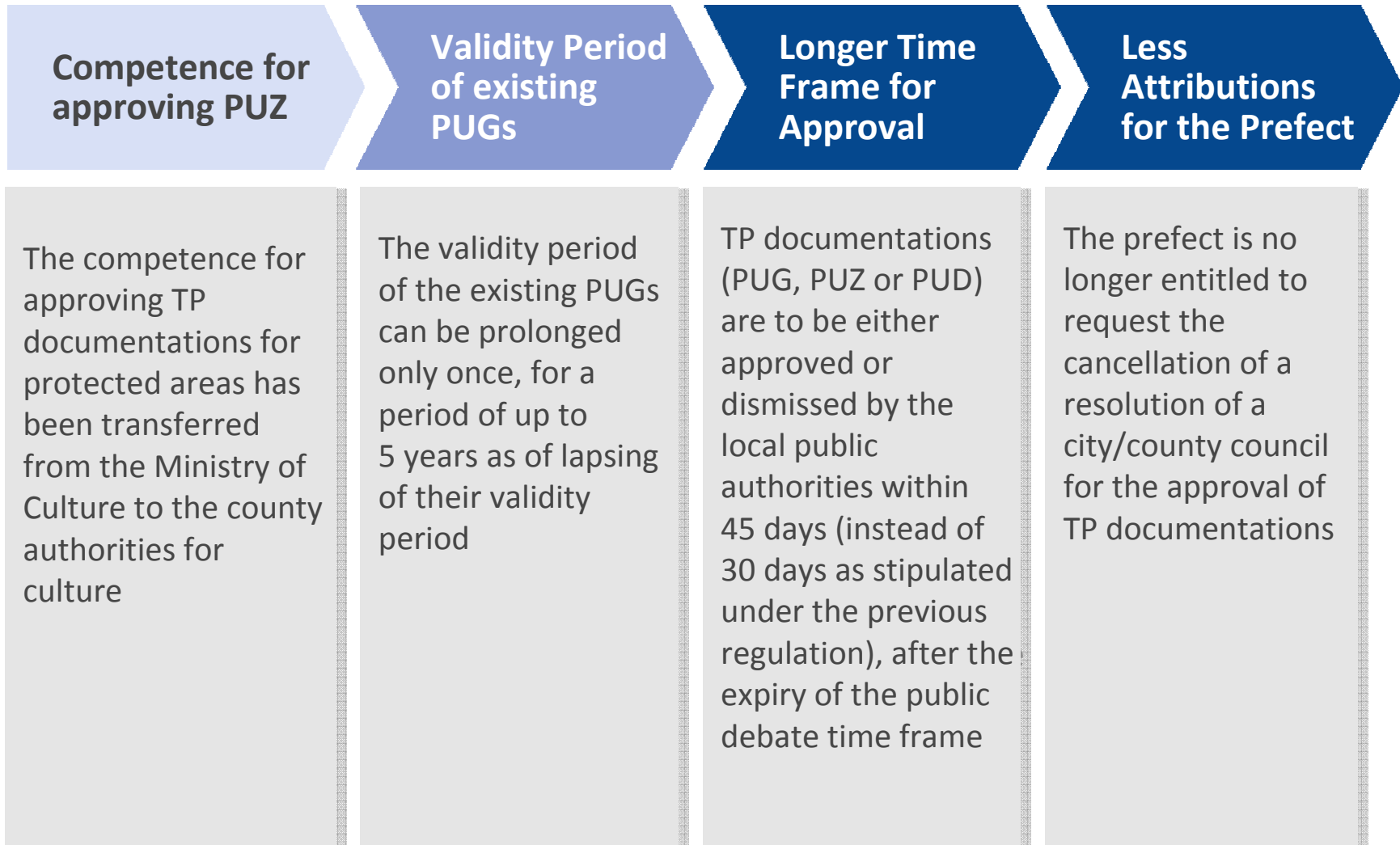


Town Planning Regulations | 2

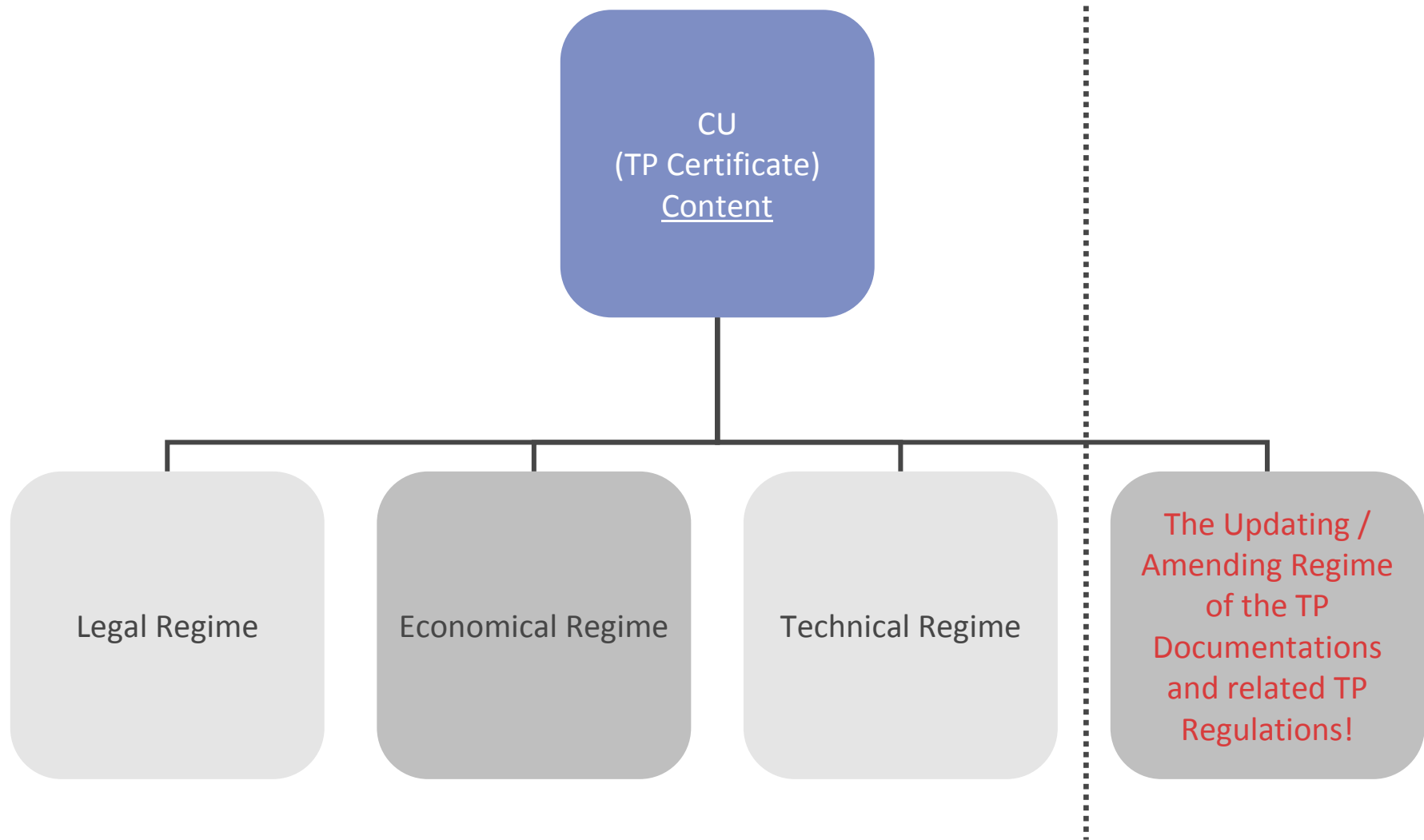
- The preparation of PUZ is mandatory exclusively in the following cases
 - ✓ in case of central areas of localities
 - ✓ in case of the protected built areas and of the areas under monument conservation*
 - ✓ in case of tourism and leisure areas
 - ✓ for industrial areas and parks, for technological parks and for service areas
 - ✓ for parceling in view of dismemberment in more than 3 parcels
 - ✓ for transport infrastructure
 - ✓ for the areas subject to urban restructuring, respectively urban renewal
 - ✓ for other areas established by the local authorities according to the law
- Exception: should the PUG contain the conditions for approving the investments in the aforementioned areas (except for the protected built areas) then the preparation of a PUZ is no longer mandatory, not even in the cases mentioned above!

** A prohibition against the positioning of commercial parks and hypermarkets in areas surrounding protected buildings, as well as in the protection areas of monuments and historical landmarks, has been instituted by Law 197/2013*

Town Planning Regulations | 3

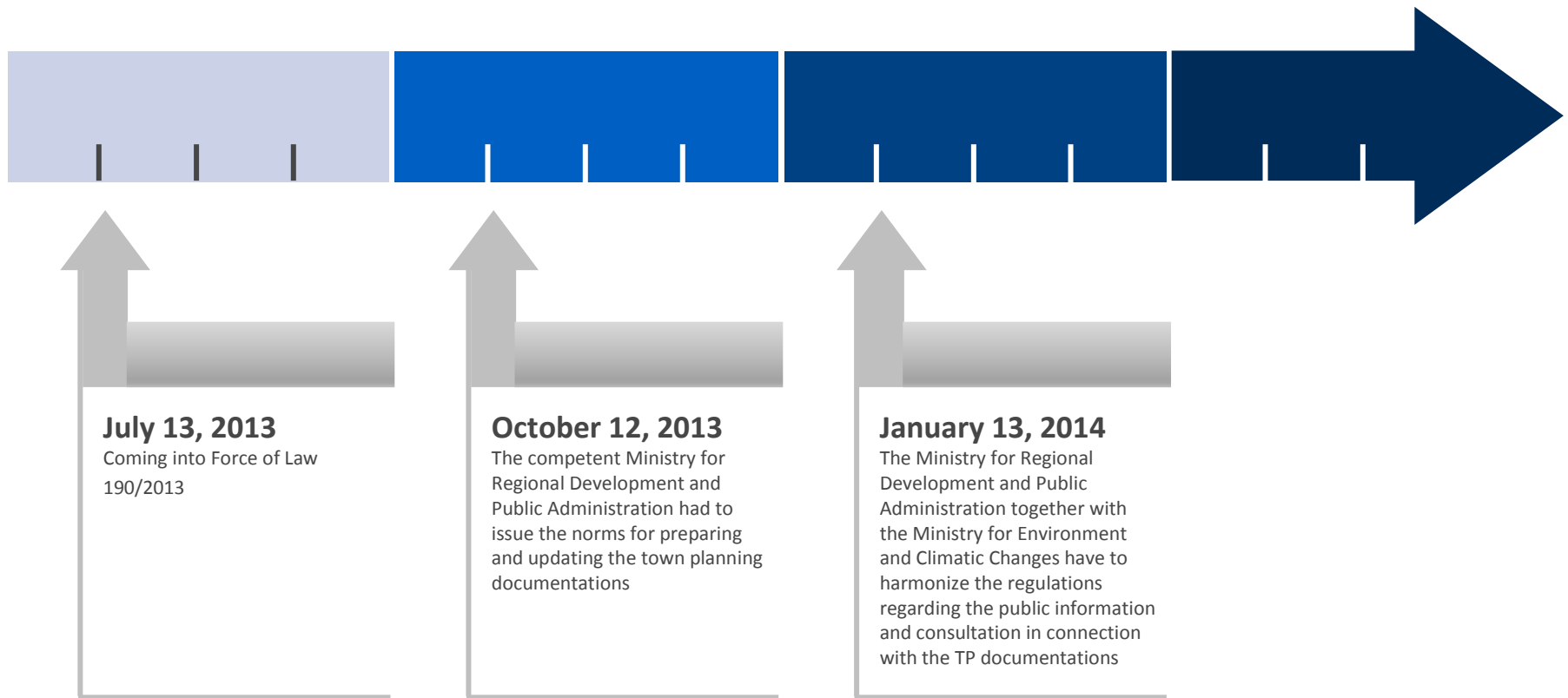


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■ Awaited Norms for applying Law 190/2013



Cadastre/Real Estate Publicity

- Pre-sale purchase agreements (Pre-SPAs) do not need to be notarized in order to be valid!
 - some legislative “stammering” on this issue
 - Law 127/2013 (in force since May 2, 2013)
 - Law 221/2013 (in force since July 20, 2013)

- Still, authentication of Pre-SPAs is necessary and advisable (Art. 888 of the New Civil Code) for
 - registration with the Land Book of the inalienability of the respective land plot/building in favor of the promissory seller and/or
 - preservation of the legal mortgage right of the promissory seller (in case of down payments)

Eviction from Unrightfully Held Properties

Executory Titles

Can be directly enforced through a bailiff. No judicial action is necessary

Not Executory Titles
(i.e. neither authenticated, nor privately signed and registered with the tax authorities)

- new procedure introduced by the New Code on Civil Procedure (Art. 1038 – 1048 NCPC)
- can be chosen by the claimant as opposed to the normal judicial procedure
- 2 phases
 - preliminary procedure (notification of the Lessee via bailiff – 30 days notice term to be observed/5 days for “occupants”)
 - eviction procedure (volunteer or judicial)
- statement of defense is not mandatory; counterclaim cannot be made
- eviction resolution is executory and can be appealed within 5 days as of its pronouncement or communication

Other Hot Topics| Energy Efficiency Certificate

Existing Buildings

The Energy Efficiency Certificate must

- ✓ be handed over to the buyer (failure: relatively null and void contract!)
- ✓ be disclosed to the Lessee
- ✓ be submitted to the Tax authorities for registration of SPAs/Lease Agreements

New Buildings

The Energy Efficiency Certificate

- ✓ is required in order to validly conclude the construction works completion protocol (failure: completion protocol null and void!)

Other Hot Topics | Publicity Signs, Banners & Meshes

- **Law 185/2013 regarding the installation of publicity signs (in force since July 8, 2013)**
 - first integrated and detailed regulation on publicity
 - Locally regulations for local publicity (**restricted** and **unrestricted publicity areas**)
 - Exceptions for commercial centers, supermarkets, hypermarkets, commercial parks and industrial parks regarding fixed publicity signs, screens and illuminated publicity and regarding flags and banners
 - Neighbors' consent – mandatory for publicity signs at a distance smaller than 3 m from the property limit

Contact



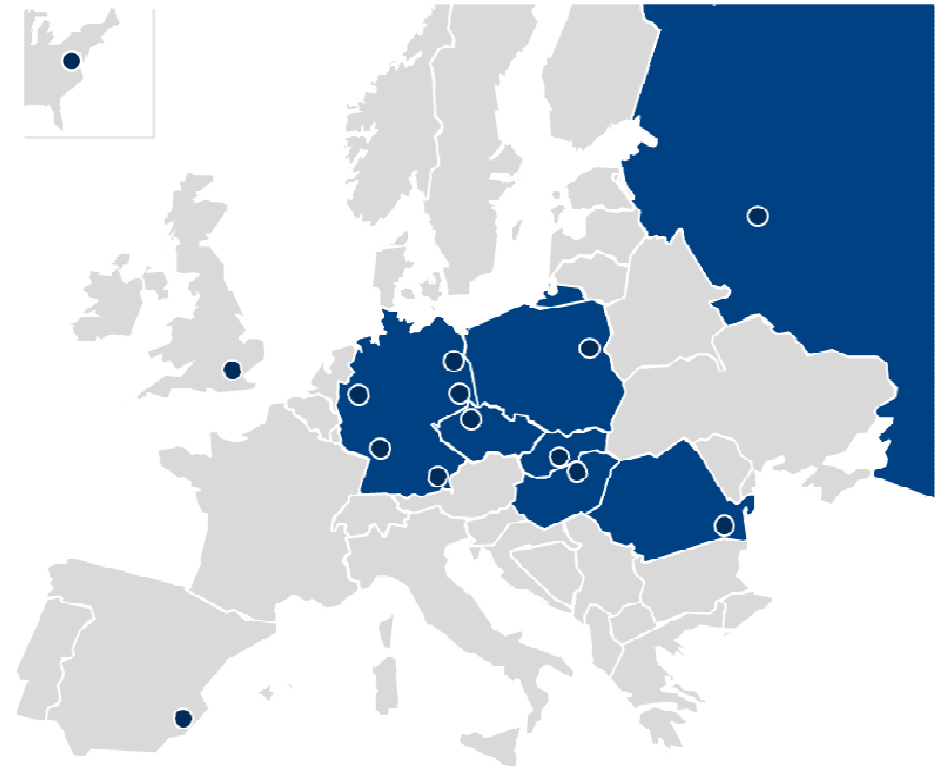
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