Managerial and legal factors influencing the success of the preliminary stage of M&As: a subsidiary perspective

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Title of thesis: Managerial and legal factors influencing the success of the preliminary stage of M&As: a subsidiary perspective

Abstract: Numerous reasons have been suggested to explain the failure of M&As. The overarching aim of this thesis is to explore factors influencing the outcome of M&As from a subsidiary perspective, with a particular focus on the interaction between two groups of specialists involved in such deals, namely managers and lawyers. The scope of the study is limited to the preliminary stage of M&As including the phase of closure of the deal. The thesis is a single-case qualitative study based on seven in-depth face to face interviews at the Finnish subsidiary of a US chemical processing company. The interviews are complemented by observation as a secondary method of data collection. An underlying assumption of this study is that most of the challenges of the integration can be addressed before the actual integration, thus increasing the likelihood of the success of the deal.

One of the aspects of this study is interaction of managers and lawyers during the preliminary stage of the acquisition process. The comparison of the factors underlying decision-making processes of these two groups of experts suggests the presence of an inherent conflict between those two groups of specialists. In the context of M&As such a conflict and the way it is managed by the company is likely to influence the outcome of the acquisition process and the success of the deal.

In relations to factors influencing success of M&As, the results of the study: 1) confirm the presence of the four groups of factors outlined in the academic literature; 2) confirm that interaction of lawyers and managers constitutes a separate group of factors; 3) distinguish a new group of factors related to the structure of the company; 4) expand the time boundaries of the influence of human factors on the deal; 5) reveal a limited value of preliminary cultural assessment. Managers could be characterized with the following roles and mental models’ elements. Roles: 1) leading people; 2) dealing with uncertainty; 3) managing new and existing assets. Mental model: 1) practical and business focus; 2) personal involvement and material interest; 3) time pressure. What comes to lawyers, their roles are characterized as 1) risk management; 2) implementation of transaction; and 3) continuity of ongoing business operations. Legal mental model is associated with the following features: 1) to avoid the claims afterwards; 2) focus on details, concrete, practical; 3) satisfying the needs of business customers.

The results of the study confirm the point of the frame of reference stating that organizational roles, goals and underlying values of lawyers and managers are likely to lead to conflicts of interests, misunderstanding and to create impediments during their interaction. The following can also be inferred about their interaction: actual interaction of lawyers and managers is very limited in terms of time and number of people involved; legal function has a central role during the closure of the deal.

Keywords: multinational corporations; mergers and acquisitions; preliminary stage of the deal; strategic management; concept of organizational, cultural and legal fit; mental models; experts.
## CONTENTS

**Chapter 1. Introduction** ................................................................. 1
1.1. Background ................................................................................. 1
1.2. Aim and research questions ...................................................... 4
1.3. Definitions .................................................................................. 5
1.4. Delimitations ............................................................................. 7
1.5. Overview of the thesis ................................................................. 9

**Chapter 2. Frame of reference** ....................................................... 10
2.1. Reasons for M&As failure .......................................................... 10
2.2. M&As success factors ............................................................... 12
2.3. Strategic factors ......................................................................... 14
2.3.1. Transaction cost approach in respect to M&As ....................... 15
2.3.2. Organizational boundaries approach in relation to M&As ........... 16
2.3.2.1. Types of boundaries as strategic reasons for M&As ............... 17
2.4. Factors related to the choice of integration design ....................... 21
2.5. Human factors ........................................................................... 25
2.5.1. Factors related to the human capital ......................................... 25
2.5.2. Factors attributed to the cultural differences .......................... 26
2.5.3. Integrated approach to human factors ..................................... 29
2.6. Irrationalities of decision-making process in acquisitions ............. 31
2.7. Interaction between managers and lawyers during the preliminary stage of M&As .......................................................... 33
2.7.1. Due diligence as a context for interaction of managers and experts .... 33
2.7.2. Decision-making processes of lawyers and managers ............. 37
2.7.2.1. Decision-making process of a lawyer: legal logic and legal ethics .... 38
2.7.2.2. Decision-making process of a manager ............................ 41
2.7.3. Comparison of lawyers and managers based on their organizational roles .... 45
2.8. Conclusion .............................................................................. 47

**Chapter 3. Methodology** ................................................................. 52
3.1. Method description and justification .......................................... 52
3.2. Single case approach ............................................................... 56
3.3. Description of case and data ...................................................... 57
3.4. Methodology of interview ........................................................ 58
3.5. Methodology of observation ...................................................... 60
3.6. Data analysis and interpretation ............................................... 62
3.7. Quality of the study .................................................................. 67

**Chapter 4. Analysis and Discussion** ............................................. 71
4.1. Descriptive sub-aim ................................................................. 71
4.1.1. The environment ................................................................. 71
4.1.2. The role(s) of managers and lawyers .................................... 76
4.2. Exploratory sub-aim ................................................................. 78
4.2.1. Factors influencing success of M&As ................................... 82
4.2.2. Factors relevant for the case study ....................................... 83
4.2.3. Factors related to interaction of managers and lawyers ............ 90
4.3 Prescriptive sub-aim ................................................................. 98
Chapter 5. Conclusion and suggestions for further research

5.1. Descriptive sub-aim
5.2. Exploratory sub-aim
5.3. Prescriptive sub-aim
5.4. Practical and academic contribution of the study
5.5. Suggestions for further research

References

APPENDICES

Appendix 1 Interview Guide

TABLES

Table 1 Reasons for M&As failure
Table 2 Reasons for M&As success
Table 3 Strategic factors influencing the success of the deal
Table 4 Factors related to the choice of integration design
Table 5 Human factors at the preliminary stage of M&As
Table 6 Factors related to the irrationalities of decision-making process
Table 7 Experts’ tasks during due diligence
Table 8 Ensuring quality of the study in this paper
Table 9 Methodology of the study
Table 10 Results of categorization
Table 11 Results of abstraction
Table 12 Results of comparison, RQ1
Table 13 Results of comparison, RQ4
Table 14 Results of comparison, RQ5

FIGURES

Figure 1 Trends in Mergers and Acquisitions
Figure 2 Typical Acquisition Process
Figure 3 Phases of the preliminary stage of the deal
Figure 4 Four types of organizational boundaries in relation to M&As
Figure 5 Four types of integration design
Figure 6 Four modes of cultural interaction in M&As
Figure 7 Account of human factors during the preliminary stage of M&As
Figure 8 Four irrationalities of decision-making process at preliminary stage of M&As
Figure 9 Interaction of managers and different groups of experts at the preliminary stage of the deal
Figure 10 Elements of legal logic
Figure 11 Inductive logic of arriving at conclusions from the data
Figure 12 Formation of data clusters
Figure 13 An example of a chemical processing company’s pipeline
Figure 14 The essence of the cognitive conflict between managers and lawyers
Figure 15 Six groups of factors influencing the success of M&As at the preliminary stage
Figure 16 Interaction of managers and different groups of experts at the preliminary stage of the deal: results of the study
1 INTRODUCTION

1.1. Background

The last two decades have been marked by a dramatic growth of M&As in the global marketplace (Figure 1). By large, acquisition activity was stimulated by intensifying global competition; rapid industry consolidation in the cable, radio, telephone and defense industries; general decline of legal barriers; and increasingly complex and constantly innovated technologies. During 1990s, the five largest mergers transactions in the US averaged $ 77 billion, which amounted to five times the average of the five largest deals completed during the previous decade. The collapse of ‘dot-com’ speculative bubble and the slump of the global equity markets in 2000, followed by the economic recession in the US, resulted in the decline of global M&As (DePamphilis, 2005: 4). Subsequent worldwide economic stabilization brought a new wave of acquisitions, exceeding the performance of the 90s and falling accordingly after the crisis of 2008. However, it can be claimed that even though an acquisition fever diminishes when the global economy cools down, general increase in acquisitions could be predicted in the long run (Evans et al, 2010: 528).

Figure 1 Trends in Mergers and Acquisitions

Despite the increase in M&As transactions all over the world, the extensive academic research on the performance of the merged companies raises question about suitability of these deals. According to KPMG, even though overwhelming 93 % of top management involved in acquisitions believed the deal they had executed had created value for their organization, 73%
of companies actually failed to create value from M&As. Only 53% of corporate acquisitions were fully integrated (KPMG, 2009). Even more dramatically, some studies show that the positive effect of an acquisition to the value of the buyer is on average close to zero. To put it differently, only a few M&As are successful, while others have at best little effect on the performance of the company, and some become a financial disaster for the acquirer.

Numerous reasons have been suggested to explain the failure of M&As (i.e., Harper & Schneider, 2004; BCG, 2003; Henry, 2002; Bekier, Bogardus & Oldham, 2001). The most common ones include overestimation of synergy or overpaying, the slow pace of post-merger integration, and a flawed strategy (DePamphilis, 2005: 32). It can be therefore inferred that implementing a careful initial analysis to avoid overpayment, focusing on rapid integration of the acquired firm, and having a general sound strategy are likely to contribute to the success of the merger.

The key research problem of this study is to distinguish, drawing on the existing scientific literature and a case study, factors contributing to success of mergers and acquisitions with a particular attention paid to interaction of managers and lawyers. The scope of the study is limited to the preliminary stage of M&As including the phase of closure of the deal, first, to provide a better insight to the problem and, second, to shift the attention from the post-purchase stage, which is traditionally seen as the most problematic part of M&As and the one determining success of the deal (Evans et al, 2010: 533). Preventing possible problems during integration stage by paying attention to appropriate factors at the preliminary stage of the deal is perceived to be a more efficient policy than dealing with the problems after the deal is signed and the price is paid. After all, no matter how skillfully the integration is implemented, it cannot compensate for the value lost at the previous stages (Evans et al, 2010: 531). Thus, the research is likely to generate new knowledge on challenges of M&As and their success drivers and to add to the portfolio of best acquisition practices.

One of the aspects of this study is interaction of managers and lawyers during the preliminary stage of the acquisition process. Such an interest is grounded in the research which suggests that even most sound rational strategic decisions, based on careful evaluation of business environment, at times become subjected to influence of human factors, namely limited rationality of agents (Williamson, 1981) and irrationalities of decision-making process (Jemison & Sitkin, 1986). The research on mental models (Gavetti, 2005; Gary & Wood, 2011); Kaplan & Tripsas, 2008; Porac, Thomas & Baden-Fuller, 1989; Reger & Huff, 1993; Simon, 1991; Walsh, 1995) gives grounds to associate certain groups of specialists, in the context of this
paper, managers and lawyers, with particular ways of reasoning, rooted in their mental models. The comparison of the factors underlying decision-making processes of these two groups of experts according to the framework provided by the business ethics (Nesteruk, 1991) suggests the presence of an inherent conflict between those two groups of specialists. It might be inferred that in the context of M&As such a conflict and the way it is managed by the company is likely to influence the outcome of the acquisition process and the success of the deal, which potentially makes interaction of managers and lawyers a separate factor defining the success of M&As depends on and explains why this aspect of the acquisitions process remains in the focus of the study.

My interest to possible differences between managers and lawyers along with the implication they have is supported by the fact that my first scientific degree Specialist in International Law (2005). While studying M&As, I have noticed that an increasing number of them takes place across the borders, which results in growing role of lawyers in the acquisition process. A legal framework surrounding a typical acquisition of today has become so complex that no individual’s expertise is sufficient to address all the issues. International acquisitions are likely to be regulated by a team of legal experts, including specialists in M&As, corporate, tax law, employee benefits, real estate, antitrust, securities, and intellectual property. Hostile takeovers add to the complexity of the deal by involving litigation specialists (DePamphilis, 2005: 14). As all the other participants of the deal, lawyers pursue their own interest while conducting a merger, which don’t necessarily coincide with this of the management team.

The notion of mental models and the way managers perceive and categorize information about their organization and the business environment has enjoyed acute interest from the academic community (Gavetti, 2005; Gavetti & Levinthal, 2000; Hodgkinson et al, 1999; Kaplan & Tripsas, 2008; Porac, Thomas &Baden-Fuller, 1989; Reger & Huff, 1993; Simon, 1991; Walsh, 1995). However, there is a gap in research on decision makers’ mental models of the causal relationships in business environments and their effect on strategic choices (Gary & Wood, 2011). Another gap can be identified in the research on interaction of various groups of experts operating in the same business environment. Grounded in the theory on mental models, study of two groups of specialist (managers and lawyers) is likely to provide valuable insights to the nature of acquisition process and its outcomes, thus contributing both to the academic literature on the subject and enriching knowledge of professionals in the area.

Therefore, this study is based on the assumption that managers and legal advisers are likely to treat the process of M&As in different ways, which is to a large extent dependent on the
fundamental differences rooted in the mental approaches of disciplines of Law and Management and Organization. Thus, the interaction between lawyers and managers during M&As is being examined in this study along with implications it has for conducting the preliminary stage of an acquisition.

1.2. Aim and research questions

The overarching aim of this thesis is to explore factors influencing the outcome of M&As from a subsidiary perspective, with a particular focus on the interaction between two groups of specialists involved in such deals, namely managers and lawyers. Within the scope of this general question, the following sub-aims are included:

**Descriptive sub-aim:** to describe an acquisition undertaken by a particular company from the perspective of one of its subsidiaries, with a particular focus on the interaction between managers and lawyers.

RQ1. In which environment did the acquisition in question take place? What was the main driver for the deal and choice of the target?

RQ2. What was the disposition of managers and lawyers in this deal in terms of the structure of respective organizations and the extent of involvement of these two groups of specialists in the deal (their rights and responsibilities)?

**Exploratory sub-aim:** to determine the factors that created the most problems in the acquisition in question, and find out how these problems have been handled, again with a particular focus on the interaction between managers and lawyers. It is suggested that different mental models of those two groups of experts might influence the success of M&As. Hence, this sub-aim focuses on factors shaping the understanding of an acquisition as a legal and managerial process, the motivations and decision-making processes of these two groups of specialists, and the possible effects of those factors on their interaction.

RQ3. Which factors create most challenges while conducting M&As? Which factors contribute to the success of the deal?

RQ4. Which of the abovementioned factors are identified in the studied case? How have they been handled by the company?

RQ5. To which extent the interaction of managers and lawyers influenced the acquisition process? What are the fundamental differences in the mental models of managers and lawyers and how do they influence their interaction during the preliminary stage of the deal?
Prescriptive sub-aim: based on the findings of this study, to develop a set of best practices for conducting the preliminary stage of M&As inferred from the studied company case with an emphasis on cooperation of managers and lawyers.

RQ6. Which practices and lessons learnt by the companies could be taken into account to facilitate the success for future M&As?

1.3. Definitions

In general, an acquisition occurs when a company takes a controlling ownership interest in another firm, its legal subsidiary or the firm’s selected assets such as a manufacturing facility (DePamphilis, 2005). In legal terms, a merger is characterized by two companies joining their tangible and non-tangible assets to create a new entity. In an acquisition, one company makes financial investments to gain control of the other organization. In reality, the transaction labeling is mainly based on the accounting and tax implications of the deal, as well as strategies for public relations and communication. In practice, some mergers are structured as acquisitions, and some acquisitions are framed as mergers (Evans et al, 2010: 527), and the two terms have become interchangeable, with fuzzy barriers between their literal meanings. In this paper, the term M&As (mergers and acquisitions) is used to refer to the phenomena in question, while both separate terms ‘merger’ and ‘acquisition’ are used interchangeably.

Since mergers among equals (a term used when merger participants are comparable in size, competitive position, profitability, and market capitalization (DePamphilis, 2005: 6)) are rare (Evans et al, 2010: 527), most often one of the companies acts like a buyer (an acquirer, or an acquiring company) and places an investment to gain a control over the other firm, a target (or a target company).

It is generally accepted to regard M&As as a process as opposed to an event. In this vein, acquisition process might be seen as a series of largely independent events having as their goal the transfer of ownership from the seller to the buyer. It is claimed that, in theory, thinking of the process as discrete events provides understanding of numerous activities that are required for the transaction. In practice, the phases of an acquisition process are often highly interrelated, might not follow a logical order and evolve as the new information becomes available (DePamphilis, 2005:135).

Figure 2 below illustrates the 10 phases of a typical acquisition process. These phases could be united under umbrellas of two distinct sets of activities: preliminary (Business Plan, Acquisition Plan, Search, Screen, First Contact, Negotiation) and post-purchase (Integration...
Plan, Closing, Integration, Evaluation) **stages** of the deal. The Negotiation phase of the preliminary stage is believed to be of crucial importance (DePamphilis, 2005: 135), since the decision whether to pursue the merger or to walk away is usually taken at this stage as a result of four interrelated activities forming the phase. Even though the subject of the paper is limited to the preliminary stage of the deal, the phases of the post-purchase stage are also briefly described below to provide a better understanding of the M&As context.

**Figure 2  Typical acquisition process**

**Preliminary Stage**
- Developing a strategic plan for the entire business
- Developing the acquisition plan related to the business plan
- Active search for the acquisition candidates
- Screening and prioritizing the prospects
- Initiating contact with the target

**Post-Purchase Stage**
- Refining Valuation
- Structuring Deal
- Due Diligence
- Financial Plan
- Decision: Close or Walk Away

Source: based on DePamphilis, 2005

For the purposes of this study, the term **managers** is used to refer to the executive power of an organization, all the people responsible for taking and implementing decisions that determine both its everyday functioning and long-term success. The focus of this paper is on managers that due to their organizational role can take decisions that influence M&As. The term **lawyers** is used to define all specialists (jurists, legal adviser and actually lawyers), internal and external, that are ensuring that the organization acts in compliance with law.

**Mental models** are understood in this paper along with the line of research on the subject as ‘simplified knowledge structures or cognitive representations about how the business environment works’ (Gary & Wood, 2011: 569).
A legal perspective to M&As emphasizes the legal structure of the acquisition, which can take various forms depending on the nature of the transaction. The first of legal definitions allows establishing the difference between an acquisition and a merger and, since often it constitutes the only way to distinguish between the terms, is already referred to in the general part of definitions (see p.5). A **merger** is ‘a combination of two or more firms in which all but one legally cease to exist, and the combined organization continues under the original name of the surviving firm’ (DePamphilis, 2005:6). Various types of mergers are associated in legal doctrine with the mode of ownership change (i.e., **subsidiary merger**, when the ownership is fully transmitted to the acquirer and the target is listed as a subsidiary), the country the legislation of which regulates this change (i.e., **statutory merger** is a merger in which the law in which the merged company is actually located is in force).

A following initial observation can be made from managerial and legal definitions of a merger. Managers seem to be mostly concerned with issues such as strategic grounds of an acquisition and benefits for an acquiring company, goals of the transaction and intermediate objectives of its stages. They perceive M&As as a process with clear stages and phases, which aims at making a target part of the acquiring company, and in general see the big picture. On the contrary, lawyers are mostly concerned with different aspects of ownership transfer more than with the fact of the transfer itself. They examine both assets and liabilities of the target; verify changes that are likely to take place depending on the country of registration of the new entity and other legal consequences of the legal identity’s change. Lawyers pay significantly more attention than managers to the details.

### 1.4. Delimitations

The study could be attached with the following delimitations of a) theoretical, b) empirical and c) methodological nature. They are not making the results less credible (the matter of credibility and other quality criteria are discussed separately in Chapter 3), but put certain boundaries to their applicability and therefore should be taken into consideration.

The main **theoretical** limitation of this study is associated with its focus (and, therefore its possible implications for both scientific community and practitioners) being limited to the preliminary stage of M&As. Post-merger integration, which constitutes an important success factor, is excluded from the focus of the study in order to narrow its scope and to provide deeper insights to the research question. For the similar reasons, the groups of factors influencing the success of M&As are limited to that of strategic and legal nature; thus, the study doesn’t examine financial aspects of M&As. However, a few facts regarding financial part (such as
some definitions and factors influencing the success of the deal) are mentioned in passing to provide a better understanding of the acquisitions context.

**Empirical** limitations are related to the fact that the study is conducted at the subsidiary level of an international chemical processing company in Finland. In this vein, a Finnish subsidiary could not influence the strategic decisions taken at the corporate level regarding the acquisition itself and the chosen target. However, the company case studied in this paper is likely to provide insights to the factors influencing success of the deal at the subsidiary level, and to a certain extent allows evaluating the rationale behind the choice of the target. In addition, taking a close look at the subsidiary translates into an ability to study in detail interaction of managers and lawyers both at the subsidiary and headquarters levels. Together with background of the deal and the business environment of the company, such a close up examination is likely to result in a fairly good understanding of the dynamics of the merger at the level of interaction of these two groups of specialists.

Even though the decisions of the subsidiary managers were consistent with the general strategy of the parent company and its integration policy, they might have been affected by various factors, such as the nature of parent-subsidiary relationships in this particular case and cultural aspects. Those factors are left outside the scope of this study, and for its purposes the decisions of management in Finland are treated as those of the company. However, this limitation should be kept in mind while analysing the results of the study. The selection of respondents in favour of those being in constant direct contact with the headquarters ensures availability of full data regarding the preliminary complex of measures before the integration.

**Methodological** limitations of the study are its small sample and its format of student’s Master thesis. First, a single case format might make generalization of results seem questionable. This problem is addressed in the study by justifying the choice of purposeful sampling strategy (examined company provides valuable insights into M&As due to its rich and recent experience in this area). It should be noted, however, that, first, evaluating an acquisition and developing a successful acquisition strategy basing on the findings of this study would require further examination of the subsequent stage of the deal in order to enable broader generalization of the results and to minimize commercial risks. Second, the format of the study makes some of the quality ensuring procedures (triangulation of sources and researchers, regular on-site team interaction, debriefing by peers, negative case analysis, independent audit (Wallendorf & Belk, 1989) inapplicable. However, the quality of the study is ensured by alternative means (see Chapter 3).
1.5. Overview of the thesis

Chapter 2 of this paper provides a brief summary of reasons traditionally associated with failure and success of acquisitions, followed by a detailed examination of four groups of factors: those determining strategic grounds of the deal, those linked to the choice of integration approach, human-related factors and those associated with irrationalities of decision-making process in M&As. Mental models and decision-making processes of managers and lawyers are examined and their influence on the interaction between these two groups of specialists is outlined with a number of differences related to an acquisition process.

Chapter 3 describes the methodology implemented in this study, in particular the choice and the justification of research design, sampling technique, implication of concept of pre-understanding and use of methodologies of interview and observation, and ensures the quality of the study by addressing the criteria of credibility, transferability, dependability, confirmability and integrity. It also describes the methodology of analysis with its techniques of abstraction, categorization and comparison, that of and interpretation.

Chapter 4 presents the results of analysis and interpretation by according to the purpose of the study and its three sub-aims: to disclose descriptive sub-aim, case in question is described; for explorative sub-aim, the clusters of factors influencing the success of M&As, and composition of roles and mental models of lawyers and managers are distinguished; for prescriptive sub-aim, the best practices applied by the company are outlined. Finally, all the findings are compared with the Frame of Reference of the study.

Chapter 5 provides conclusion on the study with the answers to all the research questions and contains suggestions for further research.
1 FRAME OF REFERENCE

The post-merger statistics argues against most acquisitions. However, the reality of global business environment and the dynamics of contemporary economic development advocate a need for them. To reconcile these two contradictory tendencies and to provide the context for the empirical study, the reasons traditionally associated with acquisitions’ failure are examined below. The background for drawing possible success factors from revising the existing body of research is provided afterwards.

2.1. Reasons for M&As failure

As previously stated, the most popular explanations for acquisitions failure are attributed to overestimating possible synergies/overpaying (Harper & Schneider, 2004; Henry, 2002), slow pace of integration (Carey & Ogden, 2004; Coopers & Lybrand, 1996), and poor strategy (Begler, 1996). Other popular explanations of M&As failure include post-merger communication (Mitchell, 1998), weak core business (McKinsey & Company, 1996), conflicting corporate cultures and general lack of attention to human-related issues (Björkman, Stahl and Vaara, 2007). The failure due to poor post-merger communication is attributed to a large extent to the differences in vision between an acquirer and a target, which can prevent the newly formed company from enjoying great synergy benefits (Søderberg & Vaara, 2003). The same group of reasons includes a lack of clarity around systems and processes in the purchasing company, a factor relevant for at least a quarter of all acquisitions (Evans et al, 2010: 531). High transition and coordination costs in linking the new entities in cross-border M&As can contribute to the expenses of an acquirer and make a deal less financially attractive in the long run.

Cultural conflicts originating from the differences in history, environment, and national identity, result in cultural misfit between the merged organizations and stand on the way to reaching planned synergies (Stahl & Voigt, 2008). Evans et al (2010, 531) claim that the acquisition successful in other regards can fail because of attrition of talent and capabilities, or because of the loss of intangible assets. Finally, weak core business can undermine the success of integration in the variety of cases. Thus, exhaustion of financial flow can prevent successful integration if this phase of the deal was planned to be financed without involving an investor.
Table 1 Reasons for M&As failure

<table>
<thead>
<tr>
<th>Possible to address at the preliminary stage</th>
<th>Can only be dealt with at the post-purchase stage</th>
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<tbody>
<tr>
<td>1. Overestimating synergy/ overpaying</td>
<td>2. Slow pace of integration</td>
</tr>
<tr>
<td>3. Poor strategy</td>
<td></td>
</tr>
<tr>
<td>4. Form of payment</td>
<td>5. Post-merger communication</td>
</tr>
<tr>
<td>6. Conflicting corporate cultures</td>
<td></td>
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<tr>
<td>7. Weak core business</td>
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</tbody>
</table>

Source: based on DePamphilis, 2005

Table 1 summarizes the commonly cited reasons for M&As failure discussed above and highlights those that can be addressed at the preliminary stage of the deal.

Estimation of possible synergies and consequent search of a target take place at the initial phase of an acquisition. It is therefore logical to suggest that overestimation and, as a result, overpaying can be avoided by conducting proper preliminary analysis and due diligence. Slow pace of integration can be addressed by timely development of the integration plan and manifests itself during the post-purchase stage of the deal. However, careful assessment of the target and analysis of its compatibility with an acquirer, implemented at the preliminary stage of the deal, could increase chances for success at the second stage. Factors associated with poor strategy and weak core business are not caused by a merger but, on the contrary, influence its outcome, and therefore should be addressed before the deal takes place, at its preliminary stage.

Poor post-merger communication occurs when the parties cannot agree on the post-integration vision of a merger, which is often attributed to overlooking certain fundamental differences in the beginning for the for the sake of getting the deal done. Addressing these issues at the preliminary stage by developing a common and specific understanding of where the parties want the new organization to go, and how they want to get there, is essential to make the integration process successful (Evans et al, 2010: 531). Finally, it might be suggested that the influence of conflicting corporate cultures, also recognized as an obstacle for integration, could be minimized by cultural due diligence, conducted before the purchase and containing prospects of cultural compatibility. Therefore, from the seven clusters of factors most often associated with the failure of M&As, five could be addressed directly during the preliminary stage of an acquisition, and certain measures could be taken at the same time to minimize the risk of the
other two groups. This finding strengthens the choice of the study focus and increases the applicability of its results.

2.2. M&As success factors

Post-merger integration process is traditionally seen at the core of success of the deal (Evans et al., 2010). The challenges of this stage are associated with combating the winner-loser syndrome, preparing employees for the change, establishing a transition organization, and implementing the new structure, policies and practices. The recent academic research allows distinguishing the following additional factors of M&As success.

First, since empirical studies prove reaching anticipated synergies to be important determinants of wealth creation during M&As (Houston J. & Ryngaert, 2001; DeLong, 2003), the ways in which two companies complement each other significantly influence the outcome of the deal. It is sometimes argued that the board should not give green light to a merger without a sufficient prove that it will generate surplus value that will offset the premium paid for the target. Therefore, ensuring strategic fit and thorough due diligence at the preliminary stage of the deal become imperative for its positive outcome. Second, the success in M&As is associated with solid foundation in HR and other functional domains that have expertise in a specific area possible to be transmitted to the other party. When the specific knowledge is accumulated and the company’s systems and practices are well developed and explicit, it can proceed fast and confidently with its acquisitions (Evans et al., 2010: 533).

Finally, it has been suggested that the success rate of cross-border deals is higher than that of purely domestic acquisitions (KPMG, 1999). This finding is explained by the greater degree of complementarities between the parties in international M&As and absence of rivalry history, common for domestic acquisitions (Björkman, Stahl & Vaara, 2007). The increased scale and joint cross-border experience of the merged organization constitute additional benefits for international mergers. Finally, such often cited failure factor as cultural differences result in more attention attached to softer, less tangible but critical human-related aspects of acquisitions.

The above listed success factors are summarized in Table 2. The factors are listed in the order of discussion with no suggested ranking of importance and are classified according to the stages of an acquisition process at which they occur.
As could be ascertained from Table 2, four out of six of the commonly cited success factors could be brought into play during the preliminary stage of the deal. The existing research gives grounds to suggest that carefully assessing the target, projecting complementarities of the merging companies, ensuring awareness of escalating momentum among the members of negotiation team, and learning from M&As experience all contribute to the success of the deal. Thus, even though the integration stage of the deal is traditionally associated with most challenges and therefore is often seen as the one that determines the success of a merger (Björkman, Stahl & Vaara, 2007; Evans et al, 2010), the following theoretical overview is aimed to draw grounds for the assertion that appropriate conduction of the preliminary stage with the attention paid to the key factors minimizes the challenges of integration and thus facilitates the success of a deal.

In the remaining part of the chapter, strategic grounds of M&As are examined basing on the transaction costs approach (Williamson, 1981), the dominating concept for the field of organizational science for a long time, complemented by the organizational boundaries theory (Santos & Eisenhardt, 2005), which develops understanding of organization and suggests alternative merger motives. The study of the factors underlying the choice of integration approach is rooted in the works of Haspeslagh and Jemison (1991) and that of Killing (2003). A group of human related factors is examined with reference mainly to Evans et al (2010), Stahl and Voigt (2008), and Navahandi, Afsaneh and Malekzadeh (1988). Finally, the examination of gall groups of factors is built on the understanding of M&As as a process, which is characterized by certain irrationalities of decision-making and thus represents itself a potentially important determinant of acquisitions activities and outcomes (Jemison & Sitkin, 1986).
The frame of reference dedicated to the interaction between lawyers and managers is built on the following grounds. Due diligence process is set as a context for this interaction, and its examination draws on the works of Angwin (2001) and DePamphilis (2005). Decision-making process of a lawyer, comprised by legal logic and legal ethics is studied drawing on the legal research by judge on the United States Court of Appeals Aldisert (1997), Distinguished Professor of Jurisprudence and International Law Stone (1964), and works of Schnee (1997), Rawls (1999) and Twining (1997; 2009). The differences between lawyers and managers inferred from the research on the factors influencing M&As are outlined basing on the framework of mental models associated with different groups of experts (Gary & Wood, 2011) and organizational choices in organizations suggested by Nesteruk (1991).

The factors influencing the M&As outcome are grouped and examined in accordance with the process nature of M&As and its division into stages suggested in Chapter 1 of the paper. Since the scope of the paper is limited to the preliminary stage of the deal and for the reasons of convenience, the respective phases of the acquisition process are pictured and numbered (see Figure 3).

**Figure 3   Phases of the preliminary stage of the deal**

1. Business Plan
2. Acquisition Plan
3. Search
4. Screen
5. First Contact
6. Negotiation

Source: based on DePamphilis, 2005

### 2.3. Strategic factors

Evans *et al* (2010, 539) define the starting point of an acquisition process as an overall strategy of the company and the organizational capabilities that enable to implement this strategy successfully. The first group of factors to consider at the preliminary stage of the deal is connected to the first two phases of the M&As process. It concerns the very reasonability of an acquisition in relation to a general strategy of a company as well as the industry and the market it competes in.

Theoretical framework of this group of factors is grounded in the efficiency approach of transaction cost (Williamson, 1981) complemented by non-efficiency theory of organizational boundaries (Santos & Eisenhardt, 2005). It is suggested that the general line of thinking behind the theory of transaction cost has been developed with time into the assumptions underlying the theory of organizational boundaries.
Emphasis on the transaction cost approach is explained by the dominant role it has had for years in the field of organizational science (Santos & Eisenhardt, 2005: 491). Despite a number of its limitations, addressed in the later works on M&As’ strategy, the main point of the transaction cost approach, namely the concept of asset specificity and its role in making strategic choices between a merger and its alternatives, remains valid today. The organizational boundaries theory is referred to in order to compensate for the limitations of the transaction cost approach and to summarize the development of the strategic doctrine since then.

Transaction cost approach, having considerations of efficiency at its core, understands M&As generally as means of reaching profit maximization by minimizing costs. The organizational boundaries theory complements efficiency, which constitutes the focus of the transaction cost approach, by three other clusters of strategic considerations (those of power, competence and identity). Introducing a wider variety on merger incentives coincides with the general trend in the field of organizational science to attach more importance to human-related issues and matters of organizational identity and culture (Evans et al, 2010; Søderberg & Vaara, 2003). Notably, the concept does not compete with the transactional cost approach, but broadens its scope, thus ‘fuelling a deeper understanding of organizations’ (Eisenhardt & Santos, 2005: 491) and providing a higher degree of flexibility in terms of strategic options by adding non-ownership mechanisms to the list of alternatives.

It is suggested that strategic factors should be examined in complex before deciding in favour of an acquisition. The main question to the management of a company at this stage of M&As process can be framed as whether there is a well-grounded strategic need for an acquisition or there are sensible alternatives to it.

2.3.1. Transaction cost approach in respect to M&As

According to the logic of transaction cost approach, the objective of economizing, or maximizing the profit by cutting costs, is achieved by M&As (in the language of the theory, ‘integration’) or by outsourcing. The costs of governing activities through the market are opposed to those in organizations; hence economizing is often understood as making a strategic decision that would minimize governance costs.

Three assumptions of the transaction cost approach are relevant to M&As: 1) frequency of transactions, 2) uncertainty as their condition, and 3) the degree to which it requires durable investments directly associated with transaction (Williamson, 1979). First two assumptions are important for providing the context for the discussion on managers and lawyers, which follows
in part 2.7 of this chapter. Continuous character of transaction is the vein with a process perspective to M&As: the value of an acquisition is estimated not only according to the features of the companies and their possibility to create synergies, but basing on the actual consequences of the deal. The second assumption, uncertainty in which continuous interaction of the parties takes place, is attributed in the framework of the theory to a possible opportunistic behaviour of agents, and in the context of M&As is linked to human related aspects of the deal.

The most interesting assumption of the transaction cost approach from M&As is the degree to which transaction requires durable investments, or asset specificity. More precisely, asset is evaluated not by itself but in relation to specific characteristic of the buyer and possibilities it provides in case of integration. Asset specificity forms the main rationale for an acquisition. This assumption holds true for three types of assets: 1) site specificity, which is determined mainly by the location of an asset and helps to minimize transport and inventory expenses; 2) physical asset specificity, which corresponds to specific technical characteristics that together with the technology of the buyer lead to production economies; and 3) human asset specificity.

Following the central role of asset specificity in the transaction cost approach, large degree of importance is attached to evaluation of the target. For M&As, such an analysis would be take form of a due diligence process aiming to estimate physical asset specificity, including site specificity (technical, financial and legal evaluation of the asset), and examining the target’s human asset, which includes the talent and organizational capabilities for knowledge transfer.

In essence, the transaction cost approach provides a framework for choosing strategic options between M&As and their alternatives. The main reason for advocating a merger becomes asset specificity of both physical and human assets. In case of non-specific resources the preferred choice is random outsourcing, while it is suggested to regulate semi specific assets by obligational bilateral contracts. Naturally, the range of alternatives to acquisitions suggested in the paper is narrower than that of today and doesn’t include, for example, alliances and green investments. However, the general rationale for the merger stays intact for contemporary acquisitions.

2.3.2. Organizational boundaries approach in relation to M&As

Organizational boundaries are understood as demarcation lines between an organization and its environment (Santos & Eisenhardt, 2005: 491). The theory applies to both horizontal (related to the product portfolio and markets addressed) and vertical (range of activities in relation to industry value chain) limits of organizations. Boundaries are flexible and can be changed by
strategic decisions of the company. In relation to M&As, it would mean that setting boundaries in a right way (deciding in favour of a merger or an alternative strategic decision) to a large extent contributes to success and failure of the deal and the acquirer’s business in general.

2.3.2.1. Types of boundaries as strategic reasons for M&As

The approach distinguishes among four types of organizational boundaries: that of efficiency, power, competence, and identity. Those groups of boundaries are associated respectively with the following organizational issues: cost (efficiency), autonomy (power), growth (competence), and coherence (identity).

**Boundaries of efficiency**

Efficiency, the merger rationale of transaction cost approach, is one of the dimensions of organizational boundaries theory as well, with the same strategic driver of minimizing governance costs. In this framework, market solution is also opposed to the hierarchical one, with alternative key tools of boundary management presented as outsourcing (for market) versus acquisitions and divestitures (for hierarchical integration). Hierarchical governance is pictured as a preferred strategic choice in the situation of asset specificity and uncertainty caused by bounded rationality of the agents. The benefits of a merger are associated with enhancing control over agents, facilitating information gathering inside organization and providing better-aligned incentives to motivate desired behaviour. However, organizational theory attaches certain limitations to the transaction cost approach by associating its applicability with the industries with intense price competition and stable structure, where efficiency becomes of paramount importance (Santos & Eisenhardt, 2005: 492-493). Other types of boundaries are recommended to be taken into account when analysing other types of business environment.

**Boundaries of power**

Boundaries of power shift the focus from transactions to more expansive boundaries of control. The level of analysis therefore changes from discrete transactions to the external strategic relationships, with other firms and institutions. Boundaries of power become important in ambiguous and dynamic environment where speed and strategic flexibility are essential (Santos & Eisenhardt, 2005: 496). The boundaries are therefore set (and changed strategically) over the activity domain of an organization (Santos & Eisenhardt, 2005: 495).
The rationale of acquisition lies in maximizing strategic control over crucial strategic relationships by controlling critical dependencies and managing market power (Porter 1980; Davis & Powell, 1992). In terms of vertical boundaries, companies expand their participation in the industry value chain, thus minimizing environmental uncertainty. In terms of horizontal boundaries, firms expand their product portfolios or scope of market to increase their market influence by greater size or to reduce their dependence on single markets (Santos & Eisenhardt, 2005: 495; Pfeffer & Slancik, 1978). Gaining control over a market becomes particularly important in case of ‘tipping emergent markets’ (Ozcan & Eisenhardt, 2005), since the latter are often knowledge based (Ahuja & Lampert, 2001), which leads to high switching costs and network effects (Arthur, 1996; Grant, 1996).

In case of boundaries of power, the strategic choice is between ownership, or acquisitions, and non-ownership mechanisms. While the objective of the first is to expand vertical and horizontal boundaries, second aim at ensuring control and communication without changing legal boundaries (Pfeffer & Slancik, 1978). They might take form of board appointments, alliances, lobbying activities and taking central position in organizational networking.

**Boundaries of competence**

The boundaries of competence shift focus from minimizing governance costs to more strategic issues of creating and maintaining the optimal resource portfolio. They determine how organizational members gather, exploit, and renew firm’s resources to create and maintain competitive advantage. The organization is perceived as a set of resources, and the boundaries are set to maximize the value of a firm’s resource portfolio by matching it with external opportunities (Santos & Eisenhardt, 2005: 497). In addition, it recognizes the influence that organizational processes have on altering horizontal and vertical boundaries of an organization.

An important determinant of this group of boundaries is market dynamism. In less dynamic environments, the resources of organizations are internally linked because of complementarity among component resources. Therefore, firms change vertical boundaries by acquiring activities that strategically improve their current resource portfolio. Activities based on resources very different from that of a firm are outsourced. In case of horizontal boundaries, organizations expand to nearby product or market domain that are both economically promising and improve current resources portfolio (Santos & Eisenhardt, 2005: 497). Moderately dynamic environments are characterized by lower degree of dependency among resources (Eisenhardt & Bingham, 2005). Horizontal and vertical boundaries are shaped by using dynamic capabilities to introduce new combinations of either existing or new resources. Finally, in turbulent
environments, characterized by ambiguity and frequent changes, dynamic capabilities enable companies to improvise with loosely coupled resources to match shifts in the environment (Eisenhardt & Bingham, 2005).

Thus, strategic objectives of the firms become more aligned with seizing opportunities by combining new and existing resources than with simply leveraging existing resources (Davis et al., 2005). The principal strategic choice in this case is between possession and deployment. Externally oriented capabilities involve acquisitions, divestitures and alliances; internal presume reconfiguration of existing and new resources for patching and product development.

**Boundaries of identity**

In the organizational boundaries theory, companies are understood as social contexts for sensemaking (Weick, 1995). This approach recognizes the unconscious cognitive boundaries for organizational members (Santos & Eisenhardt, 2005: 501), thus introducing irrational dimension of decision making process. The main rationale of setting boundaries is to ensure that the identity of the organization, which is how it is being perceived by its members, corresponds to its activities.

Organizational identity influences both vertical and horizontal boundaries. The perception of what is appropriate for organization affects decisions regarding the value-chain activities to incorporate or product/markets domains to enter (Kogut, 2000). Apart from that, identity also determines a broad range on internal activities coherent with ‘who we are’. Although identity boundaries are intangible and are seemingly flexible, they are in fact particularly difficult to change because of their unconscious character and emotional bounds (Santos & Eisenhardt, 2005: 502. Managing this type of boundaries maintains coherence of the organization by coevolving organizational activities with organizational identity. The principal choice in this case is made among conscious and unconscious approaches. The former includes explicit adoption of mental settings from the other environment and replacing organizational top executives; the latter implies conforming to image and industry blueprints.

In sum, the transaction cost approach and the organizational boundaries theory provide deeper understanding of organizations and the logic underlying their strategic choices.

The efficiency concept adopts a legal view of organizations from the transaction cost approach and examines boundaries in relation to economic efficiency of transactions. The power concept takes a permeable view and portrays boundaries in terms of the sphere of influence over other
organizations and institutions. The competence concept adopts a dynamic view and frames boundaries in terms of the resource portfolio that coevolves with the environment. The identity concept takes a holistic view and interprets boundaries as often unconscious mindset that enables organizational members to identify with the organization on cognitive and emotional levels (Santos & Eisenhardt, 2005: 502). Four different boundary types, their principal drivers and resulting strategic options are depicted in Figure 4.

**Figure 4  Four types of organizational boundaries in relation to M&As**

<table>
<thead>
<tr>
<th>Boundary type</th>
<th>Principal driver</th>
<th>Strategic options</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficiency</td>
<td>cost</td>
<td>Integrate (merge)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bilateral obligational contracting</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Outsource</td>
</tr>
<tr>
<td>Power</td>
<td>autonomy</td>
<td>Ownership: M&amp;As</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Non-ownership: board appointments, alliances, lobbying, networking</td>
</tr>
<tr>
<td>Competence</td>
<td>growth</td>
<td>External options: M&amp;As, divestitures</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Internal options: product development</td>
</tr>
<tr>
<td>Identity</td>
<td>coherence</td>
<td>Hiring new senior executives</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Adapting to industry’s standards</td>
</tr>
</tbody>
</table>

Source: based on Santos and Eisenhardt (2005)

Table 3 below provides an overview of the strategic group of factors influencing the success of M&As.
Table 3  Strategic factors influencing the success of the deal

<table>
<thead>
<tr>
<th>Time to consider</th>
<th>Phases 1-2 (Business Plan, Acquisition Plan) of the preliminary stage of the deal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main questions</td>
<td>Is there a well-grounded strategic need for an acquisition or are there sensible alternatives to it?</td>
</tr>
<tr>
<td>Options</td>
<td>M&amp;As versus obligational bilateral contracting, outsourcing (efficiency concept); non-ownership mechanisms such as board appointments, alliances, lobbying, organizational networking (power concept); internal product development (competence concept); hiring new senior executives or adapting to industry standards (identity concept).</td>
</tr>
</tbody>
</table>

2. 4. Factors related to the choice of integration design

The study of strategic factors indicates that explicit and thorough definition of the merger’s rationale and of the value it aims to create for both companies becomes essential for the success of the deal. Moreover, clarifying the purpose of the merger at its early stage is important because it helps to avoid, or at least to reduce, unattainable expectations of the parties (Evans et al., 2010: 534). In this vein, it becomes vital to design the vision of the end state, shared by both parties, and to decide on integration mode before actually merging the companies. It might be claimed that even if the need of a merger is identified and advocated by strategic arguments during phases 1 and 2, choosing inappropriate integration approach hinders the success of the deal. Marking borders of the integration after an actual acquisition is likely to be one of the most important challenges a manager will face (Hasperlagh & Jemison, 1991: 143).

This paper draws on the differentiation between integration approaches suggested by Hasperlagh and Jemison (1991) based on the criteria of need for strategic interdependence and organizational autonomy. First one reflects the relationship between an acquirer and a target, which establishes the nature of interdependence that is needed to implement the capability transfer. The second one is related to the way in which the value is expected to be created, which is measured basing on the need to preserve unique strategic characteristics of the company after a merger (Hasperlagh & Jemison, 1991: 139). Similar types of integration with same the logic of strategic drivers behind them are mirrored in the work of Killing (2003).
The need for interdependence is determined by the fact that transfer of strategic capabilities, which often is a way to create value in M&As, is often hindered by the target’s resistance resulted from the ‘boundaries’ disturbance. Deciding on the degree of interdependence before conducting the merger leads to the following benefits: first, it communicates unbiased objective strategic view of the deal to people; second, it sets the grounds for designing organizational tasks needed to achieve the planned synergies; third, it provides a general outlook on the merger, including the trade-offs that are likely to create integration challenges. Thus, evaluating the need of interdependence at the preliminary stage of the deal is likely to lessen the tension of integration; what is more, it provides a possibility to verify once again the sensibility of the deal.

In turn, the need for organizational autonomy, another determinant of integration design, should be regulated at the preliminary stage to preserve strategic capability if it constitutes the object of value creation in acquisition. In this case the capability transfer becomes one of the paradoxes of M&As since it calls at the same time for boundary dissolution and boundary protection (Haspeslagh & Jemison, 1991: 142).

In the framework of M&As as a process, adapted in this paper, consideration of integration issues should take place during phases 4-6. The main question in this case can be formulated as which integration design should be implemented in case of a merger and whether it is reachable with the chosen target. Merger rationale and the source of value creation of the deal become a departing point for deciding on the integration approach.

**Figure 5  Four types of integration design**

The three approaches to integration, balancing between the need for organizational autonomy and that for interdependence, are preservation, absorption and symbiosis (See Figure 5). The similar classification of Killing refers to these types as, respectively, stand-alone, absorption and best of both (Killing, 2003). The fourth approach, holding acquisition, when both companies leave their previous practices and don’t adopt new ones, is rather a manifest of resistance to a merger and in the context of the preliminary stage of the deal should be anticipated.

**Absorption acquisitions**

Absorption acquisitions are fairly straightforward and most common when there are differences in size and sophistication between an acquirer and a target. In this model, the target conforms to the buyer’s ways of working. The synergies in absorption acquisitions are often related to cost cutting and improvements in processes and practices brought by an acquiring firm (Evans et al., 2010: 535).

By strategic logic, this integration design requires a high degree of interdependence to bring expected value, and a low degree of autonomy to achieve this interdependence (Haspeslagh & Jemison, 1991: 147). The merger of this type implies complete consolidation of practices, organizational structure and culture of both companies. The main objective of such acquisitions is to dissolve the boundary between units. The key to success in this case becomes choosing the target well and moving fast to eliminate possible uncertainty and capture possible benefits (Evans et al., 2010: 535). The latter strengthens the assumption above regarding the necessity to consider the choice of integration approach during preliminary stage of the deal.

**Preservation acquisitions**

On the opposite side of the spectrum, preservation acquisitions (or stand-alone) imply high need for autonomy and low need for interdependence between the merging companies. They aim at keeping the source of value creation, which can range from culture and motivation to best practices and ways to manage (Evans et al., 2010: 536) intact, since its loss would hinder the success of the deal. The key objective in this case becomes to protect the new unit from disruptive intrusions from the side of the parent.

**Symbiotic acquisitions**

The third type of integration approach, symbiotic acquisitions (‘best of both’) is called for in case of a merger of equals. It implies high strategic interdependence (since capability transfer is essential for the success of the deal) and organizational autonomy (because the transferred
capabilities represent the value of the acquired company and need to be preserved in their initial state) at the same time. Because of contradictory needs embedded in this model, symbiotic acquisitions require ‘simultaneous boundary preservation and boundary permeability’ (Haneslagh & Jemison, 1991: 149), which makes them the most challenging of the three types.

The best way to accomplish such integration is to ensure that the acquired company is willing to change its organizational practices while maintaining its own culture that can often be the source of value creation in a merger. This is why in symbiotic acquisitions the two organizations first coexist to acknowledge each other’s strengths and gradually become independent and benefit from the original qualities of each other (Haneslagh and Jemison, 1991: 149).

Inability to choose integration design timely leads to a complex of human-related problems in merging organizations and trigger fear of power loss, job insecurity and resistance to change (Evans et al., 2010). These obstacles might hinder the success of acquisition even if the need for it is justified from the strategic point of view and the target is wisely chosen. Therefore timely choice of an integration design allows ensuring the coherence between the objectives of the deal and the way it is implemented and thus becomes an imperative for the success of the deal.

The summary on the factors influencing the success of M&As and related to the choices of integration approach is presented in Table 4 below.

<table>
<thead>
<tr>
<th>Time to consider</th>
<th>Phases 4-6 (Screen, First Contact, Negotiation) of the preliminary stage of the deal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main questions</td>
<td>Which integration design should be implemented in a merger? Is it is reachable with the chosen target?</td>
</tr>
<tr>
<td>Options</td>
<td>Deciding on absorption, preservation, symbiotic integration designs; preventing holding acquisitions</td>
</tr>
</tbody>
</table>
2.5. Human factors

Human resource management and reconciling cultural differences, often referred to as ‘soft’ issues, are enjoying increasing attention from scholars (Evans et al, 2010). In the context of M&As, it might be explained by the fact that even if an acquisition has solid strategic grounds and a thoroughly chosen integration design, it can still fail to reach the objectives because of human factors. As empirical evidence proves, the top-ranked factors for M&As success are retention of key talent, effective communication, executive retention and cultural integration (Kay & Shelton, 2000). On the contrary, factors like differences in organizational culture and people integration were named as two top challenges to successful acquisition (Marsh, Mercer & Kroll, 2008). Evans et al (2010, 538) claim that it is difficult to find an acquisition where human factors don’t matter, though the degree of the importance differs from deal to deal. Paying due attention to these factors before the integration, at the preliminary stage of the deal, might help to reach the objectives of acquisition and thus to increase the chance for its success.

Two groups of human factors are examined in this paper: first ones concern the dynamics of human capital in the context of M&As, second are related to the cultural differences between the merging companies. The importance of these groups of factors depends on the way the value is created in the deal. Thus, when an objective is to establish a new geographic presence, managing cross-cultural differences becomes at the forefront of attention. When a new technology, market share or capabilities are acquired, the attention shifts to retaining key technical professionals (Evans et al, 2010: 538).

It is suggested that those two groups of factors should be examined during phases 3-6 of the preliminary stage of the deal. The main question for human capital audit is whether the target possesses talent resources to meet the objectives of the deal and how it can be retained. In case of cultural due diligence, the question is framed as what the core beliefs and assumptions of the target are, if they are compatible with those of the acquirer and what should be done to ensure such compatibility.

2.5.1. Factors related to the human capital

Considering the influential role of human issues in implementing M&As, it is suggested that this group of factors is considered already at the third phase (Search) of the preliminary stage of the deal. Later it should be seen as an important part of due diligence process, becoming part of cultural assessment and human capital audit.
HR due diligence process (or, as it is also referred to, human audit) has two objectives: first, to protect the company against potential financial exposure, such as pension and liabilities; and, second, to make sure the objectives of an acquisition are reachable with the chosen target (Evans et al, 2010: 539-540). The first objective constitutes a preventive dimension of human audit; the second reflects strategic function of HR management. Unlike the part of the due diligence process devoted to financial, legal and business aspects, which has quite clear analytic standards, the cultural and human due diligence is not methodologically regulated. One of its main challenges is associated with difficulties to access credible sources of information (knowledge about human capital of the company is often not codified and has to be obtained by external signs), because of secrecy of the deal or because of target’s resistance (Evans et al, 2010: 540).

Undertaking such an assessment at the preliminary stage of the deal helps to identify potential risk factors, which might lead to revaluation of the target and consequently motivate the buyer either to work out respective strategies or to walk away from the deal. Talent identification and plan on talent retention, which is implemented at the post-purchase stage of the deal, should also be implemented, or at the very least mapped, before the contract is signed. One of the arguments for introducing those factors to examination already at this point is that sometimes the value of the deal is directly related to retaining key talent; in this case, the companies might either incorporate such retention in the acquisition agreement or to plan a course of action to ensure it. In the latter case the additional costs connected to such actions, for example retention bonuses as well as investment in training and development, should be taken into account while estimating the target (Evans et al, 2010: 542). Sometimes human audit leads to the conclusion about incompatibility of an acquiring firm and a target, thus terminating an acquisition process at the phase of target Scan or Negotiations. In this case such a decision becomes beneficial for the both parties, since it allows avoiding sunk costs of unsuccessful integration.

2.5.2. Factors attributed to the cultural differences

The research on M&As distinguishes between differences in national and organizational cultures. National differences in cross-border deals can influence the whole acquisition process, from merger rationale, pre-acquisition preparation and negotiations through to post-purchase implementation and the perception of success (Angwin, 2001: 55). Organizational cultural differences are relevant in many domestic M&As and are talked about the most when the scale of an acquisition exceeds geographical borders of a country. They are often named as a principal challenge in international acquisitions (Marsh, Mercer & Kroll, 2008). For a long time, original
cultural differences were perceived as largely unmanageable and threatening the success of the deal (Evans et al., 2010: 544).

The notion of culture as exceeding geographical barriers is not new. Navahandi and Malekzadeh (1988, 80) referred to fit between culture and strategy as an essential element in organizational effectiveness and defined culture as ‘the beliefs and the assumptions shared by members of an organization’. Aiming at examining all the subcultures in their interplay, they suggested four modes of two companies interacting on cultural level after merger: integration, assimilation, separation and deculturation (See Figure 6). Even though in theory acculturation, or cultural exchange, is a two-ways process, most often one organization tries to imply its culture to the other one (Navahandi & Malekzadeh, 1988: 81). The four modes of acculturation are based on the characteristics of the acquired and acquiring companies and define the ways in which two groups adapt to each other and reconcile all potential conflicts.

Even though the research, suggesting the four modes, is not new, its grounds in behavioural science and invariable nature of human interaction on cultural grounds gives reasons to suggest applicability of this model for contemporary acquisitions. Like in the case of choosing integration design, it is suggested that even though actual implementation of a mode takes place during post-purchase stage of the deal, it is worth considering its type before to develop a timely plan to deal with cultural differences and to avoid a merger of incompatible companies.

Figure 6  Four modes of cultural interaction in M&As

Source: Navahandi & Malekzadeh (1988)
The differentiation should be made between integration designs and acculturation modes: integration is a broader concept; it includes not only beliefs and values but first and foremost organizational structures, norms (including legal norms) and practices. In turn, cultural modes are of more of psychological nature and are based on human beliefs, assumptions and perceptions of an acquisition. Thus, the elements of the latter are less evident and change is implemented in a less straightforward way. Since cultural due diligence is believed to be of importance for the success of the deal and is followed later in this chapter, a short summary on four modes of acculturation is presented below.

**Integration** takes place when a target firm wants to preserve its culture and identity, while an acquirer is willing to allow such cultural independence. In terms of integration designs, this mode corresponds to preservation. A merger in this case doesn’t lead to a loss of cultural identity by either of its participants but to an interaction and adaptation in a result of mutual contributions. Overall, both companies change their culture to a certain degree, but the flow of cultural elements remains balanced because neither group tries to dominate another (Navahandi & Malekzadeh, 1988: 82).

On the contrary, in **assimilation**, a target company ceases to exist as a cultural entity and fully adopts cultural standards of an acquirer. It happens in acquisitions with size or power differences. Assimilation corresponds to absorption integration design, and it is always a unilateral process of one company imposing its culture to the other one (Navahandi & Malekzadeh, 1988: 82).

**Separation** is a form of acculturation, in which a target aims at preserving its cultural setting without taking into account that of the acquiring firm. In might be the case when the value of an acquired company mainly consists of its organizational capabilities or its culture. This mode is related to preservation integration design, and unlike integration doesn’t suppose any cultural exchange between the companies. An acquired company functions as a separate unit under the umbrella of the parent (Navahandi & Malekzadeh, 1988: 82).

Finally, the fourth mode of cultural interchange, **deculturation** (or, in other words, marginality), involves refusing from both own culture and that of an acquirer and remaining an outcast of both. This case is quiet rare because of its low productivity. This mode corresponds to holding integration design, and in the context of the preliminary stage of the deal, the companies should plan how to anticipate it.
Obviously, the preferences of two organizations regarding the mode of acculturation might be different, especially in case of assimilation, when an acquiring company imposes its culture to a target. Being aware of these preferences, which are not necessarily expressed directly, and reconciling them therefore becomes essential for the success of the merger. Acculturation mode, determined by both parties before the actual integration, lessens acculturative stress and organizational resistance. On the contrary, incongruence, which occurs when the companies disagree on the mode of acculturation is associated with high amounts of acculturative stress and negative effect on both individual and group functioning (Navahandi & Malekzadeh, 1988: 84). It might be suggested that such reconciliation of cultural elements should be done during the preliminary stage of the deal, when there is still an opportunity for negotiation and termination of an acquisition process.

Such an assessment takes form of cultural due diligence and has objectives of evaluating factors that might influence organizational fit, predicting the future cultural dynamics and planning how to address cultural issues. It can be formal or informal and, like human capital audit, has market intelligence, external data, surveys and interviews as its source (Evans et al., 2010: 544-545).

The criteria for cultural assessment often reflect the acquirer’s own culture. The principal challenge for preparing grounds for integrating these cultures becomes approaching cultural assessment with a right perspective and recognizing potential instead of seeing difficulties.

2.5.3. Integrated approach to human factors

Human audit and cultural due diligence should be implemented at the same time (as early as at the preliminary stage of the deal) and in complex. The main focus of human audit, and often the principal source of value creation of a merger, is retention of key talent. However, disagreement about the grounds of cultural integration might result in key talent leaving the company (Navahandi & Malekzadeh, 1988: 86), thus undermining the success of the deal. From the other side, agreeing on a certain acculturation mode might require certain actions (i.e., involving expatriates or local hires) related to the course of human audit. The interrelation of those two processes and their focus of attention are pictured in Figure 7.

The acquiring company needs to have a general idea about the design of acculturation and a blueprint of future changes before the closure of the deal. The range of issues to examine includes organizational structure and reporting relationships, the composition of the new team, values and norms of the organization, its key talent and incentive policy. It therefore becomes a priority to complete the cultural due diligence and human audit at the preliminary stage of the
The deal. It requires access to the data, which often becomes a part of the M&As agreement (Evans et al., 2010: 546) and often calls for involving outside experts, such as consultants and legal advisers. Since getting familiar with local social, cultural and legal context requires time, forward planning becomes essential.

**Figure 7  Account of human factors during the preliminary stage of M&As**

The summary on human factors in M&As is presented in Table 5 below.

**Table 5  Human factors at the preliminary stage of M&As**

<table>
<thead>
<tr>
<th>Time to consider</th>
<th>Phases 3-6 (Search, Screen, First Contact, Negotiation) of the preliminary stage of the deal</th>
</tr>
</thead>
</table>
| Main questions   | Does the target possess talent resources to meet the objectives of the deal and how can it be retained? (human capital audit)  
What are the core beliefs and assumptions of the target? Are they compatible with those of the acquirer? What should be done to ensure such compatibility? (cultural due diligence) |
| Options          | Conducting timely human audit and cultural due diligence; deciding on integration, assimilation, separation acculturation modes; preventing deculturation. |
2.6. Irrationalities of decision-making process in acquisitions

The groups of factors examined above fall with the general line of thinking about acquisitions, which portrays the deals on M&As as products of rational choice (Trautwein, 1990). A process perspective on M&As assumes that acquisition process per se is a potentially important determinant of merger’s activities and outcome (Jemison & Sitkin, 1986). The process approach argues for the presence of four impediments, which result from the nature of the acquisition process. These obstacles are likely to lead to lack of attention to the issues of strategic and organizational fit, thus indirectly influencing acquisition outcome. Jemison and Sitkin (1986) claim that the notions of strategic and organization fit are normally opposed to each other. In the framework of process theory, strategic fit is understood as sensibility of the deal, based on the estimation of how the target firm complements the strategy of the suitor, while organizational fit is seen by large as match of administrative and cultural practices.

However, the analysis of the previous groups of success factors suggests that lack of well-timed attention to the issues of organizational fit leads to problems during the post-purchase stage. Therefore, the matters of strategic and organizational fit should be given considerate attention in complex and early enough for an acquirer to be able to negotiate or to walk away from the deal.

**Figure 8  Four irrationalities of decision-making process at the preliminary stage of M&As**

**preliminary stage**

- Activity segmentation
- Escalating momentum

**post-purchase stage**

- Expectational ambiguity
- Misapplication of systems

Source: based on Jemison and Sitkin (1986)

The main question for examining this group of factors at the preliminary stage of the deal could be framed as if the participants of the deal are influenced by certain psychological factors that affect the efficiency of their decisions. While there no counteraction to these irrationalities, the mere awareness of them is believed to contribute to reaching the objectives of the deal. These impediments are distinguished as follows: activity segmentation, escalating momentum, expectation ambiguity and managerial system misapplication (See Figure 8). It is suggested in
the paper that they could take place at any phase of the deal and hinder its success. However, activity segmentation is more likely to occur during the preliminary stage of the deal, since that is the time when different groups of professionals are involved (lawyers, bankers, consultants). Danger of escalating momentum is equally valid for both stages. Impediments of expectational ambiguity and misapplication of management systems are related to the post-purchase stage, even though their risks could be minimized by addressing them beforehand.

First of the impediments, **activity segmentation**, refers to task segmentation that takes place due to the technical complexity of the activities surrounding an acquisition. Such a division of labour between different participants, or sometimes even groups of participants, results in conceptually and operationally different analysis (Jemison & Sitkin, 1986: 148).

The second factor contributing to the likelihood of ‘irrational’ decision-making in acquisitions is an escalating desire to complete the deal quickly, which often decreases the chances of its success (Jemison & Sitkin, 1986: 151). Evans *et al* (2010: 532) refers to this phenomenon as **escalating momentum**, in the context of M&As characterized as a condition when the participants feel unable to stop the acquisition process or to change its pace.

The third factor contributing to irrationality of decisions related to acquisitions is **expectational ambiguity**, or, put differently, different vision of merger’s objectives by the parties. Even though this impediment is mostly related to the post-purchase stage of the deal, a complex approach to analysis of a deal at its preliminary stage with attention to both matters of strategic and organizational fit and clarifying the objectives from the very beginning lessen the risk of this irrationality of decision-making process.

The fourth irrationality of decision-making process is **misapplication of management systems**, when due to the arrogance parent’s strengths are applied in a heavy-handed fashion, often overlooking unique capabilities and efficient practices of a subsidiary, even if these competences and capabilities were a reason for a merger in the first place. This challenge is also related to integration phase of the deal. However, approaching an acquisition with right attitude and awareness of this irrationality of decision-making process helps to minimize its risk, and should be ensured during the preliminary stage of the deal.

Table 6 below summarizes the examination of this group of factors.
Table 6  Factors related to the irrationalities of decision-making process

<table>
<thead>
<tr>
<th>Time to consider</th>
<th>Phases 1-6 (Business Plan, Acquisition Plan, Search, Screen, First Contact, Negotiation) of the preliminary stage of the deal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main questions</td>
<td>Are the participants of the deal influenced by certain psychological factors that affect the efficiency of their decisions?</td>
</tr>
<tr>
<td>Options</td>
<td>Being aware of the irrationalities, mainly those caused by activity segmentation and escalating momentum; minimizing the risks of expectational ambiguity and misapplication of management systems already at this stage.</td>
</tr>
</tbody>
</table>

2. 7. Interaction between managers and lawyers during the preliminary stage of M&As

Academic literature lacks a consistent body of research on comparison between managers and lawyers and interaction of these two groups of specialists. In this part of the paper, first the overview of due diligence process, the time where such interaction takes place, is given. It is later supplemented by the review on managers and lawyers, their organizational roles and mental models, derived from the previous parts of Frame of Reference. Complemented by the research on mental models and a number of base considerations from the business ethics, this material sets the base for outlining the differences between lawyers and managers and decision making processes associated with these two groups of specialists.

2.7.1. Due diligence as a context for interaction of managers and experts

In the M&As setting, the interaction between lawyers and managers takes place by large during the due diligence process, a phase aimed at independent examination and clear appreciation of the target company and its environment and retaining escalating momentum. It is undertaken during the preliminary stage of the deal and involves interaction of different groups of specialists: managers, strategic consultants, financial advisers and lawyers.

The fact that more and more companies perceive M&As as primary means of strategic development is mirrored in increasing range of services offered for implementing due diligence. The growth in the total number of completed deals along with the popularity of value-based bidding has resulted in extremely high due diligence fees (Angwin, 2001: 33) and turned acquisitions into lucrative business for various groups of experts. However, even though the
critical role of due diligence in M&As is recognized, the objectivity and neutrality of its approach are often questionable. In reality, many positive conclusions on due diligence result in spectacular failures of missed critical liabilities (Angwin, 2001: 34). Nevertheless, with the global environment accelerating acquisitions race, involving outside experts such as investment banks, accounting firms and lawyers to due diligence process can become of a crucial importance in shaping strategy, looking for targets and advising on mounting bid.

Apart from the issues of strategic, cultural and organizational fit, examined by the managers, the due diligence process is focused on financials, tax matters, asset valuation, operations, and providing assurances both to the lenders and the advisors in the transaction and the acquirer’s management team (Angwin, 2001: 34). Thorough evaluation of the target facilitates estimation of the deal’s value and related risks, which allows the parties to establish negotiation parameters. Despite certain differences in ranking importance area of due diligence process across cultures, the overall role of experts in due diligence process is estimated as follows (in the order of importance): 1) ensuring the absence of ‘black holes’ (anticipated substantial liabilities which may not be covered by warranties); 2) providing insight into existing management; 3) helping in price negotiations; 4) evaluating the industry sector in general; 5) assessing cultural fit (Angwin, 2001: 55).

Table 7 summarizes the experts’ tasks during the due diligence process.

<table>
<thead>
<tr>
<th>Table 7 Experts’ tasks during due diligence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Strategic consultants</strong></td>
</tr>
<tr>
<td>• Industry and the effect of external</td>
</tr>
<tr>
<td>macroeconomic factors</td>
</tr>
<tr>
<td>• Competitive environment (target’s</td>
</tr>
<tr>
<td>performance against current and</td>
</tr>
<tr>
<td>potential competitors)</td>
</tr>
<tr>
<td>• History and development</td>
</tr>
<tr>
<td>• Management and personnel quality</td>
</tr>
<tr>
<td>and capabilities</td>
</tr>
<tr>
<td>• Business in terms of products and</td>
</tr>
<tr>
<td>services and their position in the</td>
</tr>
<tr>
<td>market</td>
</tr>
<tr>
<td><strong>Financial advisors</strong></td>
</tr>
<tr>
<td>• Financial performance over time</td>
</tr>
<tr>
<td>• Asset values</td>
</tr>
<tr>
<td>• Accounts and accounting policies</td>
</tr>
<tr>
<td>• Information systems</td>
</tr>
<tr>
<td><strong>Lawyers</strong></td>
</tr>
<tr>
<td>• Ensuring compliance with local or</td>
</tr>
<tr>
<td>industry norms</td>
</tr>
<tr>
<td>• Verifying labor legislation of the</td>
</tr>
<tr>
<td>target and its pending liabilities</td>
</tr>
<tr>
<td>towards the workforce</td>
</tr>
<tr>
<td>• Ensuring the passage of legal rights</td>
</tr>
<tr>
<td>and patents</td>
</tr>
<tr>
<td>• Estimating costs and consequences of</td>
</tr>
<tr>
<td>matching contract legal norms of the</td>
</tr>
<tr>
<td>target to that of the acquirer</td>
</tr>
<tr>
<td>• Ensuring absence of pending legal cases,</td>
</tr>
<tr>
<td>pending liabilities not related to</td>
</tr>
<tr>
<td>workforce</td>
</tr>
</tbody>
</table>

Source: Angwin (2001); DePamphilis (2005)
Efficient due diligence ensures negotiations by uncovering issues that might derail them and lead to acquisitions failure. The possible issues elucidated at the preliminary stage of the deal by the teams of experts are pending litigation, inaccurate investor assessment, puffed up financial accounts, weak cash flows, poor financial controls, tax discrepancies, need for significant future investment, unethical practices and human capital lacking critical capabilities (Angwin, 2001: 35).

Although the primary task of the experts during the preliminary stage is to produce an objective summary of the target’s condition, time, cost constraints of reality and irrationalities of decision-making process of the parties involved hinder such assessment. The experts often get to decide which issues are critical and need to be examined in a detail. As expert work is often outsourced, the due diligence practitioners aim at giving ‘value for money’ by tailoring their enquiries to their clients concerns and thus losing objective focus. Another impediment to objective assessment of the target is rooted in philosophy of different groups of professionals involved in due diligence towards the scope, nature and timing of work (Angwin, 2001: 36-37).

In this sense, rationality of the decision-making process of difference groups of experts becomes limited by activity segmentation (Jemison & Sitkin, 1986), or allocation of different parts of analysis to different parties due to the technical complexity of the examination. Despite the clear logic behind segmentation, resulting analytical divergence is likely to increase the influence of outsiders with little interest in actual integration of two companies on the decision making process. In literature on management, participants such as banks, consulting companies and lawyers are often seen as motivated to get the deal signed, since their payment depends on it (with no deal the reason for subsequent consulting or financial services will cease to exist). It is therefore suggested that these players might overlook possible strategic or organizational misfit for the sake of completing an acquisition. It can be assumed that, in particular, such a distinction in motivation constitutes one of the principal differences between lawyers and managers.

The sequential nature of the acquisition process and the groups’ perspective divergence reinforce the difficulties of integrating the analyses of different participants. The complexity of the situation is increased by the fact that the only persistent actors across the various stages of the process are senior management teams of both companies, the rest of the groups, including lawyers, move in and out when required as the process unfolds. Subsequently, the difficulties of integrating different perspectives that drive the analyses may be further intensified by neglecting characteristics of focal acquisition and applying standardized analytical approaches dominant within the organization. Sequential character of acquisition-related activities leads to lack of
Communication channels between the participants, adding in turn to the complexity of the situation. As a result, it becomes highly possible that functional focus of the largest or most powerful subgroup prevails over others.

**Figure 9**  Interaction of managers and different groups of experts at the preliminary stage of the deal

<table>
<thead>
<tr>
<th>Managers</th>
<th>Strategic consultants</th>
<th>Financial advisers</th>
<th>Lawyers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Business Plan</td>
<td>Consulting on strategic aspects of the business plan</td>
<td>Developing financial criteria of candidates</td>
<td>Providing general info about the legal regional or industry context</td>
</tr>
<tr>
<td>2. Acquisition Plan</td>
<td>Consulting on search criteria M&amp;As</td>
<td>Financial due diligence of the target (Angwin, 2001)</td>
<td>Due diligence of the legal aspects of the target and local/industrial legislation</td>
</tr>
<tr>
<td>3. Search</td>
<td>Developing merger design in line with the strategy of phases 1-2 (Jemison &amp; Sitkin, 1986)</td>
<td></td>
<td>Preparing the text of initial offer in terms of defining obligations for the parties starting from this point</td>
</tr>
<tr>
<td>4. Screen</td>
<td></td>
<td></td>
<td>Defining legal consequences of the deal (obligations of the parties, change of property rights and legal form) (DePamphilis, 2005)</td>
</tr>
<tr>
<td>5. First Contact</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Negotiation</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Basing on the existing research and the logic of acquisitions process, an overview of interaction of different groups of specialists involved in the preliminary stage of M&As and of their primary activities is depicted in Figure 9. As it could be observed, managers are the only group of specialists that remains involved throughout the whole preliminary stage of M&As. From the remaining three groups, lawyers are the most engaged in this part of the acquisition process:
they are present in four phases out of six in comparison to financial advisers (three phases out of six) and strategic consultants (two phases out of six).

2.7.2. Decision-making processes of lawyers and managers

In this paper, decision-making processes of managers and lawyers are examined from a perspective of mental models, which in academic literature are defined as ‘simplified knowledge structures or cognitive representations about how the business environment works’ (Gary & Wood, 2011: 569). Mental models impact perception, information processing, problem solving, judgment, learning and decision making (Anderson, 1990; Rehder, 2003). Mental interpretations of the deep structure of a problem consist of ‘chunks’ of knowledge about the key principles at work (Gentner, Loewenstein & Thompson, 2003). Mental models of the key principles enable experts to recognize common patterns across a set of various problems, to generate a set of alternative options and, basing on the past experience of the decision-makers (Gavetti et al., 2005), to align their strategies accordingly, thus increasing chances of success. Mental models are responsible for formation of decision rules; different decision rules, in turn, cluster into a number of distinct strategies, which to a significant degree determine performance. In this study, mental models of each of the above mentioned groups of experts are examined first separately and then in relation to that of their counterparts, to map possible implications for the acquisition process.

For the last two decades, it has become common to regard mental models as determining component of strategic choices (Gavetti, 2005; Kaplan & Tripsas, 2008; Porac, Thomas & Baden-Fuller, 1989; Reger & Huff, 1993; Simon, 1991; Walsh, 1995). The fact that this issue remains in the highlight of academic attention is explained by the implications of managerial cognitive processes to the success of their organizations. Extensive body of research provides evidence that managerial mental models are heterogeneous and affect strategic choices (Gavetti, 2005; Gavetti & Levinthal, 2000; Hodgkinson et al., 1999; Kaplan & Tripsas, 2008). The research links application of mental models with a more comprehensive understanding of the fit of different strategic options and competitive environment, more effective strategies and better understanding of market information and other sources of feedback. Differences in mental models result in differences in decision rules and performance, thus suggesting an explanation why managers and firms adopt different strategies and achieve different levels of competitive success. Mere accurate understanding of one’s own mental model and that of causal relationships in the business environment leads to superior performance outcomes (Gary & Wood, 2011).
Such an approach to explaining success of certain managers, companies and business deals differs from a traditional understanding, according to which superior position in the competitive environments is explained by initial conditions, random environmental shocks, and lucky managerial rather than by accurate mental models underlying managerial decision-making (Stinchcombe, 2000).

The scientific value of mental models also lies in their universal application and consistency. The theory is built on general principles that explain the formation of mental models and resulting reasoning processes, not the decisions per se. Therefore, it can be applied to any group of specialists. In addition, mental models are not linked to particular business environment or organizational settings, which enable their study and application in a variety of settings, with universal conclusions.

In the context of M&As, importance of mental models is stipulated by the high complexity the business environment and transactions supporting the deal. Complexity, including uncertainty about one’s future and future of the organization, missing information about ongoing processes, time delays, feedback effects, and ambiguity of expectations, impede managerial sense-making and correct application of mental models (Gary & Wood, 2011; Moxnes, 1998). In M&As, managers base their decisions on their mental models, by following rules of thumb and heuristics, inferred from their previous experience (Cyert & March, 1992; Levitt & March, 1988; Nelson & Winter, 1982). High complexity of situation is also linked to decreased performance of individuals and organizations (Paich & Sterman, 1993; Sengupta & Abdel-Hamid, 1993). At the same time, managers with a richer understanding of dynamics of industry structure, organizational capabilities and their own mental models ensure better performance of their firms (Gary & Wood, 2011: 571). In this vein, understanding mental models of different groups of specialists along with sources of inherent conflict and avoiding it affects acquisition process in a positive way, thus contributing to the success of the deal.

2.7.2.1. Decision-making process of a lawyer: legal logic and legal ethics

The rationale underlying the decision-making process of a lawyer is grounded in legal logic and legal ethics. Central to understanding of lawyers’ moral and motivation is the concept of legal reasoning based on classic formal logic or, as it is often referred to, legal logic. Being able to demonstrate good reasoning habits is considered essential for quality law practice, and law as a discipline is characterized by a distinctive way of thinking and arriving at conclusions, which in the organizational context defines the choices lawyers make.
One of the facets of analytical jurisprudence (the study of logical relations within the law) is mental training, aimed at exercising mind to the mere process of deduction from given hypothesis and accurate perception of analogies and the process of inference founded on analogy (Stone, 1964: 54). As a result, many students and competent lawyers are applying rules of legal logic automatically, following its principles, even if they are not aware that is what they are doing (Schnee, 1997: 106). As a former law student myself, I can confirm that an ability to derive logical conclusions is something that comes automatically after five years of legal studies.

Legal logic includes two elements: deductive reasoning, especially the categorical and hypothetical syllogisms, and inductive reasoning with its dual facets of induced generalization and analogy. The concepts interact and together form a mental blueprint that ‘member of the legal profession need’ (Aldisert, 1997). Inductive inquiry guides lawyers in rule development as well as choice, principles and policies that contribute to development of law itself. In turn, the deductive inquiry applies that law, focusing on facts. As mentioned before, experienced lawyers operate at this level of analysis on a daily base with relative ease, but often remain unaware of ‘how they got there’ (Schnee, 1997: 124).

However, it is generally accepted that logical reasoning within a legal system is limited by ‘ideals and convictions... which include elements of emotion and willing in the actors’. In the most influential work on legal reasoning, Stone (1964, 19), who was the first to establish the fundamentals of legal ethics that have been valid until today, making his works the most cited in this area, claims that lawyers, like managers and other experts, tend to regard their assumptions as self-evidently right, and therefore as ‘not in need of explanation, much less justification’.
(Even though it can be argued the timeliness and correctness of other Stone’s assumptions, his views on legal moral have been shared by the later legal doctrine, which explains the fact that he is taken as an original source in this paper.) Moreover, lawyers’ and judges’ own personal experience, background and approach to philosophy by large influence the way they apply standards accepted in jurisprudence (Stone, 1964: 24).

Another element of a lawyer’s reasoning process, legal ethics, is determined by legal doctrine and psychological elements of shared beliefs, emotions and aspirations shared by lawyers (Twining, 2009). Legal ethics manifests itself in the following concepts: 1) principle of abstracting legal logic; 2) absence of legally neutral cases, 3) principle of interpretation of legislation, and 4) understanding of the contract.

Related to implementation of legal logic is a principle of abstracting legal logic, or separating it from emotions. Legal logic deals with facts and principles and is quite abstracted from factors of human character. It is common for lawyers to make sure that the argument is not distorted by appeals to sentiments, habits, beliefs or prejudices.

Second general assumption in jurisprudence is that there cannot be an ‘absence of law’ (and therefore not a ‘legally neutral case’). Legal order is understood as a reference point of reasoning and making organizational choices, so that legal norms and their effects are developed ‘as to minimise logical contradictions and chaos and to promote logical coherence’ (Aldisert, 1997). In a way, the principle of impossibility of absence of law also sets grounds for legal creativity by allowing lawyers to adapt existing law norms to their set of belief, since resorting to legal reasoning enables lawyers to change the content of legal norms while ensuring that the legal order continues as an unbroken unity.

The principle of interpretation of legislation is another ground assumption of legal ethics. It is rooted in semantic teaching that words might have many meanings and no single meaning that is both determinate and stable can usually be fixed. According to this principle, the legislator’s will or intention often constitutes the exclusive source of law. Pluralism of interpretations results in belief pluralism, which in law is accepted as a norm.

Finally, central to legal ethics is understanding of the contract. As Aldisert (1997) puts it, ‘the contract may be pleasant or unpleasant, tangible or intangible, direct or indirect, but it is nonetheless a constant force in the lives of people everywhere on the globe’. Legal contract defines courtroom dynamics and interrelation of the parties: it dictates that there are winners and
losers and in this sense suggests ‘pie slicing’ (fighting for distribution of goods) approach versus ‘pie expansion’ (looking for compromise) philosophy popular among management.

Overall, legal ethics evolves with the development of the contemporary society. Globalization, being a part of social-economic environment of today, has its implications for the discipline of law and in particular for jurisprudence, its theoretical part. From a global perspective, operating with a reasonably broad concept of law almost inevitably results in high complexity, with multiple reference points and levels of analysis. In terms of organizational decision-making and interrelation of different groups of experts, what is important is the extent to which legal reasoning leaves scope for other values and allows to achieve organizational goals, and to which the language of justice is an appropriate way of expressing all concerns exceeding the framework of utility, economic efficiency and formal logic.

2.7.2.2. Decision-making process of a manager

In comparison to law, management is a less strict and codified field of knowledge. It is concerned with people more than with norms and documents and is embedded in a wider societal setting, heavily influenced by local historical and cultural norms. One of the consequences of managers being more receptive to social factors is different concepts of opportunism and trust across cultures affecting strategic decisions (Angwin, 2001: 37). According to the traditionally view, managerial ability to process information is attached with certain limitations (Cyert & March, 1992). It is often assumed that in their attempts to make sense of organizational reality managers rely on simplified models of reality to organize their knowledge and previous experience. In M&As, overwhelmed with multiple changes and the pace of the process itself, managers interpret information to reinforce their current mental model rather than challenge their beliefs and amend them according to the unfolding situation (Barr et al, 1992).

In general, managerial reasoning has more incentives to diverse thinking than that of a lawyer; contrary to law, there is no dominant perspective and no prescribed method to arrive at conclusions and to make organizational choices.

An interesting aspect of the transaction costs approach is the stand it adopts regarding the difference of legal and managerial attitudes, influence and motivation. While describing transaction, Williamson (1981) lists uncertainty in which continuous interaction of the parties takes places, as one of the transaction’s critical dimensions. Such uncertainty is in particular caused by possible opportunistic behaviour of agents. It is assumed that even though managers
(in the language of the theory, ‘organizational men’) are ‘intendedly rational’, they are motivationally complex and ‘experience limits in formulating and solving complex problems and in processing information’. In addition, managerial approach is associated with ‘frequent misunderstandings and conflicts that lead to delays, breakdowns and other malfunctions’ (Williamson, 1981: 552). ‘Organizational man’ in Williamson’s text can be interpreted as a manager and appears to be less competent and more motivationally complex than ‘economic man’, who is motivated mainly by considerations of profit maximization. It might be assumed that managers are influenced by the ‘human nature as we know it’ (Williamson, 1981: 553) and are prone to opportunistic behaviour. In a result, they create obstacles on the way of successful implementation of strategy by, in particular, ‘making false... threats or promises’ (Goffman, 1969: 554), ‘cutting corners for undisclosed personal advantage, cover up tracks, and the like’ (Williamson, 1981: 554).

Interestingly, it is claimed that without these manifestations of ‘human nature as we know it’ ‘all economic exchange could be organized by contract’ (Williamson, 1981: 553) and all the aspects of commercial interactions could be regulated by lawyers. However, given the limitations of human rationality and complexity of managerial motivation (in this sense, the transaction cost approach is coherent with the agency problem (Eisenhardt, 1989a)), complete contractual regulation is not feasible and the relationships between the parties should be regulated by flexible contracts (Williamson, 1981: 554). This assumption has a twofold meaning in the context of interaction of lawyers and managers: first, it indicates influence of irrationality on managerial behaviour, and regulating role of lawyers. Second, it suggests that it is impossible to regulate relationships of the parties by legal methods only. It might be as well inferred that interaction of lawyers and managers is necessary for the success of continuous transactions, including M&As.

Further research, in particular that related to the human factors, develops understanding of both limited rationality of people involved in the acquisition process and interrelation of different groups of specialists in this organizational setting. One of the most cited rationales for a merger is reaching operational synergies (DePamphilis, 2005: 17). In this vein, human factors can create impediments to successful capability transfer thus hindering the success of the deal. From the three types of capability transfer during M&As (resource sharing, transfer of general management capability, transfer of functional skills), identified by Haspeslagh and Jemison in their integration modes framework (1991), transfer of functional skills is seen as the daunting one. This task falls to the managerial area of responsibility and becomes a telling example of a kind of challenges that managers come across at M&As: people-related and with no ready
codified solution to apply. Skills represent tacit knowledge, which is impossible to share in a form of manuals, tables or other written materials; they are therefore attached to individuals, and their procedures and practices, not material objects. It makes skills transfer significantly dependent on individual factors, namely willingness of the unit that possesses a particular knowledge to share it with other units and readiness of the receiving unit to accept it. However, even acquisitions having resource sharing at the heart of value creation might fail to reach its objectives because eliminating functional overlap and duplication of job positions results in anxiety and causes people to leave the company (Haspeslagh & Jemison, 1991: 140). M&As are traditionally seen as situations with winners and losers, and even though an actual outcome of the deal often makes such labeling irrelevant, it is hard to resist stereotypes.

The body of research of the **HR due diligence process** specifies the context of lawyers-managers interaction by describing the preventive dimension of the HR due diligence process. The focus of the preventive dimension of the HR due diligence process is on liabilities like pension plan obligations, outstanding grievances, employee litigation, and other work-force related costs that can affect the estimation of the target. This part of human audit also includes comparing compensation policies and labour contracts of the merging companies (Evans *et al*, 2010: 540). At this stage HR specialists are working together with lawyers, another group of participants of an acquisition process, and the main objective at this time becomes verifying compliance with norms and regulations, - either that of a country of acquirer’s headquarters or that of the country of new company’s registration.

The strategic dimension of human audit is concerned with talent identification and is considered to be more influential to the success of the deal. It includes several important aspects: making sure that a target possesses the talent necessary to reach the objectives of a merger; identifying key individuals to sustain the value of the deal; assessing the weak side of the management cadre (Evans *et al*, 2010: 542). This concrete step of the acquisition process conveys in a nutshell the specifics of interaction of lawyers and managers: while first ones are concerned with avoiding possible risks, second one are concentrating on preserving people-related capabilities of the target, which, however sometimes less evident in need of protection, often constitute the value of the deal.

A body of research on **irrationalities of decision-making process** (Jemison and Sitkin, 1986) provides further insights on the mental models of managers as participants of M&As, claiming that particular way in which managers operate and the reasoning process behind it is likely to influence the dynamics of the acquisition process and sometimes even change its outcome. One,
and perhaps the richest in circumstances example of decisions rushed by irrationals of decision-making process is premature closure of the deal, when consideration of matters of strategic and organizational fit is overlooked under the influence of forces stimulating the escalating momentum. Jemison and Sitkin (1986, 151) associate the following factors with stimulating escalation to fast completion of a deal: 1) participant commitment resulting from intensive personal involvement, time pressure and previous experience; 2) secrecy of a deal; 3) decision-making isolation dictated by the concern for secrecy and short-term concentration of effort; 4) overconfidence based on previous experience; 5) ambiguity as a condition for decision making; 6) self-interest of different groups of participants; 7) target resistance.

On the contrary, factors restraining escalating momentum are: 1) the necessity of the board of directors to approve the deal, 2) legal regulatory obstacles, 3) prior experience when used wisely, and 4) target resistance when manifested in the legal arena (Jemison & Sitkin, 1986, 156). These factors are traditionally seen as less influential than the former group, thus increasing the likeliness of irrational decisions while decision making process.

Another irrationality of the decision-making process is expectational ambiguity, when the expectations of the parties regarding the circumstances of the acquisition deal and future organization are not clear. Even though expectational ambiguity can be useful at the stage of negotiations due to manoeuvring space and opportunity to save face it provides, later it becomes a major source of conflict and an obstacle success of the deal (Jemison & Sitkin, 1986: 157). Misapplication of management systems is yet another obstacle to rational implementation of the acquisition deal, when possible synergies are not realized because of the impediments of managerial decision-making. Valuable opportunities can be missed because of the parent firm’s arrogance of interpersonal, cultural or managerial nature. From its side, the acquired company could be reluctant to adapt the practices of the parent due to defensiveness and fear of reprisal to admit lack of knowledge or understanding (Jemison & Sitkin, 1986: 159).

Both expectational ambiguity and misapplication of management systems create obstacles during post-purchase stage of the deal, but their timely consideration at the preliminary stage of the acquisition process allows to minimize the related risks and thus to increase chances of the success of the deal.

As the analysis above indicates, managerial behaviour and the decision-making processes underlying it are associated with the group of factors creating impediments to successful acquisition process. Lawyers, on the other hand, are attributed with restraining escalating momentum and minimizing risks of irrationalities, thus affecting behaviour of managers and
minimizing its risks. This way of seeing these two groups of professionals links back to the similar roles, escalating and restraining, of managers and lawyers, specified by Williamson (1981) in the transaction cost approach and emphasizes their different roles in M&As.

The conclusions derived from these studies regarding escalating role of lawyers and restricting role of managers are confirmed in business ethics studies (Nesteruk, 1991). It is claimed, in particular, that managerial choices and the nature of underlying decision-making structures are influenced directly and indirectly by corporate law: first, corporate law influences to a significant extent the ethical dilemmas of corporate executives and affects their ethical choices and structures. Second, corporate choices and structures are themselves to a significant degree formed by corporate law, its principles and doctrines. This way, legal doctrine and principles form an integral part in the formation of the ethical choices faced by corporate managers. Thus, managerial behavior is directly (by lawyers’ actions during the acquisition process) and indirectly (through corporate structure) affected by lawyers, with no reverse effect found.

The following findings regarding the reasoning processes of managers and lawyers are particularly important in the context of M&As: first, law as a discipline has a distinct way of reasoning, formed by legal logic and legal ethics, which the discipline of management lacks. The legal reasoning is likely to guide lawyers in conducting M&As by shaping their goals, values and by affecting their interaction with other groups of experts. Second, the principal determinant of managerial decision-making is the goals set by organizational roles of individual corporate managers. In this, legal doctrine influences decision-making processes of individual managers, with no similar effect of management discipline on lawyers. Third and most important, organizational roles, goals and underlying values of lawyers and managers are different, which is likely to lead to conflicts of interests during their interaction.

2. 7. 3. Comparison of lawyers and managers based on their organizational roles

In order to provide a framework for thinking about organizational roles of different groups of specialists and the effect that these roles have on the acquisition process, this paper builds on the research on the ethical dilemmas faced by individuals in the business environment suggested by Nesteruk (1991). In the organizational context, many of the difficult ethical choices of managers are defined by particular role obligations. Nesteruk (1991: 724) refers to obligations of this kind as role morality, and defines it as duties which individuals have because of their assumption of specific roles.
The choices of role morality are made by people performing specific, concrete organizational roles and necessarily involve the occupying individual’s obligation to reach the particular goal set by the occupied role. In this vein, organizational choice is dependent on both individual ethical obligations and corporate obligations defined by the roles in the corporate decision-making structure. The goals and interests of different organizational members (in the context of this paper, managers and lawyers) are likely to contradict to each other, which makes interaction of these two different groups of experts, with their own agenda, and managers, is at the very least complicated.

Drawing on the characteristics of organizational roles of managers and lawyers discussed above and building on the logic of an acquisition process, the following differences between these two groups of experts could be outlined: 1) different goals in the acquisition process; 2) different evaluation and motivation; 3) differences of behavior in terms of irrationalities of decision making; 4) differences of information sources used for their analysis.

The first difference is attributed to the abovementioned fact that the senior management of the merging organizations remains the only persistent actors across the various stages of the acquisition process, while other groups of specialists, including lawyers, are getting involved when it is required by the logic of the deal (Jemison & Sitkin, 1986). Therefore, while lawyers are responsible for performing certain tasks during certain phases of the deal, managers are dealing with an actual result of the merger.

Consequently, these two groups of specialists have different merits of success and different volume of responsibility. Besides, while most often the efficiency of lawyers’ work can be estimated in the immediate future, the results of managerial decisions can manifest itself years after, when it will be possible to evaluate if the merger has reached its planned synergies. In connection with the latter, lawyers and managers have different motivation in M&As: for the lawyers, it is important to accomplish the deal (since it leads to additional volume of work at the post-purchase stage and after the merger), and, second, to expand the volume of the potential work.

Motivation of managers is more complex. As previously stated, it is directly associated with irrationalities of decision-making process (Jemison & Sitkin, 1986). Commitment of senior management, resulting from intensive personal involvement, time pressure and previous experience, often prevents this group of specialists from processing information. In addition, managers are prone to attach overly importance to M&As due to decision-making isolation and short-term concentration of effort, which often constitute the conditions of the acquisition
process, and are prone to personal tension (Jemison & Sitkin, 1982). DePamphilis (2005, 17) refers to managerial hubris, when managers believe in their valuation of the target more accurate than that of the market’s, and managerialism (increasing the size of a company to increase power and pay of managers) as possible reasons for M&As. Altogether those factors can lead to lacking thorough analysis premature closing of the deal, which might bring significant losses for the company.

On the contrary, lawyers are described in the research literature as restraining escalating momentum by introducing various regulatory obstacles (i.e., the necessity of the board of directors of the acquirer to approve of the deal) that prevent acquisition process from gaining speed. From their side, the legal specialists of the target can interfere to escalation of commitment by confronting the buyer with a request of certain legal procedures (Jemison & Sitkin, 1986).

Finally, those two groups of specialists are using different sources of information. The data lawyers work with is codified, the steps of its processing are well designated, and there is a clear hierarchy of legal sources. In addition, the access of information of this kind is usually granted by law or by the agreement of the parties. On the contrary, the sources of information managers have to deal with are not always of a tacit nature, not always reachable, and are sometimes contradictory.

It might be suggested that altogether those factors result in different understanding of M&As by lawyers and managers, which might affect their cooperation during the acquisition process and influence the success of the deal.

2.8. Conclusion

This section provides a conclusion on the groups of factors to consider at different phases of the preliminary stage of the deal and suggests some generalisations about interrelation between lawyers of managers during this process.

M&As are a complex business phenomena with a great variety of factors underlying their strategic grounds and influencing their success. While nowadays acquisitions are becoming an inalienable part of companies’ development, it is of a strategic importance for firms to learn from both existing research and own experience to implement them successfully.

Despite the continuous interest to M&As all over the world, the extensive academic research on the performance of the merged companies indicates high failure rates of such deals. The
research reviewed in this chapter shows that five of the seven most commonly cited reasons for M&As failure (overestimating synergy/overpaying, poor strategy, form of payment, conflicting corporate cultures, weak core business) can be addressed directly during the preliminary stage of the deal (see Table 1). The remaining two (slow pace of integration and post-merger communication) challenges taking part during the post-purchase stage can be partly addressed before the actual integration by choosing integration design (and ensuring its attainability with the chosen target) and by agreeing on the common vision of the merging companies’ future to provide basis for post-merger communication. In turn, four out of six the commonly cited M&As success factors (complementarities of the merging companies, awareness of escalating momentum, solid foundations of HR and other functional domains, international scale of the deal) could be brought into play during the preliminary stage of the deal (see Table 2). The existing research makes it possible to infer that setting appropriate grounds at the preliminary stage of the deal helps to ensure two remaining success factors taking place at the post-purchase stage of the deal, namely post-merger integration process and learning from M&As experience.

The conducted theoretical overview confirms the initial assumption of this frame of reference that, even though the integration stage of the deal is traditionally associated with most challenges and is often seen as the determinant of the success of a merger (Björkman, Stahl & Vaara, 2007; Evans et al., 2010), an appropriate conduction of the preliminary stage of an acquisition with the attention paid to the key factors minimizes the challenges of integration and thus facilitates the success of a deal. This supposition consolidates the choice of the research focus of the study and makes its findings interesting for both academicians and practitioners.

Stemming from this basic proposition, three inferences could be drawn from the frame of reference for this study: 1) for the deal on M&As to be successful, it becomes of paramount importance first to evaluate alternatives to the merger, which might be more sensible strategically; therefore, the first stage of decision-making on the preliminary stage of M&As is considering the sensibility of entering the deal; 2) different kinds of merger designs could be recommended to companies depending on a group of factors; therefore, in case merger is recognized as the best solution, it is important to conduct analysis of the merging companies to decide which of the merger models should be used as a basis for the merger and if it is reachable; 3) even if merger is the most appropriate solution from the strategic point of view and was carried out basing on the most suitable design, its success depends to a large extent on certain human-related ‘soft issues’ and remains a subject to other irrationalities of decision-making process in acquisitions.
Four groups of factors relevant at the preliminary stage of the deal are outlined in the existing research on M&As: 1) those determining the sensibility of entering an M&As deal (strategic factors); 2) those related to the choice of integration approach (integration factors); 3) human-related factors; 4) factors attributed to irrationalities of decision-making process (irrationalities factors).

The issues associated with those groups of factors are framed as the following questions:

1) Is there a well-grounded strategic need for an acquisition or are there sensible alternatives to it? (strategic factors);

2) Which integration design should be implemented in case of a merger? Is it is reachable with the chosen target? (integration factors);

3) Does the target possess talent resources to meet the objectives of the deal and how can it be retained? (human capital audit) What are the core beliefs and assumptions of the target? Are they compatible with those of the acquirer? What should be done to ensure such compatibility? (cultural due diligence);

4) Are the participants of the deal influenced by certain psychological factors that affect the efficiency of their decisions?

Consequently, the companies are presented with the following options:

- phases 1-2, basing on consideration of strategic factors: M&As versus obligational bilateral contracting, outsourcing (efficiency concept); non-ownership mechanisms such as board appointments alliances, lobbying organizational networking (power concept); internal product development (competence concept); hiring new senior executives or adapting to industry standards (identity concept);

- phases 4-6, basing on consideration of integration factors: deciding on absorption, preservation, symbiotic integration designs; preventing holding acquisitions;

- phases 3-4, basing on consideration of human-related factors: conducting well-timed human audit and cultural due diligence; deciding on integration, assimilation, separation acculturation modes; preventing deculturation;

- phases 1-6 (the entire preliminary stage of the deal), based on consideration of irrationalities factors: being aware of the irrationalities, mainly those caused by activity segmentation and escalating momentum; minimizing the risks of expectational ambiguity and misapplication of management systems already at this stage.

It is during the preliminary stage of the deal when the cooperation of lawyers and managers becomes particularly important: first, lawyers can help to ensure the transfer of the key capabilities of the target (for example, to include retaining key talent as an obligation to the contract); second, legal advisers can pinpoint the potential pitfalls, increasing the value of the
deal and affecting the negotiations (for example, tax obligations, which can significantly raise
the price of the target). Finally, often lawyers act as a retaining force to escalating momentum of
the management team, thus preventing premature signature of the deal and resulting capital loss.
In this vein, productive interaction of lawyers and managers at the preliminary stage of the deal
consolidates the value creation during acquisitions in terms of ensuring capabilities transfer,
protecting from potential financial pitfalls and retaining from escalating momentum. Together,
these considerations give ground to suggest that interaction of managers and lawyers constitutes
by itself a separate factor influencing the success of the M&As along with the four groups of
factors outlined in the existing research.

However, interaction of lawyers and managers is attached with certain impediments rooted in
different organizational roles, mental models and reasoning processes of these two groups of
specialists. Legal ethics is central to understanding of lawyer’s reasoning and manifests itself in
the following concepts: 1) principle of abstracting legal logic; 2) absence of legally neutral
cases, 3) principle of interpretation of legislation, and 4) understanding of the contract.
Managerial reasoning is different from the decision-making process of a lawyer: it is not
codified, not determined by the patterns characteristic for the profession, and to a significant
extend is influenced by human factors. Along with organizational roles of lawyers and
managers, the differences of their conceptual models result in: 1) different goals of these two
groups of specialists in the acquisition process; 2) their different evaluation and motivation; 3)
differences of behavior in terms of irrationalities of decision making; 4) differences of
information sources used for their analysis.

Stemming from the examination of the decision-making processes of lawyers and managers, the
following inferences affecting their interaction during the preliminary stage of the deal could be
drawn. First, contrary to the discipline of management, favoring variety of approaches, the
discipline of law prescribes a distinct way of reasoning, constituted by legal logic and legal
ethics. The legal reasoning shapes lawyers’ goals, values and guides their interaction with other
groups of experts during the preliminary stage of the deal. Second, the process of managerial
reasoning is mainly formed by goals set by organizational roles of individual corporate
managers. Finally, differences in organizational roles, goals and underlying values of lawyers
and managers are likely to lead to conflicts of interests, misunderstanding and to create
impediments during their interaction.

Overall, timely consideration of the four groups of factors outlined in the existing research and
cooperation of lawyers and managers, mapped as a separate factor in this paper, at the
preliminary stage of the deal is likely to prevent premature closure or acquisition of inappropriate target, to reduce challenges of integration, and to influence to a significant degree the success of M&As. Different mental models and decision-making processes of lawyers and managers create impediments for such a cooperation. However, overcoming such impediments and reconciling interests and motivation of these two groups of specialists to a large extent enhances the success of the deal.
3 METHODOLOGY

3.1. Method description and justification

The results of this study are obtained from the data primarily collected by the method of deep face-to-face interview (planned in advance), complemented by the method of observation, with observations taken during the interview process to reveal the factors causing significant influence on the informant), two of the qualitative techniques that Silverman (2006, 19) refers to as the major methods used by qualitative researchers. Both the interviews and observation are based on purposeful intensity sampling strategy. The justification of the methods’ choice is based on the considerations of 1) research question, 2) sampling strategy, 3) sampling size and 4) sampling characteristics. Common for these four elements is the concept of pre-understanding, introduced by Gummerson (2000), which involves certain knowledge of the research area and an opinion on it, which can be partly formed by personal experience. Such choice is based not only on the personal position of the author, which is in scientific study believed to be secondary to the quality and truth criteria the study adheres to, but mainly serves these criteria.

The interviews refer to the events that took places two years ago, which might have brought certain challenges, such as the difficulty for the informants to reconstruct certain details, like dates or exact chronology of events. On the other hand, it also enabled the interviewees to reflect to a certain extent upon the outcomes of the acquisition in question and to share a valuable perspective on the decisions that shaped the current reality of the organization and their underlying processes.

The concept of pre-understanding

The theoretical base of the study, summarized in Chapter 2 of the paper, served as a coordinate system for the interviews with the respondents. In this paper, pre-understanding is interpreted as ‘people’s knowledge, insights and experience before they engage in a research program or a consulting assignment’ (Gummerson 2000, 57). Thus, no conclusions had been made or even suggested before the actual interviews were conducted, but the available theoretical information was sufficient to understand the field of study and to navigate between its key concepts. Gummerson claims that our pre-understanding is dependent on both our first-hand, personal experience, and second-hand experience of others, obtained through intermediaries. The answers to open-ended questions – or even the direction of possible answers - were not suggested; from the information voluntarily provided by the informants, clusters of factors were
formed, supported by the previous examination of the field. Adhering to Eisenhardt’s ideal of ‘clean ideological slate’ (Eisenhardt, 1989), which implies that no preliminary theories, concepts or hypotheses were formulated before arriving at the results, would in this case have stood in the way of gathering systematic data and ensuring that the interviewees were talking about the same factors as those outlined in the research literature. In addition, getting an indicator of a factor group in one of the answers enabled the interviewer to ask additional questions, which resulted in more in-depth understanding of the subject.

Qualitative methods and inductive design

This study adheres to the standards of qualitative research and is using inductive design to arrive at its findings. In inductive design, empirical data are used to present theoretical generalizations. As Danemark et al (2002, 85) put it, in inductive design the researcher draws general conclusions assumed to be true for a larger number of phenomena rather than from a number of observations of individual phenomena. Since the purpose of the study is to distinguish factors influencing M&As from a single case study, induction design is implemented.

Figure 11 Inductive logic of arriving at conclusions from the data

Eisenhardt (1989, 537) classifies reasons for studying cases as replicating previous cases, extending emergent theory, filling theoretical category and providing examples of polar types. Based on these grounds, this study could be characterized as that of inductive design, aimed at theory generating and aiming at drawing general conclusions from a limited number of cases. It also corresponds to Gummerson’s view (2000, 86) of the value of a phenomena being revealed at its best when its many different aspects are studied in greater detail.

In a quantitative study, the researcher aims at inferring generalizations from a large population. Central to qualitative research is the concept of external validity, or the likelihood that findings will apply to a larger population than the one represented by the study’s sample (Donmoyer, 2008). On the other hand, the focus of qualitative research is on measuring reactions of a great many people to a limited set of questions ‘thus facilitating comparison and statistical aggregation of the data’ (Patton, 2002, 14). Such focus allows studying concepts and issues in
depth and detailing based on a much smaller number of cases. The advantage of this approach is an in-depth understanding of the subject; in general, it is related to the fact that the study of phenomena is bound to a particular context (Silverman, 2006), which would not be possible with a standardized quantitative approach. The disadvantage is certain limitation to generalizability of the findings.

The following factors explain the choice of qualitative methods of the study. To understand factors influencing success of M&As, one should have an in-depth information about acquisition process and its actors. The review of the mental models of two groups of experts involved in the preliminary stage of the deal, managers and lawyers, gives grounds to characterize acquisition process as a social phenomenon, in which ideological stands by large define the actions of the parties. In this regard, it is important to study the meaning the actors attach to their actions themselves.

**Sampling strategy and unit of analysis**

These two factors stipulate the choice of sampling strategy and sample size. The defining part of qualitative study is its purpose; therefore the choice of sampling strategy and unit of analysis depends on the research question the study aims to disclose. It is important to choose sampling strategically since the sample determines what the evaluator will have to claim. A widespread stand in academic literature is against random sampling with advocated need for a more thoughtful sample choice (Eisenhardt 1989, 537). In turn, selecting appropriate sample helps to establish the borders for generalizing the findings.

As Patton (2002, 229) puts it, ‘the key issue about making decisions about the appropriate unit of analysis is to decide what it is you want to be able to say something about at the end of the study’. There is no ideal one-fits-all approach to sampling, and different strategies will inevitable result in different trade-offs, the most critical of which is identified by Patton as ‘breadth versus depth’ (Patton, 2002, 227). It is, nevertheless, important to decide on the sampling strategy at the beginning of research, before collecting data and even forming samples, to plan future study and to avoid common mistakes. Silverman (2006, 7) points to excess data as one of such miscalculations, which might originate from lack of strategic planning. He emphasizes that it is ‘imperative to have a limited body of data with which to work’. Another common mistake, opposite to the former one, is reaching for inaccessible data when designed sample turns out to be out of reach. Third mistake, using too many methods (Silverman,
2006,9), could be equally confusing, since failing to determine the method of the study will result in failing to choose appropriate sampling strategy.

The same no-fit-all approach is applicable to the sample size: there are no precise rules as to how many different cases one should analyse to provide a valuable insight, everything depends on the purpose of the study, resources, interests of different parties involved and planned use of the findings that will affect demands to their credibility (Patton, 2002, 244).

The sampling strategy chosen in this study corresponds to the description of purposeful intensity sampling, suggested by Patton (2002), which implies studying a single company case that is particularly illuminative in relation to the research question. The choice is based on the following premises: 1) the reputation of the company as a leader in its area, which, to a large extent, is due to its history of acquisitions and, therefore, rich experience in this area, both likely to bring deep insights into the subject; 2) the format of the project (thesis), which puts certain limits to the resources, in particular in terms of time; 3) the nature of qualitative research, which constitutes the grounds of this study and implies deep examination of the sample, thus limiting the sample size and putting focus of the data collection on several informants from the same company.

Drawing on the work of Patton (2002), in the conditions when resources are limited, it makes sense to study the most representative case. In qualitative study the validity of insights generated from data collection depends not on the number of sample cases but on their informational richness (Patton, 2002). As stated by Glaser and Strauss, in qualitative study ‘cases are chosen for theoretical, not statistical, reasons’ (Eisenhardt, 1989, 537). There is a risk that extreme or deviant case sampling will bring irrelevant results not useful for generalization. Maximum variation sampling, homogenous, snowball and criterion samplings are not suitable since, due to the format of study, the sample size is limited to one. Opportunistic sampling, purposeful random sampling and sampling politically important cases are excluded for the same reason. The sampling is not a typical or critical case because of the characteristics of the unit of analysis: the multinational profile of the company, its record of M&As, including the deal of 2009, characterizes it as a particularly revealing case, which not only uncovers typical challenges of the acquisition process (and, therefore, factors facilitating the success of the deal) but also represents them in reinforced manner.

Following the logic of choosing an appropriate sampling strategy, it could be said that in the end the approach to sampling depends on one’s pre-understanding, since it affects the choice of the
research design. Different research designs examine a phenomenon through completely different lenses, which often leads to choosing a particular approach to data collection and sampling strategy. As Silverman (2006, 29) puts it, ‘no research method stands on its own’. Patton (2002, 228) draws a line under this reasoning by stating that no rule of thumb exists for determining how the researcher should focus his or her study.

3.2. Single case approach

The theory generation in this study follows the route of a case study design. The classic definition of Eisenhardt (1989, 534), in which case study design is defined as ‘a research strategy which focuses on understanding the dynamics present within single settings’, has been elaborated by subsequent literature on research methods. Yin’s (1994, 13) definition is one of the most popular ones; it characterises case study as ‘an empirical inquiry that investigates a contemporary phenomenon within its real life context and not clearly evident’. An importance of the context, central to the case study approach, corresponds to the high degree of importance attached by the research to the social factors that influence M&As and to the effects of the mental models on the dynamics of the acquisition process.

The classic Eisenhardt’s definition has an effect on the generalizability of the case research findings, since it underlines the fact that a case study is always based on ‘inherently and deliberately limited number of observations, each of which is considered to be unique’ (Heugene, 2001: 10). In this vein, case studies, like experiments, set grounds for theoretical propositions. Like an experiment, a case study does not represent a ‘sample’ and the researcher’s task becomes not to verify its external validity, but to expand and generalize theories (Yin, 1994: 10).

In the framework of case study research, units of analysis are referred to as cases. In a single case study, the researcher’s aim is to build an in-depth understanding of a particular phenomenon in a particular context at a particular period of time, and to study its development in this environment inferring consequent theoretical generalizations. Single case study research is focused on a large number of aspects of the same phenomenon in relation to each other. The choice of this research design corresponds to all the purpose of this study and its descriptive, exploratory and prescriptive sub aims. In addition, it enables the researcher to examine differences in mental models of two groups of experts involved in the deal and the effect these differences have on their interaction of the experts and on the outcome of the deal.
3.3. Description of case and data

In this study, the unit of analysis is the Finnish subsidiary of a multinational chemical processes company with headquarters in the US, presence in more than 150 countries and a rich history of M&As. The last merger undertaken by the company in 2009 with a budget of $ 68 billion makes this case a particularly revealing for the purpose of the study. The deal in question was driven by a competitive environment, and a strategic choice of M&As as a means of strengthening the acquirer’s competitive position, as well as the choice of the target, can be considered indicative of the industry trends in general.

The subsidiary in Finland was established in 1959. Currently it generates around 130 million EUR per year, has 200 employees and, from a legal perspective, represents an independent entity reporting directly to the headquarters of the company. By the time of the merger, the subsidiary had just completed a series of major changes in terms of organizational structure. Aiming to be more customer-focused, the company at the global level had split market activities into four independent streams based on the key business activities and introduced this policy locally, thus changing to a significant degree power distribution and organizational roles inside the affiliate in question.

This paper aims to study the complex of measures undertaken at the preliminary stage of the deal; to outline the main challenges confronted while planning and conducting this merger; to find out how they were addressed, and to distinguish the factors contributing to the final success of the deal. While most of the interview material was received from scheduled interviews, the nature of observation data was random, not planned, which complemented the data received from the interview by indicating, for example, the factors characterized by the high degree of personal involvement. The indicators of such issues were emotional nuances visible from the informants’ answers or, on the opposite, from the unwillingness of the informant to shed light on certain questions. Thus, observation resulted in naturalistic data supporting the main body of data received from deep interviews.

To gather the data, interviews with seven experts (six managers and a legal director) from an acquirer and a target company were conducted at the subsidiary of the company in Helsinki, Finland. The data from the interviews were supplemented by observations. All the experts were directly involved in the deal and could influence its outcome due to their positions. Marketing Director, Legal Director, Head of Business Units and a Sales Manager were interviewed from the side of the acquirer. From the target, the data were obtained from former Managing Director for Nordic Markets, Product Manager of the leading product of the merged companies and a line
manager from the field force operations. What is more, all the informants are now working in the merged organisation, which enabled them to reflect on the events of two years ago. It is believed that first-hand experience of the participants of the deal, fortified by their retrospective vision of the events and reflection on their results provided insightful data for the purpose of the study. In addition, a pilot interview was taken with a manager consultant specialised in M&As and not involved in the deal. The purpose of this interview was to receive a general understanding about the research subject and to build the interview questions accordingly.

With the exception of the pilot interview with an independent consultant, which took place in Paris, France, all data were collected in the subsidiary of the acquirer, in Helsinki, Finland, in March 2011. On average, interviews lasted around 1-1.5 hours, were conducted in English and were recorded and later transcribed. During some of the interviews the informants shared secondary data as entries of their personal organizers at the time, e-mail and slides from the company’s internal presentations.

3. 4. Methodology of interview

The main method of data collection in this study is semi-structured interviews (Robson, 2002), involving open-ended questions and general topics of discussion. Silverman (2006: 113) characterizes interviews as the method of data collection used in the majority of published qualitative research articles. Its choice in this study is advocated, in particular, by such characteristics of interview in a qualitative study as its collaborative production (meaning that both interviewer and interviewee use their skills to collect the data) and the active role of a researcher, to which Patton (2002, 341) refers as ‘entering into the other person’s perspective’. Drawing on Paton’s definition (2002, 340), interviews are used to find out things that cannot be directly observed. Thus, the two methods of data collection applied in this study, interviews and observation, are used complementarily to shed light at the preliminary stage of an acquisition process from an utmost variety of angles.

Unlike surveys, a quantitative research method, interviews take account of the context of the data collection. Interviews are characterized by the following features: 1) usage of flexible and adaptable qualitative design; 2) producing large amount of data from a small sample; 3) suitability for exploratory purposes and theory generating (Robson, 2002). Considering the exploratory purpose of this study, which seeks to distinguish the factors influencing success of M&As at its preliminary stage, and the format of the study, interviews become a reasonable choice in terms of the research question, exploratory nature of the study, data produced (in-
depth, large amount of data from a moderate sample) and resources (time is limited to the project term).

In gathering data for this study, the general interview guide approach (Patton, 2002, 342) is applied (see Appendix 1 for the Interview Guide), with an outlined set of issues to be explored and the guide serving as a basic checklist. The choice of interview type is stipulated by the freedom it gives to the researcher in terms of data collection (possibility to pursue emergent themes brought up by the respondent), a necessity called for by the exploratory purpose of the study. In general, the questions posed were guided by the purpose of the study (which is critical to gathering high-quality data), by the researcher’s pre-understanding of the subject and by the primary analysis of observations’ data collected at the same time (that is to say, if an informant was reacting particularly emotionally to certain questions, it gave a lead to a new direction of the discussion). The emphasis in this technique is on open-ended questions that offer the persons being interviewed an opportunity to answer in their own words and to share their own understanding of the subject. It was therefore ensured that the interviewer did not predetermine the answers and categories used by the informant and captured how the informants viewed their world, learnt their terminology and assumptions, and depicted complexities of their individual perceptions and experiences (Patton, 2002: 348).

Based on Patton’s classification of questions, which can be asked on ‘any given topic’ (Patton, 2002: 348), the following types were used the most in this study: experience and behavior questions (the ones used to elicit behavior as if the interviewer was present), opinion and values questions (“head stuff” as opposed to actions and behaviors). Presupposition questions (the ones based on the assumption that the informant has had an important experience (Patton, 2002, 369), as well as probes and follow-up questions, also played an important role in data collection.

The purpose of the study was explained to the informants to provide a context for the discussion. The facts that there were no right or wrong answers in this interview and that its purpose was simply to learn more about the informant’s perception and assumptions were also emphasized.

The direction of the interview was more affected by the informant’s reactions than the order of set categories (thus the semi-structured format of the interview). Strong emotions of the informant (i.e. raise of voice, unexpectedly emotional reaction, attempts to change the subject etc.) were taken as cues to elaborate on the discussion line. In collecting data by interview method, the study adheres to the standards of rapport (a stance vis-à-vis the person being
interviewed (Patton, 2002: 365)) and neutrality (a stance vis-à-vis the content of what that person says (Patton, 2002: 365)). Finally, an account was taken of the fact that ‘every interview is also an observation’ (Patton, 2002: 381), and non-verbal cues are a potentially rich data source.

Drawing on the distinction of academic stances on the interview (Silverman, 2006: 118), according to which different academic perspectives result in different status of data and methods of its collection, this study adheres to the tradition of constructionism, in particular, in that the interviewer and the interviewee are both actively engaged in constructing meanings.

3.5. Methodology of observation

Observation is a secondary method of data collection used in this study and it is auxiliary to interviews. The use of observations is advocated, in particular, by that fact that they capture certain aspects (i.e. behaviour, preferences and frequency) more accurately than interviews do. The approach to data collection method and data analysis stems from the exploratory purpose of the study, in which the researcher is taking a learning role (as opposed to a scientific testing one) and, according to Agar, seeks to understand the world by ‘encountering it first hand and making some sense out of it’ (Silverman, 2006: 65). Based on ethnography, the observations were received from naturally occurring settings of the ‘field’ by methods of data collection, which made it possible to interpret their social meanings (Silverman, 2006: 67).

This study also builds on type ethnography, which is defined by Arnould and Wallendorf (1994,485) as market-oriented and characterized by the following features: 1) it gives primacy for systematic data collection and recording of human action in natural settings (to meet this objective the informant did not receive any instructions, except for behaving naturally while being observed); 2) the researcher in this case becomes a participant observant of the situation, 3) detailed interpretations of observed behaviours should appear credible to the targeted audience; 4) for the purpose of providing valid analysis, several sources of data are analysed and compared (in case of this study, observations, interviews and self-reflections of the informants, provided by them voluntary).

The study adheres to the guidelines of observational research (Silverman, 2006, 68) in the following: 1) aiming to adopt the ‘lenses’ of the informant; 2) attending in its description to mundane details; 3) keeping the research design opened and unstructured; 4) avoiding early use of theory and concepts for the purposes other than forming a pre-understanding of the subject. Belk et al (1988, 449, 450) refer to the set of methods and theoretical approach to observation as
‘naturalistic inquiry’, which the authors define as a research activity taking place in a naturally occurring context, during which the researcher interprets the data both from its own distanced perspective (‘etic’ one) and from that of the informant (‘emic’ one).

The observations made during the interviews suggest that people of different nationalities express their negative assessment or report conflicts with different ease degree. Among the 8 informants, 5 were Finnish, 2 American and 1 French. The dimension of informant’s nationality was not seen as an important characteristic before the data collection, so the nationality composition of the interviewees was completely random. However, the process of data collection makes it possible to infer certain differences. Thus, Finns in general are reluctant to give negative assessment of people or events or to report problems. In the context of the study, it would mean that it seemed difficult for people to talk about conflicts between managers and lawyers and critically assess the complex of measures implemented before the actual integration. In case of a negative comment, they would suggest a possible explanation and conclude that such an unfortunate outcome is normal in these circumstances. During the interviews, this tendency was addressed by careful phrasing of the questions to ensure their neutral tone and by rephrasing the questions about difficulties into the ones about learning from M&As. Since informants perceived learning experience positively, they talked more openly about the difficulties that led to such learning. American and French informants were much more open about negative aspects and talked openly about possible areas of improvements. Fortunately for the research, in the result, each group of informants (former employees of the target, people working for the acquirer and independent consultants) had either a French or an American among them, which minimizes the influence of nationality factor on the quality of received data.

Data produced by observation

Observation didn’t result in any separate findings but often indicated a direction for further questions. Thus, data received by observation is of secondary importance in relation to the data produced by interviews; their main purpose is to provide more accurate and in-depth understanding of the main findings. The following observation is perceived as valuable in this regard. No tensions were revealed between the people working for the acquirer and those formerly working for the target. The two groups were providing both positive and negative assessment of the merger (and usually the assessment itself and its parameters coincided). Thus, no differentiation between the sources is necessary in this case, and the data received from the employees of the acquirer and that of the target is perceived as equally valid. The only
noticeable difference is the degree of importance attached to human factors by these two groups: in general, those who had been previously working for the target, evaluated matter of communication, culture and talent management more than employees of the acquirer. This observation led to additional questions to the management of the acquirer and resulted in significant insights.

The data collected by interview and observation are analysed and interpreted based on the approach suggested by Spiggle (1994). The pre-assumptions of such analysis and interpretation are the attempts to understand meaning through interpretive procedures, the focus on context, the use of qualitative data and qualitative analysis, the use of emergent research designs and inference processes (Spiggle, 1994: 491). The following differentiation between techniques was adopted from Spiggle (1994, 492). Analysis is used in a sense of a scientific activity, aimed at dividing complex data into constituent parts; in contrast, interpretation is understood as an activity aimed at making sense of the data as a whole. Applied to the research question, analysis is oriented to sorting data into certain categories, subcategories, themes, perspectives; interpretation is used to ‘make sense of experiences and behaviour’ (Spiggle, 1994: 492). Since particular types of analysis identified by Spiggle (1994, 493) are not supposed to form research stages existing only in a sequence, certain separate manipulation operations were used: 1) categorization, or the process of classifying data units; 2) abstraction, or the process of grouping previously identified categories into more general classes; 3) comparison between categories (e.g. to reveal which factors influence the most by getting evidence from both observation and interview). Both analysis and interpretation techniques were implied in a combination.

3.6. Data analysis and interpretation

Data analysis and interpretation are conducted in accordance with the purpose of the study (examining factors influencing the preliminary stage of M&As and interaction of managers and lawyers at this stage) and its three sub-aims: descriptive, exploratory and prescriptive.

The descriptive sub-aim

To meet the descriptive sub-aim, the study case is described based on Research Questions 1 and 2. More precisely, the following aspects of the deal are examined: 1) the environment in terms of the industry dynamics, competition, challenges and trends; 2) the main driver(s) of the deal and the target choice; 3) the role(s) of managers and lawyers in terms of disposition, extent of involvement, right and responsibilities). The description is based on the data received during interview with both managers and lawyers from the acquirer and the target
companies and supporting documentation they provided (personal notes, corporate presentations and emails, extracts from companies’ financial and legal information of that time).

The exploratory sub-aim

To reach the exploratory sub-aim, this paper draws on the approach to data analysis and interpretation suggested by Spiggle (1994). According to it, analysis is understood in a sense of an academic activity, aimed at dividing complex data into constituent parts. In contrast, interpretation is seen as an activity aimed at making sense of the data as a whole. Applied to Research Questions 3-5, analysis is aimed at sorting data into certain categories, subcategories, themes, perspectives. In turn, interpretation is used to ‘make sense of experiences and behaviour’ (Spiggle, 1994:492). In Chapter 4 of this study, the data received from interviews and observation are grouped into relevant categories and their subsequent interpretation in line with Frame of Reference from Chapter 2 is suggested.

Analysis is central to data processing, since interpretation and results received from it depend by large on the initial clustering of received information from interviews and observation. The analysis strategy applied in this study implies categorization, abstraction and comparison. The first step is categorization, when the collected data are categorized following the framework suggested by Spiggle (1994, 493), which implies classifying or labelling units of data by coding them. The essence of this method is identifying a unit of data named by an informant or revealed by the researcher, as being an example of some general phenomenon. At this stage, codification is conducted based on the research questions of the study by essentially looking for words which in the replies of the interviewees revolve around the sign concepts of ‘challenge’, ‘success’ (for the Research Questions 3 and 4) and ‘role’, ‘managers’, ‘lawyers’, ‘experts’ (for the Research Question 5). The examined units of data are produced both by replying to the direct questions of the interviewer containing those words (e.g., What was the main challenge in conducting this deal? What did you do to ensure the success of your task? How do you see the role of managers/ lawyers? For more examples, see Interview Guide) and by the interviewee suggesting the discussion turn him/herself. From the answers, the categories are formed in the following way: for example, an informant talks about leading people as the key component of managerial role during M&As. Another informant, on his own reflecting on the matter, confirms this information by saying that it is important to differentiate between managing and leading, and that for the success of the merger those in charge should lead their people, not only simply manage them. Together, this information allows distinguishing the category ‘leading people’. If
other informants mention it as well (or the two informants who shaped the category feel particularly strong about it, manifesting signs of personal involvement), this category becomes a subject to further analysis. The number of times it is mentioned is then indicated in parenthesis (for example, ‘talent management x4’ would mean that four people referred to it as an influential factor). The categories are grouped under the heading ‘roles of managers’ and later become the subject of comparison with the categories, united under the umbrella ‘roles of lawyers’ in M&As, which is distinguished in the similar way.

It is important to mention that the categories outlined at this stage are of preliminary nature and aim to identify patterns in the data. Such technique permits flexible use of subsequent interpretation (Spiggle, 1994: 493), and can be modified afterwards. In the context of this study and its research questions, a unit of data corresponds to possible factors influencing the success of M&As at the preliminary stage (Research Questions 3-4) or the role of managers and lawyers (Research Question 5).

After the data are coded, the larger clusters of reasons are built, forming fewer ‘more general, conceptual classes’ (Spiggle, 1994: 493) and thus implementing the second step of the analysis strategy, abstraction. The units of data received by categorization are further clustered into more general classes to reveal the regularities in the data and set grounds for generalization. Taking into account the inductive research design of this study, these larger clusters are not predetermined and are emerging from the analysis itself, ‘unanticipated but recognized as theoretically relevant’ (Spiggle, 1994: 493). For the purposes of forming clusters of factors, positive and negative factors are united along with the number of times they were noted by the informants. To facilitate the comparison of the results to the theoretical framework, similar groups of factors are united under the similar headings. Using the example of a category ‘leading people’, illustrated above, combined with other categories of similar nature and distinguished by the same logic (in this case, ‘communicating information’ and ‘building trust’), it forms a cluster of ‘leading people’, since all these three activities can be logically united under this umbrella.

The following graphic example illustrates formation of data clusters illustrates the methodology of analysis of this study. During categorization, the relevant data are first selected from the informants’ answers to respective questions to examine the mental model and roles of managers in M&As. The data can also come from the informants’ own considerations on the matter, not provoked by questions. The selected data are then shortened and the distinguished categories are grouped together under the working heading ‘mental model and role of a manager’. The font
size reflects the number of informants mentioned the same category (the larger the number, the larger the font). Then, during the next step, abstraction, the outlined categories of data are grouped to larger clusters. The same logic is implied in distinguishing other data clusters regarding Research Questions 3-5 (factors, influencing success of M&As; mental model of managers; roles and mental model of lawyers; interaction of managers and lawyers). Tables containing the results of categorization and abstraction are placed in Chapter 4 of the study.

**Figure 12** Formation of data clusters

<table>
<thead>
<tr>
<th>ROLES OF MANAGERS IN M&amp;As</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step of analysis</td>
</tr>
<tr>
<td>1. Categorization</td>
</tr>
<tr>
<td>2. Abstraction</td>
</tr>
<tr>
<td>Communicating information</td>
</tr>
<tr>
<td>Building trust</td>
</tr>
<tr>
<td>Dealing with uncertainty</td>
</tr>
<tr>
<td>Communicating information</td>
</tr>
<tr>
<td>Dealing with the consequences of the deal</td>
</tr>
<tr>
<td>Leading the integration</td>
</tr>
<tr>
<td>‘Understand the people, understand the business’</td>
</tr>
</tbody>
</table>

As a third step of analysis strategy, **comparison**, general categories of data, formed during stage two, are compared between each other in order to reveal general regularities among them. Such systematic comparison implies usage of principles of logic in making inferences from the data (Spiggle, 1994, 493). For example, it is established that among the human factors influencing M&As the most often cited one is talent management (it has 8 references). In another example, the comparison of the categories associated with lawyers and managers in M&As characterises
their interaction in the following way: 1) there is a given conflict due to the accelerating role of managers and restricting role of lawyers (4 references); 2) actual interaction of lawyers and managers is very limited in terms of time and number of people involved (2 references); 3) legal function has a central role during the closure of the deal (2 references).

The broader clusters of data received by abstraction and categorisation then become a subject of the following step of making sense of the data, **interpretation**. During interpretation, the results of the analysis are further interpreted to make sense of data through abstract conceptualizations. More precisely, the results are compared to the Frame of Reference of Chapter 2 to check if the findings of the study correspond to the existing research, to outline possible conclusions, to formulate the main findings of the study and to substantiate their credibility. Interpretation cannot be described as a series of manipulations; instead, it is a process of intuitive, subjective and particularistic nature, so that the researcher grasps meaning in a ‘synthetic, holistic and illuminating’ (Spiggle, 1994, 497) manner. Employed in this study, interpretation could be seen as a transfer of meanings across the texts, objects, or domains (Spiggle, 1994: 497).

As a result of comparison of the findings to the existing research, findings can be in line with the existing research (for example, the four groups of factors influencing M&As identified in the existing research are confirmed by the results of the study). Findings can also differ from the research: for example, the interaction of the experts, even though it does take place from the early phases of the acquisition process, is found to be mostly limited to the last phases of the preliminary stage due to the legal constraints and considerations of secrecy of the deal.

**The prescriptive sub-aim**

Following from the analysis implemented to disclose the first two sub-aims, the practices identified as those contributing to the success of the deal are outlined. Distinguishing best practices seems to be an important step of M&As, since at the age when acquisitions become a popular strategic choice, improving the company’s expertise in this area becomes a considerable competitive advantage (Evans et al., 2010). Words-indicators from categorisation step of analysis and clusters of positive factors distinguished during abstraction indicate the lead in this case, so are the data from the interviews directly related to the question. (During interviews, information about best practices was triggered by such questions as ‘Which of your actions do you think was most productive in terms of ensuring the success of the deal?’, ‘What would you have done differently next time you implement an acquisition?’).
3.7. Quality of the study

The estimation of quality of data in this study is built on the understanding of quality of research as trustworthiness, suggested by Lincoln and Guba in their frequently-cited book ‘Naturalistic Enquiry’ (1985), and further elaborated by Wallendorf and Belk (1989). As opposed to positivist standards of internal and external validity, reliability and objectivity, the researchers introduced the following criteria for evaluating quality of research (Wallendorf & Belk, 1989):

- **credibility** (adequate and believable representations of the manifestation of examined reality)
- **transferability** (extent to which taken assumptions could also be implied in different contexts, based on the assessment of similarity between the two contexts)
- **dependability** (extent to which an interpretation was built in a way that makes it as constant as it is possible considering the unstable nature of the phenomenon)
- **confirmability** (ability to trace a researcher’s construction of an interpretation by following the data and other materials of the study)
- **the integrity** of the study (the extent to which the interpretation stays clear of lies, biases and misinterpretation by informants).

It is important to note that trustworthiness does not unite under its umbrella such criteria as insightfulness of the research, its novelty and practical application, which makes trustworthiness only one of many components of good research. However, the importance of evaluating trustworthiness is claimed to be an academic universal (Wallendorf & Belk, 1989), to which this study completely adheres. The methods of its evaluation depend by large on the research program and the philosophy of study. The latter is taken into account while choosing particular techniques to prove the trustworthiness of this paper.

**Credibility** of the study is evaluated by assessing what was done during data collection, in the formation of interpretation and in the presentation of the latter to the readers (Wallendorf & Belk, 1989). This approach to measurement of quality of the study is grounded in the stance suggested by Agar (1986,11), who stated that the standards of credibility common for quantitative research are not appropriate for qualitative studies, which should rather be estimated in terms of ‘intensive personal involvement, an abandonment of traditional scientific control, an improvisational style to meet situations not of the researcher’s making, and an ability to learn from a long series of mistakes’. In this vein, the study corresponds to the standards of credibility by personal involvement of the researcher throughout all the process of theoretical overview, data collection and analysis (having formed their own pre-understanding of the topic but making sure it does not influence the informants or analysis in any way). The study does not
aim to test any hypotheses, and the researcher remains constantly aware of the fact that her pre-understanding of the topic is personal and can differ from that of the informants. Finally, the research design of this study is flexible: in particular, questions used for the interview are open-end, and the interview itself is semi-structured, which allowed the informants to take the lead in data collection process and the researcher to keep her eyes open for the emergent themes of study. Moreover, credibility is ensured by the fact that throughout the study, from the moment it was being planned until the analysis of the results was presented, it was one of the objectives to ensure ‘critical self-awareness’ (Riessman, 2008) about how the research was done in a form of looking at the informants through the lenses of a researcher.

Transferability of the study, or in other words, possibility to imply its results to different contexts is reached through purposeful sampling, with a chosen company representing a typical multinational involved in M&As on a regular basis, and the emergent design of the study, constructed in the field (Wallendorf & Belk, 1989).

Dependability of the study, in other words, an assumption that another researcher following the same steps will arrive at the same (or similar) results, ensured by a series of revisits over time in a longitudinal approach (Wallendorf & Belk, 1989), does not seem to be measurable in the format of the study.

Confirmability of the study, in other words, absence of the researcher’s biases in generating results, is ensured by the constant self-analysis while gathering and analysing data, and in each case develops a set of methods to ensure that the approach to either collection of particular data or its analysis corresponds to the nature of the research.

Integrity of the study is reinforced by a set of actions for establishing rapport and trust (Silverman, 2006) while interviewing and observing the interviewees and informing them about the purpose of the study, as well as constant self-analysis of the researcher aimed at avoiding biases.

Drawing on the criteria for the evaluation of research introduced by British Sociological Association Medical Sociology Group and referred to by Silverman (2006, 276), the quality of this study is ensured as follows.
Table 8  Ensuring quality of the study in this paper

<table>
<thead>
<tr>
<th>Criteria for evaluating research</th>
<th>Ways they are met in the study</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Are the methods of research appropriate to the nature of the question being asked?</td>
<td>1) The methods of research (in-depth semi-structured face-to-face interviews complemented by observations) followed by categorization, abstraction and comparison techniques of analysis, are suitable for the purpose of the study (in-depth understanding of factors influencing M&amp;As).</td>
</tr>
<tr>
<td>2) Is the connection to an existing body of knowledge or theory clear?</td>
<td>2) The connection to the existing body of theory is made accordingly with the purpose of forming pre-understanding of the subject sufficient to ensure the fullest data collection from the informants.</td>
</tr>
<tr>
<td>3) Are there clear accounts of the criteria used for the selection of cases for study, and of the data collection and analysis?</td>
<td>3) Selection of sampling strategy (cases for study) and criteria for data collection and analysis techniques are advocated in the methodological part of the study.</td>
</tr>
<tr>
<td>4) Does the sensitivity of the methods match the needs of the research question?</td>
<td>4) Sensitivity of the methods (open-end questions enabling the informants to shape the line of the discussion) matches the needs of research question (getting in-depth understanding of the factors influencing the success of the deal on M&amp;As).</td>
</tr>
<tr>
<td>5) Were the data collection and record keeping systematic?</td>
<td>5) Data collection was accompanied by systematic records (field notes and audio recording).</td>
</tr>
<tr>
<td>6) Is reference made to accepted procedures for analysis?</td>
<td>6) The procedures of analysis chosen for this study are supported by appropriate reference to these techniques.</td>
</tr>
<tr>
<td>7) How systematic is the analysis?</td>
<td>7) The analysis is systematic: it starts at the point of data collection and is divided later into three distinct stages (categorization, abstraction, comparison).</td>
</tr>
<tr>
<td>8) Is there an adequate discussion of how themes, concepts, and categories were derived from the data?</td>
<td>8) The detailed explanation is given on categorization process; emergent themes are fully described on both preliminary stage of analysis and the final one.</td>
</tr>
<tr>
<td>9) Is there adequate discussion of the evidence for and against the researcher’s arguments?</td>
<td>9) The researcher’s arguments are based on the analysis of in-depth qualitative data; it is claimed that the researcher herself doesn’t suggest any hypotheses or assumptions; the results are grounded in the data, and credibility of these results is confirmed by detailed description of data collection and analysis techniques.</td>
</tr>
<tr>
<td>10) Is a clear distinction made between the data and their interpretation?</td>
<td>10) The collected data is fully described; the analysis of the data is performed separately to give the reader an opportunity to verify the results of the analysis performed by the researcher.</td>
</tr>
</tbody>
</table>

Source: based on Silverman (2006, 276)
Table 9 below summarises methodology of this study and in alignment with its purpose and research questions.

**Table 9 Methodology of the study**

<table>
<thead>
<tr>
<th>Sampling strategy</th>
<th>Purposeful intensity sampling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sample size</td>
<td>N=1</td>
</tr>
<tr>
<td>Unit of analysis</td>
<td>A Finnish subsidiary of a MNC with a rich history of M&amp;As</td>
</tr>
<tr>
<td>Qualitative methods of data collection</td>
<td>Planned interviews and random observation</td>
</tr>
<tr>
<td>Number of interviews</td>
<td>N=7</td>
</tr>
<tr>
<td>Language of interviews</td>
<td>English (recorded, later transcribed)</td>
</tr>
<tr>
<td>Secondary data</td>
<td>Observation, personal organisers’ entries, company’s internal presentations, e-mail of the time</td>
</tr>
<tr>
<td>Informants from the side of the acquirer</td>
<td>Marketing Director, Legal Director, Head of Business Units and a Sales Manager</td>
</tr>
<tr>
<td>Informants from the side of the target</td>
<td>Former Managing Director for Nordic Markets, Product Manager of the leading product of the merged companies and a line manager from the field force operations</td>
</tr>
<tr>
<td>Methods of data processing</td>
<td>Analysis (categorisation, abstraction, comparison) and interpretation</td>
</tr>
<tr>
<td>Ensuring quality of the study</td>
<td>Quality is ensured by: 1) credibility; 2) transferability; 3) dependability; 4) confirmability; 5) integrity</td>
</tr>
</tbody>
</table>

The data are collected in the following dates and places:

<table>
<thead>
<tr>
<th>Pilot interview</th>
<th>Paris, France</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Université Paris Dauphine</td>
</tr>
<tr>
<td></td>
<td>January 2011</td>
</tr>
<tr>
<td>Interviews and observation, combined</td>
<td>Helsinki, Finland</td>
</tr>
<tr>
<td></td>
<td>Subsidiary of the acquirer</td>
</tr>
<tr>
<td></td>
<td>March 2011</td>
</tr>
</tbody>
</table>
4. ANALYSIS AND DISCUSSION

The analysis and discussion below are based on the purpose of the study and its three sub-aims: descriptive, explorative and prescriptive.

Purpose: to examine factors influencing the outcome of M&As from a subsidiary perspective, with a particular focus on the interaction between two groups of specialists involved in such deals, namely managers and lawyers.

4.1. Descriptive sub-aim

Descriptive sub-aim: to describe an acquisition undertaken by a particular company from the perspective of one of its subsidiaries, with a particular focus on the interaction between managers and lawyers.

RQ1. In which environment did the acquisition in question take place? What was the main driver for the deal and choice of the target?

RQ2. What was the disposition of managers and lawyers in this deal in terms of the structure of respective organizations and the extent of involvement of these two groups of specialists in the deal (their rights and responsibilities)?

4.1.1. The environment

In line with methodology of the study, described in part 3.6 of the paper, the following section is mainly based on the interviews with representatives of both companies and the supporting documentation they provided: personal notes, corporate presentations and emails along with extracts from companies’ financial and legal information of that time.

During several last decades, chemical processing industry could be characterized by the following trends: 1) emergence and growth, both internal and external, of a small number of dominant players; 2) the presence of the following typical challenges: a) facing internal and external competition; b) ensuring compliance with industry specific legal regulations; c) maintaining legal protection of R&D results, especially in emerging markets; d) managing product portfolio to balance new products and that with expiring legal protection; 3) high revenues with evidence suggesting that this trend is likely to continue into the future.
The chemical processed industry is characterized by high degree of concentration, with a dozen of international companies dominating in the business. Traditionally, their headquarters have been dispersed between Western Europe, Japan and the US. The latter corresponds to the fact that today the US, Europe and Japan constitute three major markets for chemical processing products. The US market alone brings around 47% of world sales. Emerging markets, even though having much lower share of the world sales of chemical processing products, manifest much faster growth comparing to developed countries, thus indicating a significant potential for geographical expansion of the chemical processing industry in future. It is especially true for some Latin American countries, including Mexico, Brazil and Venezuela as well as for China. The majority of the leading companies in this industry have chemical processing as their core business; for almost all of those that manufacture a number of related products, more than 80% of revenue stem from chemical processing. According to the financial statements of these companies and their revenues from the sales of chemical processing products, the firm which in this paper as referred to as the acquirer has been the leading company worldwide in the industry for at least the last five years. The target was holding on to number eight position according to the companies’ annual reports of 2008.

Traditionally, chemical processing has been an industry where the margin profit of the dominating companies went up to 15-25%, which naturally resulted in high revenues and cash generation. In turn, excess cash allowed for companies’ growth, both internal, by development, and external, by acquisitions, spin offs and unrelated businesses. With time, the pressure of competition augmented and almost all major players have divested their non-core businesses and concentrated their efforts in chemical processing. Not only large size lead to economies of scale in marketing, sales and manufacturing, but also provided an opportunity to invest in R&D, the success driver in the chemical processing industry. Strategic alliances have been an alternative to acquisition, with chemical processing companies joining forces (and budgets) to invest in R&D. By the date of the merger that constitutes the case study, the largest acquisition in the industry with the budget of 58 billion USD was undertaken by the acquirer. This deal solidified the acquirer’s place among the chemical processing elite.

Along with lower ROI on R&D and additional access restrictions, associated with inability of most developing countries to provide necessary levels of legal protection of the existing products, the factors stated above have resulted in fierce competition for market share among the companies dominating the industry.
Four main challenges are characteristic for the chemical processing industry:

- dealing with competition and pressure by the government;
- ensuring compliance to industry specific legal regulations;
- establishing and maintaining legal protection of R&D results, especially in emerging markets;
- managing product portfolio to balance new products and that with expiring legal protection.

In terms of competition, chemical processing companies, all having R&D at the heart of their competitive business models and present in the same markets, are competing against each other. Another source of competition is replication products, which invade the market after the legal protection of the R&D products expires. Finally, chemical processing as an industry has to compete with other industries, which offer different kinds of products to satisfy the same needs of the society. In addition, recently the government in the developed countries has been pressuring the chemical processing companies to lower prices for their products, significantly decreasing the companies’ revenues.

The second challenge, ensuring compliance to the industry specific legal regulations, is related to the fact that chemical processing environment is highly regulated by the government. The extent of regulations remain country specific, but the key area of government control is pricing of chemical processing products.

The third challenge, managing legal protection of R&D results, is explained by the fact that replication products represent a significant threat to R&D oriented chemical processing companies. One of the fundamental rules in the industry is that a company receives a major stream of revenue from any product before the expiration date of its legal protection. As soon as the protection is not valid any more, other companies start manufacturing replications, thus practically putting an end to the product’s sales. The price of a replication is several times less than that of the original product, and sometimes replica becomes available on the market even before the legal protection expires. The latter results in a sufficient revenue loss for the chemical processing companies and hampers their expansion to the emerging markets.

Finally, the challenge related to the product portfolio is maintaining a balance between existing products that bring revenues (but which legal protection will expire in the near future) and newly developed products, which are not yet familiar to the market but have longer term of legal protection. This challenge is followed up in a greater detail below in the section describing the rationale of the deal.
Overall, the industry has consistently shown high revenues rates in past. The development in science and technology along with a number of demographic and social factors (increase of life expectancy in developed countries and legislative initiatives in the emerging markets) makes it possible to predict that this trend will continue into the future.

**The main driver(s) of the deal and target choice**

One of the key characteristics of chemical processing industry is its focus on R&D, which is mirrored proportionally in the companies’ budgets. More than 90% of new chemical processing products come from the private sector. An average private company investment behind developing a product is 881 million USD. Only three products in ten provide returns on the investment of development. On average, companies from the top ten invest around 20% of their revenues in research on new products. Secured by the means of legal protection, the results of R&D form the cornerstone of a company’s competitive advantage in the industry. Statistically, a new product takes about 8-10 years and millions of dollars to develop. From the financial point of view, it means that the investments in R&D of today will bring return in form of revenues in 8-10 years from now. Only about one in ten thousand chemical compounds introduced by the researchers proves to be both effective in terms of its composition and compliant to the legal standards set by the market. What is more, about half of all new products fail to pass the late stages of the research trials.

![Figure 13 An example of a chemical processing company’s pipeline](image)

Source: internal information of the acquirer

Given a limited time of legal protection of products’ exclusivity at the market, it becomes imperative for a chemical processing company to ensure that after legal protection of the revenue generating products expires (and substitute products appear overnight), the company has a new line of products to introduce. The chemical processing industry thus has higher-than-average risk due to the high level of uncertainty associated with success or failure of products in
the pipeline. Managing a portfolio of existing products with a limited legal protection period and those new to the market but with longer legal protection life thus becomes one of the key determinants of long-term success in the chemical processing industry. Since renewing the product portfolio is of critical importance and the product development is time consuming and costly, acquisitions of companies with a suitable product range (or research pipeline) become a popular alternative in the chemical processing industry. As the Former Managing Director for Nordic Markets of the target commented on it,

In our company history, we ourselves have gone through a series of acquisitions. Each one has been different, some of the American smaller companies have been strategic purchase of the assets, so we identified potential assets that the companies had and then we were hoping to bring them to the market either faster, better or at all. Then, when it comes to the big companies, they get a little bit more complicated; part of the rationale of the merger in question, for instance, was offsetting the earning per share, when [acquirer] was faced with [the main product’s] patent expiration.

Former Managing Director for Nordic Markets of the target

In the studied case, product portfolios of the acquirer and the target were particularly synergistic. The confidentiality policy of the research paper prevents from disclosing exact details; for the purpose of the study it is important to know that the united composition of the companies’ product ranges and pipelines brought together R&D in different focus areas, resulting in maximum stability in the industry with a highly volatile pattern of revenues. As Marketing Director of the acquirer put it,

…In our business it’s always the products, unfortunately or fortunately. The things you look at [when choosing the target], you look at length and width of portfolio.

Marketing Director of the acquirer

Both the acquirer and the target were privately owned US based firms in the top ten companies with highest revenues. In general, the US plays a determining role in the world chemical processing industry: more than half of the market leaders are headquartered there. The acquirer is a leader of the industry: for the several last years, the company’s sales are approximately 1.5 times higher than those of its closest competitor. On the other hand, the target company experienced significant reduction in profitability during last years, mainly due to cost control measures imposed by regulatory agencies and payers, legal protection’s expirations and, partly, due to litigation expenses. From the legal point of view, the same country and industry of the acquirer and the target lead to implementation of competition law and respective restrictions to information exchange between the companies.
At the moment of the merger, the legal protection of the leading product of the acquirer was about to reach its expiration date, which would allow others to enter the market with the same product composition at a much lower price. The original product has been a breakthrough in innovation and marketing, generating over 15 billion USD in annual sales for the last 8 years. Nevertheless, success of such proportions meant that the company has been heavily dependent on this very product’s performance, which could be affected by the entrance of a competing drug, newly discovered side effects of the product itself or expiration of its legal protection. The Head of the Business Unit of the acquirer, who received the principal product of the target, commented on the rationale of the deal in the following way.

The rationale of the decision was the following. In 2012, majority of [acquirer’s] products will be hitting patent wall or what we call ‘the cliff’. Most of our products will lose their patent and therefore we will lose a lot of revenue. So [acquirer] had to strengthen its portfolio and to ensure that the right products are being added to this portfolio to sustain our revenue. And I think, at the time [target] was identified as a company that had a good range of portfolio that was sustainable, competitive and not necessarily going off patent by year 2012.

Head of the Business Unit of the acquirer

The merger in question took place in January 2009. It ranks successful in press and inside the company. As one of the managers from the side of the target commented,

...Thinking about big picture, it was a successful integration. It has reached its objectives and in my mind, companies are now working as one. We joined this organization one year ago, and I would say, it took like four-five months and then we were the same organization.

Manager from the side of the target

First year after the merger, the revenue of the acquirer was up by 47.6%.

4.1.2. The role(s) of managers and lawyers

Legal experts

Disposition: the decision to go for acquisition and that regarding the choice of a target was made on the headquarters’ level. Accordingly, the deal was designed in the US. From the legal point of view, it took form of global shares exchange, with further merger and implementation at the local level. In the Nordics, the target didn’t have its own legal entity in Finland; all the legal matters in the region were under jurisdiction of the Swedish legal entity. At the same time, the acquirer had separate legal entities in all the Nordic countries. The legal team of experts comprised of tax experts, corporate law experts, employment law experts, both internal and external, with a Legal Director (a generalist specialist) coordinating their efforts.
**Extent of involvement:** with the deal completed and announced in January 2009, legal experts became a part of the acquisition process in June, after approval by the competition authorities both in the US and in Europe.

**Rights and responsibilities:** to implement the global deal locally with the main areas of responsibility related to transferring asset ownership and human resources (including the issues related to transfer of job contracts and layoffs) and to ensuring continuity of on-going market operations from the legal perspective (i.e., transfer of current contracts, market authorization). Another set of questions under legal control concerned tax implications of the company as a whole: as a legal entity, the acquirer represented a chain of companies owned by a holding company in one of the European countries. As the Legal Director of the acquirer summarized it,

\[\text{There was a lot of fields that I was coordinating. We needed to be very careful on how we decided to do the deal to make sure there were no tax complications in Finland and in the US, which was at exposure at one time; so very complicated questions in what came to taxation and to the deal structure. In addition, I was responsible for the assets' transfer, the evaluation, the contracts, how we are going to deal with all the transfer. Plus, in our business it is the key that we also make sure that all the distribution of the [products] is continued normally. Plus, we also need to think about marketing authorization and this kind of things very seriously.}\]

*Legal Director of the acquirer*

**Managers**

**Disposition:** management structure of the two companies mirrors the legal one. While the acquirer had a network of independent affiliates each reporting to the headquarters, the Nordic countries of the target were managed by a regional centre in Sweden, exercising control over the other countries’ affiliates. In terms of the companies’ structure, as one of the managers put it,

\[\text{[Target] disappeared in every single sense and adapted the [acquirer’s] way. When it comes to corporations, [acquirer] swallowed [target].}\]

*Manager from the side of the target*

Systems and ways of working were streamlined, with that of the acquirer set as a standard. However, when it comes to managements teams, a lot of people from the side of the target remained in the company, making post-merger distribution of human resources close to 50/50 in certain business areas of the target while other areas, like sales, became mostly dominated by the acquirer.

**Extent of involvement:** After the merger was completed at the headquarters’ level and passed all governmental controls, the teams started a series of meetings and negotiations. In Europe, real communication between the management teams begun in mid-October 2009, nine months
after the deal was signed. The leading role in this interaction belonged to the team of the acquirer, with that of a target taking a reaction approach. As the Manager of the leading product of the target mentioned,

"It was like on our side we were kind of reactive people and [acquirer] was leading the integration and they were proactive. So we were kind of available and waiting what [the acquirer’s] needs are and when they asked some information, then it was our and my role to provide this information about the business framework, what it means in terms of resources and people, and vacancies, positions, for our colleagues."

Manager of the leading product of the target

**Rights and responsibilities:** to make sure that the business, both of the acquirer and, most importantly, that of the target, continues as normal and that the two organizations streamline their operations and become one. In practice, it meant learning about the new products in certain area of the business and people who were responsible for them (from the acquirer’s side), providing all the necessary information and cooperation (from the target side) and aligning operations (both).

### 4.2. Exploratory sub-aim

*Exploratory sub-aim: to determine the factors that created most problems in the acquisition in question, and find out how these problems have been handled, with a particular focus on the interaction between managers and lawyers.*

In line with the methodology of this study, described in Chapter 3, the following analysis and discussion are based on the results of categorization and abstraction, summarized in Tables 10 and 11. The results of comparison are presented in Tables 12, 13 and 14 in the respective sections of this chapter. In Table 10, no separate results are derived for Research Question 4, as they are distinguished further from the data related to Research Question 3. Since neither categorization, abstraction nor comparison constitutes an independent research activity and all these steps are undertaken in complex (Spiggle, 1994), the comparison builds on the results of categorization and abstraction. Thus, the results of the last stage include and summarize the results of the previous stages.
### Research Questions

**RQ3.** Which factors create most challenges while conducting M&As? Which factors contribute to the success of the deal?

**RQ4.** Which of the abovementioned factors are identified in the studied case? How have they been handled by the company?

**Words-indicators:** challenge, success, influence

**Table 10  Results of categorization**

<table>
<thead>
<tr>
<th>Category (x times it is mentioned)</th>
<th>Contributing to success</th>
<th>Increasing challenges</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contributing to success</strong></td>
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<tr>
<td>talent management (x4)</td>
<td></td>
<td>communicating the culture of the acquirer</td>
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<tr>
<td>target selection (x4)</td>
<td>reaching synergies</td>
<td></td>
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<tr>
<td>good advisors, experts (x3)</td>
<td>doing profitable gross</td>
<td></td>
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<tr>
<td>communication inside the company</td>
<td>post-merger integration</td>
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<tr>
<td>preparation before the integration</td>
<td>trust between managers and lawyers</td>
<td></td>
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<tr>
<td>length and width of the product portfolio</td>
<td>communication</td>
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<tr>
<td><strong>Increasing challenges</strong></td>
<td></td>
<td>being dependent on the headquarters</td>
</tr>
<tr>
<td>organizational culture (x6)</td>
<td>different organizational and legal structures of the companies (x2)</td>
<td></td>
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<tr>
<td>uncertainty (x4)</td>
<td>absence of plan for legal integration from the headquarters</td>
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<tr>
<td>limited communication before the integration (x4)</td>
<td>CEO’s ego</td>
<td></td>
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<tr>
<td>talent management (x4)</td>
<td>timing</td>
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<tr>
<td>organizational structure (x3)</td>
<td>integration design</td>
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<tr>
<td>ownership structure</td>
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<tr>
<td>late and restricted access to information about the target company/assessment (x2)</td>
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**RQ5.** To which extent the interaction of managers and lawyers influenced the acquisition process? What are the fundamental differences in the mental models of managers and lawyers and how do they influence their interaction during the preliminary stage of the deal?

**Words-indicators:** motivation, role, task, objective, managers, lawyers, experts, interaction of experts/specialists/managers and lawyers

<table>
<thead>
<tr>
<th>Mental model and role of a manager</th>
<th>Mental model and role of a lawyer</th>
</tr>
</thead>
<tbody>
<tr>
<td>leading people (x4)</td>
<td>ensuring legal compliance (x2)</td>
</tr>
<tr>
<td>communicating information (x3)</td>
<td>risk management</td>
</tr>
<tr>
<td>dealing with uncertainty (x3)</td>
<td>evaluating and managing liabilities</td>
</tr>
<tr>
<td>ensuring continuity of the business (x3)</td>
<td>the implementation of the transaction</td>
</tr>
<tr>
<td>practical and business focus (x2)</td>
<td>structuring the deal</td>
</tr>
<tr>
<td>personal involvement</td>
<td>evaluation of the asset</td>
</tr>
<tr>
<td>distribution of new roles and assets</td>
<td>transferring contracts and other assets</td>
</tr>
<tr>
<td>leading the integration</td>
<td>continuity of ongoing distribution</td>
</tr>
<tr>
<td>‘anxious to get things done, to have new products as soon as possible, to have people in as soon as possible’</td>
<td>market authorization</td>
</tr>
<tr>
<td></td>
<td>focus on details</td>
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<td></td>
<td>leading the deal</td>
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<td>to avoid the claims afterwards</td>
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</table>
RQ5. To which extent the interaction of managers and lawyers influenced the acquisition process? What are the fundamental differences in the mental models of managers and lawyers and how do they influence their interaction during the preliminary stage of the deal?

**Words-indicators:** motivation, role, task, objective, managers, lawyers, experts, interaction of experts/specialists/managers and lawyers

**Interaction of managers and lawyers**
- a given conflict
- timing as a principal challenge
- very limited communication
- disappointed and a bit frustrated
- managers willing to communicate more freely and openly than the legal was letting them
- bottleneck, funnel

Distinguishing among the categories requires in-depth understanding of their importance to the informants and can only be reached by qualitative analysis. It takes face to face communication to understand what the other person feels is important, to see how he or she presents this information and which factors or recollection of which events provoke most emotions. Such indicators can then be taken as a lead for follow-up questions. Data of this kind are impossible to gather with quantitative methods. However, certain calculations are used later on to find out how often a category is mentioned by the informants.

**Table 11  Results of abstraction**

<table>
<thead>
<tr>
<th>RQ 3 Factors, influencing M&amp;As (factors related to RQ4 underlined)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Strategic factors</strong></td>
<td>Target selection (x 4); reaching synergies; doing profitable gross; width and length of portfolio; CEO’s ego</td>
</tr>
<tr>
<td><strong>Integration factors</strong></td>
<td>Preparation before the integration (x 2); postmerger integration; absence of plan for legal integration from the headquarters; integration design</td>
</tr>
<tr>
<td><strong>Human factors</strong></td>
<td>Talent management (x 8); having own network inside the company (clear roles, network, relationships); communicating the culture of the acquirer; communication; organizational culture (x 6)</td>
</tr>
<tr>
<td><strong>Irrationalities of decision-making process</strong></td>
<td>Limited communication before the integration (x 4); uncertainty (x 4); late and restricted access to information about the target company/assessment (x 2);</td>
</tr>
<tr>
<td><strong>Interaction of lawyers and managers</strong></td>
<td>Involving good advisors, experts (x 2); trust between managers and lawyers; timing</td>
</tr>
<tr>
<td><strong>Structure of the company</strong></td>
<td>Organizational structure (x 3); ownership structure; being dependent on the headquarters (minor factor at the global level); different organizational and legal structures of the companies (x 2)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RQ 5 Mental models, roles and interaction of managers and lawyers</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Managers</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Role:</strong></td>
<td>leading people (x4); communicating information (x 3); building trust</td>
</tr>
<tr>
<td>1) leading people;</td>
<td>dealing with uncertainty (x3); communicating information (x 3);</td>
</tr>
<tr>
<td>2) dealing with uncertainty;</td>
<td>extremely self-motivating</td>
</tr>
</tbody>
</table>
### RQ 5 Mental models, roles and interaction of managers and lawyers

<table>
<thead>
<tr>
<th>3) managing new and existing assets;</th>
<th>Ensuring continuity of the business (x3); leading the integration; dealing with the consequences of the deal; ‘understand the people, understand the business’</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mental model:</strong></td>
<td>practical and business focus (x2); to benefit from the deal</td>
</tr>
<tr>
<td>1) practical and business focus;</td>
<td>personal involvement; ‘Follow the money’; distribution of new roles and assets; right attitude, acceptance of behavior of other managers; professionalism; internal battles for new assets distribution</td>
</tr>
<tr>
<td>2) personal involvement and material interest;</td>
<td>‘anxious to get things done, to have new products as soon as possible, to have people in as soon as possible’; ‘to get it right, get it right, urgently get it right’</td>
</tr>
<tr>
<td>3) time pressure</td>
<td></td>
</tr>
</tbody>
</table>

| Lawyers Role:                      | ensuring legal compliance (x2); risk management; evaluating and managing liabilities; evaluation of the asset (presence of certain rights and patents, liabilities risk); prevent tax exposure; ensuring presence of certain controls; ensuring proper contract documentation |
| 1) risk management;                | ‘actually getting what we are paying for’; ensuring proper timing for communication; ‘to protect, to protect, to protect’; integrity for people and for the society; |
| 2) implementation of transaction;  | the implementation of the transaction; structuring the deal; transferring contracts and other assets; leading the deal continuity of ongoing distribution; market authorization |
| 3) continuity of current contracts including that of the target; | focus on details; concrete stuff, very practical issues to avoid the claims afterwards; private interest; to cover their back satisfying the needs of business customers |
| **Mental model:**                  |                                                                                                                                                                                                  |
| 1) focus on details, concrete, practical; | to avoid the claims afterwards; private interest; to cover their back satisfying the needs of business customers |
| 2) to avoid the claims afterwards;  |                                                                                                                                                                                                  |
| 3) satisfying the needs of business customers |                                                                                                                                                                                                  |

| Interaction                         | very limited communication                                                                                                                                                                                                 |
| 1) very limited communication (time and number of people); | a given conflict; timing as a principal challenge; disappointed and a bit frustrated; managers willing to communicate more freely and openly than the legal was letting them |
| 2) a given conflict due to the accelerating role of managers and restricting role of lawyers; | bottleneck, funnel                                                                                                                                                                                                  |
| 3) the central role of legal function during the deal closure |                                                                                                                                                                                                  |
4.2.1. Factors influencing success of M&As

RQ3. Which factors create most challenges while conducting M&As? Which factors contribute to the success of the deal?

The following six groups of factors influencing M&As are outlined basing on the results of the analysis (abstraction and categorization):

- strategic
- integration
- human factors
- irrationalities of decision-making process
- interaction of lawyers and managers
- factors related to the structure of the company.

Comparison of the number of times these groups were mentioned and the degree of personal involvement, revealed by observation, make human factors and irrationalities of decision-making process the most meaningful factor groups, followed by strategic factors, factors associated with structure of the company, interaction of lawyers and managers and, finally, integration factors related to integration design.

Among human factors, the one attached with the most importance is talent management, followed by organizational culture. Irrationalities of decision-making process are mostly associated with limited communication before the integration. Among strategic factors, target selection is perceived as the most important one. Organizational structure of the company is the key factor for structure factors, preparation before the integration is the most common factor among the integration ones. Finally, involving good experts and lawyers is seen as the key factor of the last factor group, interaction of managers and lawyers (See Table 12 below for the summary of the results).

Table 12  Results of comparison, RQ1

<table>
<thead>
<tr>
<th>Factors influencing success of M&amp;As</th>
<th>No of references</th>
<th>Ranking</th>
<th>Most often cited factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategic factors</td>
<td>8</td>
<td>3</td>
<td>Target selection (x 4)</td>
</tr>
<tr>
<td>Integration factors</td>
<td>5</td>
<td>5</td>
<td>Preparation before the integration (x 2)</td>
</tr>
<tr>
<td>Human factors</td>
<td>18</td>
<td>1</td>
<td>Talent management (x 8), organizational culture (x 6)</td>
</tr>
<tr>
<td>Irrationalities of decision process</td>
<td>10</td>
<td>2</td>
<td>Limited communication before the integration (x 4); uncertainty (x 4)</td>
</tr>
<tr>
<td>Interaction of lawyers and managers</td>
<td>4</td>
<td>6</td>
<td>Involving good advisors, experts (x 2)</td>
</tr>
<tr>
<td>Structure of the company</td>
<td>7</td>
<td>4</td>
<td>Organizational structure (x 3)</td>
</tr>
</tbody>
</table>
The results of the study confirm the existence of the four groups of factors influencing the success of the preliminary stage of M&As identified in the existing research: 1) those determining the sensibility of entering an M&As deal (strategic factors); 2) those related to the choice of integration approach (integration factors); 3) human-related factors; 4) factors attributed to irrationalities of decision-making process (irrationalities factors). Another group of factors, shaped by the interaction of lawyers and managers, was not cited directly but could have been inferred from the research on mental models and organizational roles of those two groups of specialists. The results of the analysis make it possible to confirm interaction of lawyers and managers as a separate group of factors influencing the success of the deal. It is studied in a greater detail in the section related to Research Question 5.

The results of the analysis also point to the additional group of factors constituted by organizational structures of the merging companies. Structure of the company, both in terms of the differences between the acquirer and the target and of complicated (or newly reorganized) organizational structure of the acquirer, constitutes a new group of factors. A challenge in this case is a structure of integration and choice of integration design, since differences in organizational structures of the companies make it difficult to evaluate the target and to map integration measures. In conditions when organizational systems are different, communication between companies is limited, and assessment of the target is hindered, it also becomes difficult to conduct the closure of the deal. As Legal Director of the acquirer put it,

I think the biggest challenge was the structure that we were given. The fact that [the target] was structured in the way that they didn’t have their own legal entity in all of the countries but they were affiliates made it very difficult, and we were dependent on... so many levels above us. We needed to deal with Sweden, with Ireland, with UK, with the US stakeholders. I remember some of the calls which had, like, 30 people on them, so each one of them had an opinion on something. How do you lead the conferences when you are in a hurry and you need efficiency and there is... someone in Delaware has who says ‘I just need to check this one little detail’. That drives me crazy when I want to have things done and then they say, hey, I need to do this and that before I can give you my ‘go ahead’. So we kind of could not drive the car, so that was the biggest challenge. It is what working in a global company like [acquirer], you are such a minor factor, you know, if you are a Finnish legal director, they don’t really care, honestly about your wishes.

Legal Director of the acquirer

In the existent literature, human related challenges are associated with integration stage of the deal and are usually discussed in connection with communication problems and cultural integration (Kay & Shelton, 2000; Marsh, Mercer & Kroll, 2008). As a result, in reality HR function becomes involved in M&As planning in less than a third firms implementing acquisitions (Evans et al, 2010: 538). However, the results of the study show that human factors
are more stretched in time than indicated in the research and become particularly important during the phases of First Contact and Negotiation.

In line with the frame of reference (DePamphilis, 2005; Jemison & Sitkin, 1986; Navahandi & Malekzadeh, 1988; Stahl & Voigt, 2008), the main focus of the interviews was on the preliminary stage of the deal. However, following the dominating view in the research (Angwin, 2001; Evans et al., 2010) many informants still associated the main challenge of M&As with the integration phase. Nevertheless, when asked the specific questions about the main challenge, most named one of the factors present at the preliminary stage (organizational culture, uncertainty, limited communication before the integration, talent management and organizational structure at the top of the list). A possible explanation is that actual integration of two companies is the time when most interaction takes place. Before the integration communication is limited to a very small group of people (usually, top management of both companies and lawyers) and takes place during phases of First Contact, Negotiations and Closure of the deal. This finding links to the groups of factors related to experts involved at the preliminary stage of the deal and is followed up in a respective section below.

The overview of Research Question 3 adds to understanding of factors that form principal challenges and success drivers of M&As in general and are outlined in the frame of reference of this paper. Basing on this understanding, the factors identified in the studied case are examined below in a greater detail.

4.2.2. Factors relevant for the case study

**RQ4. Which of the abovementioned factors are identified in the studied case? How have they been handled by the company?**

<table>
<thead>
<tr>
<th>Challenges</th>
<th>Success factors</th>
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</thead>
<tbody>
<tr>
<td>organizational culture (x 6)</td>
<td>talent management (x 4)</td>
</tr>
<tr>
<td>uncertainty (x 4)</td>
<td>target selection (x 4)</td>
</tr>
<tr>
<td>limited communication before the integration (x 4)</td>
<td>involving good advisors and experts (x 3)</td>
</tr>
<tr>
<td>talent management (x 4)</td>
<td></td>
</tr>
<tr>
<td>organizational structure (x 3)</td>
<td></td>
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</tbody>
</table>

**Factors that create most challenges in M&As**

The results of categorization, abstraction and comparison show that the principal challenges in the studied case are organizational culture, uncertainty, talent management, limited
communication before the integration, and organizational structure. These challenges manifested themselves in the following ways.

The first and most often cited challenge corresponds to the difference between the organizational cultures of the acquirer and the target. As the former Managing Director for Nordic Markets of the target put it,

There is a couple of key differences. Number one, [target’s] culture was very much ‘in-person’ culture. [Acquirer] is very much a non-personal culture, and the expectations are that people send a lot of emails back and forth. The other thing, in a personal culture like [target] was, people are used to their careers being monitored, and in the [acquirer’s] culture it is more a ‘do-it-yourself’ approach regarding to careers. So you know, all these things sort of add up weight on people’s shoulders.

Former Managing Director for Nordic Markets of the target

According to the informants, this cultural difference resulted in numerous misunderstandings during the negotiation phase and the integration (both planning and implementation phases). Even though after the merger the target practically stopped its existence from every possible aspect, matters of organizational culture and best practices were to be decided by the local managers across the countries. This way, the extent of culture transfer often depended on the individual managers of the accepting side, the acquirer. This finding is in line with the existent literature, which refers to cultural differences as a key challenge and one of the main reasons why M&As fail (Evans et al., 2010; Jayaraman, Chakrabarti & Gupta-Mukherjee, 2009; Stahl & Voigt, 2008). Interestingly, the top management of the merging companies seemed to be aware of this potential hurdle and the cultural assessment before the merger did take place at the global level. However, it didn’t reveal any major differences. As the same manager from the target commented,

There was a lot of talk in the beginning about the fact that the cultures should be aligned. If you look on paper, we have the same values, or very similar values, and so I think initially there was an investigation to the culture piece, and I think those at the very top of the companies said hey, we are going to be aligned culturally, there isn’t going to be an issue. And then of course… as you dig deeper… we are quite different and it became an issue later, so it is an issue today.

Former Managing Director for Nordic Markets of the target

This point poses a question on how realistic it is to expect such a preliminary assessment, though advocated in recent research (Evans et al., 2010), to bring valuable insights. According to the results of the study, to a large extent, managing cultural differences still depends on regional managers. As one of the key participants from the side of the acquirer commented on it,
There was a lot of dash boards, a lot of check lists, that were sponsored by headquarters, to follow through and to make sure we are doing the right things, but no matter how good the guidance is, as a manager you are left alone, and nobody is coaching you, nobody is telling exactly what to do, you have to be really self-motivating, and with everything that you know, the best you could, you manage it. 

Manager from the side of the acquirer

The second challenge, uncertainty, was mostly witnessed (and commented on) by the managers from the side of the target. Both parties said that uncertainty was creating obstacles to business continuity and mostly associated it with the matters of employment. As Product Manager of the largest product of the target (and currently the largest product of the acquirer), who was referring to uncertainty as the principal challenge of the acquisition process, stated,

We don’t have a crystal ball of what will happen and how and when. …I knew that it would take some time but I didn’t know exactly how long and I think nobody knew, so [the biggest challenge is] working on a basis that you don’t know… what the future of organization that I have been working for almost ten years is, what is going to happen to my colleagues…, my own team, what is their future, and then of course in the end of the day, what is my own future in the new organization, do I have a role or not.

Product Manager of the largest product of the target

This finding could also be expected since it has become traditional to explain high rate of M&As failure by the situation of high uncertainty (among others, Jemison & Sitkin, 1986). Interesting in this regard is that in the studied case, even though every member of both organizations could potentially lose a job, people from the side of the acquirer saw uncertainty as an obstacle to overcome but were emotionally detached. In turn, those working for the target had a lot of emotions about what was happening at the preliminary stage of the merger. As a result, acquirer’s team was more constructive in terms of dealing with uncertainty. A possible explanation is a difference in organizational cultures, mentioned before. While an acquirer is a business driven and to a large extent impersonal organization, the target was famous for fostering human values. This finding poses a question to which extent it really is beneficial for the companies to have highly personal cultures, and indicates a direction for further research.

In the context of M&As, uncertainty is closely associated with the retention of key people (Evans et al, 2010) and, therefore, with talent management, which is the third principal challenge of the acquisition process identified in the studied case. The acquirer, being a reputedly non-personal company, didn’t pay particular attention to talent management. Thus, HR due diligence process, promoted in the literature on M&As (Evans et al, 2010) becomes neglected in the industry with the primary focus on R&D and portfolio management. Even though its value was recognized among the objectives of the merger at the top level, the more
detailed directives and check lists from the headquarters never contained instructions regarding talent.

The talent assessment was, quote and quote, recommended and asked and prioritized but I can assure you, I have never received a real proper leadership coaching saying, listen..., go out there and talk and recognize great talent and get in touch with them and you ‘d better maintain them, you ‘d better keep them. That didn’t happen.

*Marketing Director of the acquirer*

Interestingly, the results of this study quote talent management as both principal challenge and key success factor, with equal degree of importance attached. A possible explanation in this case would be that regardless of how detailed the recommendations from the headquarters were, certain local managers paid attention to human related issues because of their mental models. Keeping key people then becomes part of a manager’s objectives as a professional. In the studied case, each manager handled this issue according to his own values. As a result, sometimes an informant from the side of the target would say that talent management was critical for the success of the deal, that the acquirer did well in this regard, and at the same time identify an area of possible improvement.

[Acquirer] did a really poor job of handling talents and key talents along the way. Typically in mergers, you find a way to get these people who are your highest performers and tell them early that you have your eye on them and they are going to have a position, or some sort of communication touching base with the key players. There was none of that, so as a result we really lost some really really good people. These are people who would never ever lose their jobs but because there wasn’t that contact, they didn’t have any sort of reason to stay.

*Former Managing Director for Nordic Markets of the target*

**Limited communication before the integration** was cited as an equally important challenge of M&As. It contributed to the formation of uncertainty and lead to very limited possibilities of assessment (cultural, business and legal) of the target before the deal was signed. Choosing integration design, providing continuity of ongoing business operations and talent management were also restricted by this factor. As Legal Director of the acquirer put it,

Because we were in competition with [target] at that time in certain areas, so that they [the regulatory authorities] were extra cautious of us not breaking any competition laws, and it was very difficult to get information about the asset, so we didn’t see the contracts, we didn’t see almost anything in detail but very late, so that’s one of the reasons that we got this crisis during the fall of 2009.

*Legal Director of the acquirer*

Typical for most mergers (Evans *et al*, 2010; Jemison & Sitkin, 1986), limited communication in this case was particularly strict because of the competition law, the fact both of the companies had headquarters in the same country and were competing in the same industry. Interesting in
this regards are the ‘soft touches’ policy undertaken by one of the managers of the acquirer, which to a large extent contributed to the success of the deal. It is followed up in the subsection covering the success factors.

The challenge of organizational structure was identified as a key one by both the informants from the side of the acquirer and that of the target. It can be explained by several factors. First, the organizational structures of the two companies were very different, which created major obstacle to assessment and evaluation of the target. For example, the target’s affiliate in Nordic countries didn’t have separate legal function, which made it highly complicated to design this part of integration plan for the lawyers of the acquirer and the independent legal experts involved in the deal. Second factor is related to the fact that before the merger, the acquirer went through a major reorganization, which involved splitting existing business into separate work streams. This reorganization led to major changes inside the company, entitling people with new tasks and allocating responsibility in a different manner. Merging with another organization, with its separate products and team of people managing them, added complexity. As former Marketing Director of the target explained,

And that was the main challenge, how to ensure that you run this new organization properly that has just been formed, while we are trying to absorb a new portfolio, a new number of people which is twice the size of our old organization.

Marketing Director of the acquirer

Factors that facilitate success of M&As

In turn, the principal factors associated with success of the deal are talent management; target selection; and involving good advisors and experts.

In the studied case, talent management is referred to as a key success factor. The importance of talent management, namely identifying people essential for the business and making sure they remain in the company, is well recognized in the academic literature (Evans et al, 2010; Marsh, Mercer & Kroll, 2008; Stahl & Voigt, 2008). Applied to the case in question, talent management concerned the matters of employment not only of the people previously working for the target, but also those from the side of the acquirer holding similar positions. When the integration was completed, the proportion of people from the target and the acquirer working for the merged organization at the top Europe level was almost 50/50.
In Europe [the acquirer] truly looked for the best of the best, so people in similar positions were put against each other and then who [acquirer] really thought was the best got the job... If you look at leadership across Europe, half of the leaders you see today are legacy of [target] and half are legacy of [acquirer] within one unit. And I think that was a long way to admitting people’s credibility and in the [acquirer’s] system it was driving everybody nuts, but after all, they did pretty well.

Former Managing Director for Nordic Markets of the target

Combined with generally impersonal and business driven approach of the acquirer, such attention to human related matters can be explained by personal initiative of the local managers to retain the key talent of the target. Despite the impediments of the competition law, setting certain limitations to communication between the two companies before the actual integration, in the studied case the talent management was ensured by a series of unofficial meetings with the most valuable employees of the target. The purpose of these ‘soft touches’, as they were informally called in the company, was to identify people essential for providing continuity of ongoing business operations, especially that involving new products. Interestingly, before proceeding with this informal strategy, the manager who introduced it consulted with Legal Director and got her informal permission to proceed along with the instructions on how to ensure legal compliance of these actions. As a result, even though the meetings took place outside of any of the two companies, were of informal character and contained no promises, they made it possible to keep the key talent.

That sends out a very clear signal: now it’s a human face, now it’s different. At the moment of change everything you do and think is about danger and risk, that’s human... So, from that point, saying, listen, I want to know you as an individual and I want to make a fair assessment and I would really like to get to know you before I make such a decision, it’s a relief and that’s when you win the people over. It’s as simple as that, that’s kindergarten rules.

Head of the Business Unit of the acquirer

A possible explanation of the ‘soft touches’ strategy is a personal motivation of a manager who introduced them. It is suggested that attention to human related issues in general (and keeping key talent in particular) is a part of managerial mental model, which means that this role function is activated even without particular instructions from the headquarters.

Target selection is another key success factor in the studied case. Stemming from the strategic group of factors, it relates to the very rationale of the deal, to the synergies and complementarities the companies can reach together.

In general, I think the most important for success was company selection. I think [target] complemented [acquirer’s] needs extraordinary well; we filled in where [acquirer’s] weaknesses were... We were the perfect fit in this regard.

Former Managing Director for Nordic Markets of the target
Thus, strategic rationale of the deal is in line with the literature (Søderberg & Vaara, 2003; Williamson, 1981). And this case it is particularly interesting because it shows that in certain industries where competition is limited to a number of leading players and success is driven by R&D, like in the chemical processing one, considerations of product portfolio become of the foremost importance. It is a good reality check since today a dominant trend is to pay attention to ‘soft’ human-related issues, thinking outside of the box and creating value in nontraditional ways (Evans et al, 2010). However, in reality, at least in certain industries, the success of the merger is largely dependent on making right strategic choices.

**Involving good advisors and experts** is seen as another key success factor by some participants of the merger, in particular, by Legal Director from the side of the acquirer.

> For me, the success of the deal depends by large on good advisors, experts. I honestly think that well planned is half made... Someone needs to be deciding the whole thing from the start as well as one can, because in [acquirer] in connection with [target] transaction it wasn’t so. Good lawyers can make a huge difference for a deal. If they are smart experienced lawyers who can ask the right questions early enough, then things work much smoother.

*Legal Director of the acquirer*

It gives additional evidence to the supposition drawn after examining the existing literature that interaction of managers and lawyers forms a separate group of factors influencing the success of M&As and makes the data gathered for Research Question 5 (analyzed in a detail below) particularly interesting.

Contrary to the common belief in the academic literature according to which experts mostly interact during the integration period (Angwin, 2001; DePamphilis, 2005), large part of the work of lawyers and other specialists takes place before the deal is signed. Generally, all the informants admitted that the overall success of the deal by large depends on that period, when skillful work of experts becomes of a paramount importance in the conditions of uncertainty and communication limits set by the law. The work of legal has direct consequences not only for the future of the company (absence of accusation or tax/financial implications), but also to the work of managers. For example, it is often legal who decide how many people can stay, and when new people can start their job. As Legal Director of the acquirer noted,

> We had one very big hiccup in the transaction and that was when our tax experts and our auditors noted that there could be a big tax exposure in the US if we did a transaction in the way that we were planning on doing it at that time. So we needed to postpone... with one month and from the business people point of view one month was catastrophic. But we needed to deal with the managers and to explain that there is nothing that we can do about it and they simply have to wait.

*Legal Director of the acquirer*
From this angle, cooperation of these two groups of experts has immediate effect on the merging organizations even before the actual integration, before the teams of acquirer and target start working together. Interaction of managers and lawyers is examined in the following subsection of the paper.

Certain correlations could be traced between the principal challenges and the key success factors of the merger. First, talent management is ranked as an equally important success factor and as a challenge. Second, the challenge of limited communication before the integration (which could be read as limited communication among different groups of experts working on the deal) can be minimized by involving good advisors and experts. Thus, good managers can undertake certain steps to ensure that key people remain within the organization even before it is officially possible to start the interviewing process. In turn, lawyers advise them on how to proceed with it to ensure legal compliance of such actions and have a definitive role in a number of human-related issues.

In sum, the key findings of the study in relation to factors influencing success of M&As (Research Questions 3 and 4) are as follows: 1) confirming the presence of the four groups of factors outlined in the frame of reference of the study; 2) confirming that interaction of lawyers and managers constittes a separate group of factors; 3) revealing a new group of factors related to the structure of the companies (both that of the acquirer and differences between the companies in this regard); 4) expanding the time boundaries of the influence of human factors on the deal to phases 5 (First Contact) and 6 (Negotiation); 5) revealing a limited value of preliminary cultural assessment.

4.2.3. Factors related to interaction of managers and lawyers

**RQ5. To which extent the interaction of managers and lawyers influenced the acquisition process? What are the fundamental differences in the mental models of managers and lawyers and how do they influence their interaction during the preliminary stage of the deal?**

According to the results of the analysis, managers could be characterized with the following roles and mental models’ elements. Roles: 1) leading people; 2) dealing with uncertainty; 3) managing new and existing assets. Mental model: 1) practical and business focus; 2) personal involvement and material interest; 3) time pressure. What comes to lawyers, their roles are characterized as 1) risk management; 2) implementation of transaction; and 3) continuity of ongoing business operations. Legal mental model is associated with the following features: 1) to
avoid the claims afterwards; 2) focus on details, concrete, practical; 3) satisfying the needs of business customers.

Table 14  Results of comparison, RQ5

<table>
<thead>
<tr>
<th>Managers</th>
<th>Mental model:</th>
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</thead>
<tbody>
<tr>
<td><strong>Role:</strong></td>
<td>1) practical and business focus (x 3);</td>
</tr>
<tr>
<td>1) leading people (x 8);</td>
<td>2) personal involvement and material interest (x 3);</td>
</tr>
<tr>
<td>2) dealing with uncertainty (x 7);</td>
<td>3) time pressure (x 1).</td>
</tr>
<tr>
<td>3) managing new and existing assets (x 6).</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Lawyers</th>
<th>Mental model:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Role:</strong></td>
<td>1) to avoid the claims afterwards (x 7);</td>
</tr>
<tr>
<td>1) risk management (x 8);</td>
<td>2) focus on details, concrete, practical (x 3);</td>
</tr>
<tr>
<td>2) implementation of transaction (x 7);</td>
<td>3) satisfying the needs of business customers (x 2).</td>
</tr>
<tr>
<td>3) continuity of ongoing business operations (x 6).</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Interaction of lawyers and managers:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) a given conflict due to the accelerating role of managers and restricting role of lawyers (x 4);</td>
</tr>
<tr>
<td>2) very limited in terms of time and number of people involved (x 2);</td>
</tr>
<tr>
<td>3) central role of legal function during the closure of the deal (x 2).</td>
</tr>
</tbody>
</table>

The following can be inferred about interaction of lawyers and managers: 1) there is a given conflict due to the accelerating role of managers and restricting role of lawyers; 2) actual interaction of lawyers and managers is very limited in terms of time and number of people involved; 3) legal function has a central role during the closure of the deal.

The initial assumption that interaction of lawyers and managers constitutes a separate group of factors influencing the outcome of the deal is confirmed by the informants. It was referred to as a key success factor for M&As by Legal Director of the acquirer and by an independent consultant, the latter during the pilot interview. In addition, trust between managers and lawyers and right timing of their interaction were mentioned as success factors by managers from both the target’s and the acquirer’s side.

One thing that as a manager you always worry about is if legal are coming up with unnecessary steps just to cover, because that’s the motivation, to cover their back. So for instance, ... they can say ‘you just can’t do it’ the way I want to, which obviously would be a big conflict for us because we need to do it; but they can also say, ‘Yes, you can do it but instead of two steps you have to do it with five steps’, and that obviously also means delays. In the latter case, a lawyer interprets it a bit more flexibly and says, ‘Yes, actually you can do it but here are the risks and we as an organization are willing to take that risk in a transparent way’. And that’s how it is supposed to be, that’s how you build trust.

*Marketing Director of the acquirer*
The results of the study introduce a new understanding of the time of actual interaction of managers and lawyers. According to the frame of reference of this study, the preliminary stage of the deal is terminated at the moment of signature of the contract and, from the legal point of view, the moment of passing of property rights from the target to the acquirer, usually in a form of shares exchange (DePamphilis, 2005). The way this phase is described in the theory points to its character of a one-time event. In reality, however, the phase of terminating negotiations and closure of the deal can last up to nine-ten months. This particular period becomes the time when different groups of experts actually interact. The interaction between specialists (as well as that between managers of two companies) can be significantly hindered by legal constraints and considerations of secrecy of the deal, especially if the target and the acquirer are in the same industry. The constraints imposed upon the interaction of experts during the previous phases result in very limited access to information, very limited opportunity of assessment, and communication between a very limited number of people, usually top management and selected people from legal and finance functions.

Figure 9 of Chapter 2 represents a theoretical image of interaction of different groups of specialists during the preliminary stage of the deal. In reality, the interaction of different groups of experts is less structured. It holds true that lawyers, financial experts and managers interact during phase 5 (First Contact) and phase 6 (Negotiation) of the preliminary stage of the deal. However, interaction during phase 4 (Screen) is questionable because of the obstacles imposed by competition law. In terms of distribution of organizational tasks among the experts during the preliminary stage of M&As, the data collected from the interviews correspond to frame of reference of this study. In particular, the data obtained during the interviews with the independent consultant, Marketing Director of the acquirer, heading the acquisition process for his company, and Former Director of Nordic Markets, heading the process for the target, give grounds to confirm correspondence of roles of strategic consultants, financial advisers, lawyers and managers to the body of research. However, the data analysis provides a new insight to the principal organizational roles of lawyers and managers.

In addition, the results of the study suggest a new interpretation of the role of a consultant. The traditional understanding of the consultant’s role in M&As is to provide evaluation of the strategic grounds of the deal and to advise on the specific action plan (Angwin, 2001). However, the studied case expands this understanding: in particular, the findings indicate that a consultant can be involved at the phases of First Contact and Negotiation. His functions include, first, to provide a platform for information exchange to ensure legal compliance of interaction between two companies, and, second, to create a buffer for the exchange of technical data and to
facilitate alignment of organizational cultures. Those two roles help to address the challenge of limited communication, which gives merging companies an opportunity to design an integration plan (or to take some other steps, like to ensure continuity of business operations) without actual contact with the other party.

The main reason we needed a consultant was that the communications had to go through the consultant to be washed through this legal process.

*Former Managing Director for Nordic Markets of the target*

In sum, three main findings are meaningful in relation to Research Question 5. First, the interaction of experts involved at the preliminary stage of M&As is mostly limited to the last phases of the stage (phase 5, First Contact and phase 6, Negotiation) due to the legal constraints and considerations of secrecy of the deal. Second, this interaction is very limited in terms of people involved (mostly top management of the merging companies, selected lawyers and finance experts). Third, a consultant might act as a buffer for data exchange and as a guarantor of compliance with the law.

The main conclusion of frame of reference regarding interaction of lawyers and managers concerned the differences in their organizational roles, goals and underlying values, which are likely to lead to conflicts of interests, misunderstanding and to create impediments during their cooperation (Gavetti, 2005; Gavetti & Levinthal, 2000; Hodgkinson et al, 1999; Kaplan & Tripsas, 2008). Fundamental cognitive differences of these two groups of specialists are claimed to result in their diverse: 1) goals in the acquisition process; 2) evaluation and motivation; 3) behavior in terms of irrationalities of decision making; 4) information sources used for their analysis (Nesteruk, 1991; Gary & Wood, 2011; Williamson, 1981).

The results of the study correlate with the theoretical findings in the following way. First, the fundamental conflict in motivation and organizational roles of the two groups of experts is confirmed. While managers are guided to a large extent by personal involvement and interest, lawyers strive to satisfy the needs of business customers and to avoid claims afterwards. In this, since one of the key organizational roles of managers is to manage new and existing assets, they are interested in accomplishing the deal and the following integration as soon as possible. They are rushing to bring new products and new people to organization, to synchronize practices, and to benefit from the merger. In the meantime lawyers, with their key organizational role of risk management, are prone to take time to verify all the details of the transaction to ensure its safety. This motivational contradiction leads to a foreseeable conflict of interest.
Second, an interesting finding of the study concerns principal role of managers being leading people and dealing with uncertainty. These functions rank first in the replies of the informants and in addition to communicating objectives and motivating people include dealing with uncertainty at the personal level, building trust and providing information about the future of organization and its people. In essence, the importance of this role corresponds to the findings regarding the Research Question 3, factors influencing the deal, and points out to the influence of human factors on the success of M&As (Evans et al., 2010).

As a matter of fact, I don’t think you can call them managers... In a situation like this, you are a leader and you have to act like a leader; if you are acting like a manager, I think you will be pretty much in trouble. So managers, leaders, have a very key role. First of all, at the personal level they have to deal with uncertainty... because the health of the business most importantly depends on their attitudes and beliefs. And if they are somehow creating an environment full of anxiety and uncertainty and tension, then... the process of the integration is not going to work properly.

Manager from the side of the acquirer

The central role of lawyers was acknowledged by the informants; the legal function during the closure of the deal was referred to as the ‘bottleneck’ and ‘funnel’, with all the other functions (finance, marketing, production, etc.) complying with the requests the legal were giving them to ensure that their actions remained legitimate and their demands were met.

Their [lawyers’] motivation is to make sure that, first of all, they are doing it [conducting the transaction] quickly because they are usually the bottleneck, meaning that... if everybody does their job right, it all comes down to clearing the deal, everything has to be legally proper because everything falls under it. It’s like a funnel if you think about it: everybody is putting a lot of processes: medical, marketing, finance and so forth, and it is all tied down to the legal level.

Marketing Director of the acquirer

It might be assumed that these differences in organizational roles, when managers are oriented to leading people and dealing with uncertainty and lawyers are focused on ensuring safety of the transaction, lead to another potential conflict of interests.

Third, the above mentioned differences are linked to the confirmed assumption of the frame of reference stating that managers are mostly concerned with the results of the transaction and, unlike lawyers, are affected by the results of the deal. At the same time, the legal are concentrating on ‘covering their back’ and see managers as ‘business customers’.

As the manager of the target summarized it,
Initially, before the two companies physically become one, legal are essential, they need to make sure that all documents and communications are properly done... The main conflict that we had is that we wanted to communicate more openly and freely than they were willing to let us. So their motivation was to protect, protect, protect. Most of us [managers] are commercial people, and our motivation was to get it right, get it right, urgently get it right.

Former Managing Director for Nordic Markets of the target

Fourth, the results of the study confirm the point of the frame of reference stating that organizational roles, goals and underlying values of lawyers and managers are likely to lead to misunderstanding, conflicts of interests and to create impediments during their interaction (Nesteruk, 1991; Gary & Wood, 2011). It is by large rooted in the fact that managers strive to benefit from the synergies while lawyers aim to ensure safety of the transaction and to avoid claims afterwards. In the framework of irrationalities of the decision-making process (Jemison & Sitkin, 1986), it might be inferred that managers are prone to escalating momentum, while lawyers have a restricting role in this process, which coincides with one of the conclusions of the frame of reference. Legal Director of the acquirer summarized the conflict between managers and lawyers in the following way,

They [managers] want to have the new products as soon as possible, they want to have the people in as soon as possible, they want to have the people working for the products as soon as possible so that they can have the benefits from the deal. So there is a given conflict, because they are in a hurry and... we [lawyers] really need to focus on the taxes, on that everything goes right so that there are no huge claims on us.

Legal Director of the acquirer

Graphically, the essence of the cognitive conflict between managers and lawyers can be depicted as follows.

Figure 14 The essence of the cognitive conflict between managers and lawyers

![Graphical representation of the conflict between managers and lawyers](image-url)
Fifth, despite the differences in organizational roles and motivation, lawyers and managers have a common interest of ensuring continuity of ongoing business operations and conducting the deal quickly. While these two groups of experts can have different motivation for it (ensuring efficiency and safety of transaction for lawyers and keeping the business going and benefiting from the synergies for managers), this common goal can become a starting point of cooperation between them.

Sixth, the assumption of the frame of reference regarding a distinct way of reasoning typical for the discipline of law and constituted by legal logic and legal ethics (Aldisert, 1997; Schnee, 1997) didn’t find direct confirmation in the results of the study. Since the target company didn’t have its own legal expert, the only primary source of information about lawyers was Legal Director of the acquirer, which is not enough to produce data sufficient for generalizations. A further research would be needed to distinguish what is typical for legal reasoning and how lawyers navigate between the corporate choices on individual level to confirm (or to refute) this theory. However, the assumption that in their decisions lawyers are guided by their organizational roles holds true, which is very clear from the way Legal Director of the acquirer describes a nature of her conflicts with management (referring to different corporate objectives of managers and lawyers in general, see previous quote on p. 95). It therefore also holds true that the process of managerial reasoning is mainly formed by goals set by organizational roles of individual corporate managers.

…the big fights are about who is going to get what business, what portfolio... So one guy may want to keep the [name of the product] business, the other guy wants to keep another business, and whose business unit this is going to fall under can become a real challenge, can become a real battle, political battle. And yes, at the same time they all want to do the right thing, what legal has defined for them. I want to do the best I could and the other guys want to do the best they could when it comes to finance and so forth.

*Marketing Director of the acquirer*

It can be inferred from the second part of the citation above that the assumption stating that organizational roles are affected directly and indirectly by law, with no similar reverse effect on lawyers (Nesteruk, 1991), also holds true. In the context of M&As it would often mean delaying certain desirable for managers events (for example, launching new products or accepting new people in the organization) because of the impediments of legal character.

Finally, another characteristic of interaction of lawyers and managers during the acquisition process, its limited nature both in terms of time span and people involved, is already cited above. An interesting aspect of this limitation is that since lawyers are by large exposed to top
management, line managers are often unaware of the differences in mental models of lawyers and managers.

Thinking the process, I didn’t think that much from the legal point of view, I thought it was something that was done anyway and there were separate resources and people, meaning lawyers, doing their work.

_Sales manager from the side of the target_

To sum up, in relation to Research Question 5, the following findings could be inferred after comparing the results of data analysis to frame of reference.

First, differences in motivation and organizational roles of lawyers and managers and confirmed (Gavetti, 2005; Gavetti & Levinthal, 2000; Gary & Wood, 2011, Hodgkinson _et al_, 1999; Kaplan & Tripsas, 2008). Managerial behaviour is characterized by personal interest and desire to accomplish the deal the soonest, while lawyers’ motivation is to satisfy the needs of business customers and to manage possible risks. A resulting conflict of interests is foreseen.

Second, the principal role of managers is found to be leading people and dealing with uncertainty. In the meantime, the central role of lawyers at the phase of the deal closure (ensuring that the actions of different functions remain legal and their demands are met) is acknowledged by the informants.

Third, the assumption of the frame of reference regarding managers being mostly concerned with the results of the deal, while prime interest of lawyers is safety of the transaction, is confirmed.

Fourth, the results of the study confirm another ground assumption of the frame of reference stating that organizational roles, goals and underlying values of lawyers and managers are likely to lead to misunderstanding, conflicts of interests and to create impediments during the time they are working together on the deal (Gary & Wood, 2011; Nesteruk, 1991).

Fifth, despite the abovementioned differences in organizational roles and motivation, lawyers and managers have a common interest of ensuring continuity of ongoing business operations and conducting the deal quickly, which can become a cornerstone of their successful cooperation.

Sixth, even though the assumptions regarding a distinct way of reasoning typical for the discipline of law should be followed up by further research, it holds true that the processes of managerial and legal reasoning are mainly formed by goals set by their organizational roles. A
point of the frame of reference regarding organizational goals being affected directly and indirectly by law (Nesteruk, 1991), is confirmed as well.

Finally, another characteristic of interaction of lawyers and managers during the acquisition process, its limited nature both in terms of time span and people involved, has an interesting aspect of line managers being typically unaware of the differences in mental models of lawyers and managers.

4.3. Prescriptive sub-aim

*Prescriptive sub-aim: based on the findings of this study, to develop a set of best practices for conducting the preliminary stage of M&As inferred from the studied company case with an emphasis on cooperation of managers and lawyers.*

*RQ6. Which practices and lessons learnt by the companies could be taken into account to facilitate the success of future M&As?*

At the global economy of today M&As become an increasingly appealing option of company’s growth. Thus, learning from one’s experience in this area contributes to M&As capabilities of the company and becomes its competitive advantage (Evans et al, 2010). Several takeaways seem to be particular important in this regard: 1) aligning M&As with the strategy of the company and industry context; 2) overcoming limited communication of the initial phase of the deal by using independent consultant and 3) implying the strategy of ‘soft touches’ to make sure that the key talent remains in the company.

The first point seems to be valid given the increasing attention to human-related factors, ‘soft issues’ and innovative ways of value creation in academic literature (Evans et al, 2010). In certain industries, like in the chemical processing one, the success still depends on the fundamental conditions, such as company’s size and products of R&D. In this regard, the study shows that success in M&As often has strategic grounds and is dependent to a significant degree on the right choice of the target (in the chemical processing industry, that would mean a target with a right product portfolio). The second point, addressing limited communication of the initial phase of the deal by involving an independent consultant, is a legal way to overcome the inevitable situation of uncertainty and limited communication that is traditionally cited as one of the key factors hampering the success of the deal (Jemison & Sitkin, 1986; Stahl & Voigt, 2008).

Another potential benefit in involving an independent consultant lies in resolving the tension caused by different organizational cultures. In this case, a consultant becomes a buffer between
the companies at the stage of First Contact. In the company case, he was particularly useful when the firms were aligning the budget policies. Without a consultant, aligning company policies would most likely have resulted in a discussion about which practices are the best ones (Jemison & Sitkin, 1986; Stahl & Voigt, 2008). Considering tense atmosphere around the merger, possible differences in organizational cultures and the desire of each group to hold on to its power (Evans et al., 2010), such a discussion could have potentially led to misunderstanding or a conflict between the parties. Involvement of the third party enables to keep things emotionally neutral and to align company functions without losing fragile trust of the pre-integration stage.

The consultant was good at figuring how to take all our hard electronic data, mashing it with [acquirer’s] electronic data, so in the end you could come up with one singular point of view. Because what we would call certain expenses, [acquirer] would call something completely different, and for them it was major. So we actually had a consultant there during the interim time but after October 1st [when the deal was concluded at the local level]… we started talking about the business more because we have just done some of the lineup of the practicalities.

*Former Managing Director for Nordic Markets of the target*

Another way to align organizational cultures at the preliminary stage of the deal would be to find out the key differences during actual communication (mainly during the Negotiation phase) and to reconcile them by discussing these differences openly, which was often the case as well. Often such practical settlement, first at the top level with further communication below, would constitute the principal way of aligning organizational cultures. To a large degree, it can be explained by impossibility to carry cultural assessment before the actual integration. According to the manager from the side of the acquirer,

> It [cultural assessment] doesn’t work, they [the headquarters] can give all those general analyses, and we were being shared those things, so it was nice, but I can tell you, you just get in and get to know the people and talk to them and understand them. The preliminary assessment was done but it was not precise and it can’t be. It was done properly but it can’t happen until you walk into that room and meet real people.

*Manager from the side of the acquirer*

Finally, paying proper attention to human factors at that time can become of crucial importance for the future of organization. The policy of ‘soft touches’, undertaken by a manager of Finnish affiliate of the target, made it possible for the acquirer to retain key talent. In the studied case, as a result of the merger, the acquirer was receiving a number of products, which were completely new to the organization and its people. Some were the kinds that were never used in the company before. At the same time, the budget of the ongoing business of these products
exceeded that of most products of the acquirer. As the manager from the side of the target, who was going to receive these product in the portfolio he was managing, put it,

That was my own sort of a common sense. I ask myself, do I know anything about the [product name] business that is going to represent more than half of my business? What’s the answer, no. So it is in my best interest to make sure that the best people in that company who are going to run 60, 70, 80% of my business are going to be kept and identified. It was very clear to me from day one, and I have to say there was a clear instruction not to get in touch with people in official manner before the integration is allowed, so you could not really make an assessment.

*Head of the Business Unit of the acquirer*

Considering the context of the deal and the volume of the product budget, it would not be an exaggeration to say that to a large extent the success of the deal was dependent on retaining the key people of the target. The ethical situation around the merger often leads to people leaving the company (Evans *et al*, 2010; Stahl & Voigt, 2008). In the studied case, the managers responsible for the new leading products could have resigned within nine months after the deal was announced. In this sense, the policy of ‘soft touches’ represents an efficient, yet legal way to ensure the success of the deal in the situation of uncertainty and limited communication.
5. CONCLUSION AND SUGGESTIONS FOR FURTHER RESEARCH

The purpose of this study was to examine factors influencing the outcome of M&As from a subsidiary perspective, with a particular focus on the interaction between two groups of experts, managers and lawyers. The discussion below is built according to the three sub-aims of the study: descriptive, exploratory and prescriptive. Practical and academic contributions of the paper along with suggestions for future research are mapped afterwards.

5.1. Descriptive sub-aim

To disclose the descriptive sub-aim, the merger in question was examined in detail. The purpose of such description was to set the context for the following analysis, namely to describe the environment in which the acquisition took place, as well as the disposition, extent of involvement, rights and responsibilities of managers and lawyers.

To distinguish the factors which determine the outcome of the deal that constitutes the case study of this paper, it is important to understand the trends of the industry where the deal took place. The chemical processing industry could be characterized by the following trends:

- emergence and growth, both internal and external, of a small number of dominating players;
- the presence of the following typical challenges: a) facing internal and external competition; b) ensuring compliance to industry specific legal regulations; c) maintaining legal protection of R&D results, especially in emerging markets; d) managing product portfolio to balance new products and that with expiring legal protection;
- high revenues with evidence suggesting that this trend is likely to continue into the future.

For the purpose of the study, it is also important to understand the business model of the leading companies in the industry and their success drivers. In the chemical processing industry, the business model is shaped by large margins, high revenues, intense competition, limitations of regulatory controls and immense investments in R&D, which drives innovation. An important influential factor is legal protection of the innovative output resulting from R&D, or, more precisely, its time limits. After investing years and millions of dollars in the development of new products, companies enjoy the benefits of their success only for a limited amount of time,
after which legal protection expires and the composition of the product becomes available to the public, hence, their competitors. Replication, priced significantly below the original level, enters the market almost immediately, practically putting an end to the sales of the original product. After legal protection of their leading products expires, companies should continue to innovate and introduce new products to maintain their competitive positions. Acquisitions of firms with a suitable product portfolio in this case become an alternative to the R&D process. The success drivers in the chemical processing industry are therefore companies’ size and balanced portfolio of cash generating and new products.

From the perspective of interaction between different groups of experts and their involvement in the deal, it is notable that the organizational structures of the acquirer and the target were very different. The target did not have a separate legal entity in Finland and was dependent on the local legal center. Managers were involved in the deal earlier than lawyers. However, limited communication between the companies due to the restrictions of competition law resulted in a six to nine month gap between the moment the deal was announced and the beginning of actual integration. The main responsibility of the lawyers at this stage was to avoid tax exposure and to implement the global deal locally. In particular, their immediate tasks included transfer of asset ownership and human resources. In turn, the managers were responsible for making sure that the business, both of the acquirer and that of the target, are not disrupted and that the projected synergies are realized while two companies are streamlining their operations and become one.

5.2. Exploratory sub-aim

The exploratory sub-aim of the study resulted in the findings regarding factors that influence the outcome of M&As and the extent, to which the interaction of managers and lawyers affected the outcome of the acquisition process. It also provides insights into the fundamental differences in the mental models of managers and lawyers.

In relation to the factors influencing the outcome of the deal, the four groups identified in the existing research are confirmed by the results of the study: 1) those determining the sensibility of entering an M&As deal (strategic factors); 2) those related to the choice of integration design (integration factors); 3) human-related factors; 4) factors attributed to the irrationalities of decision-making process (irrationalities factors). The fifth group of factors, formed by interaction of lawyers and managers, which could have been drawn from the research on mental models and organizational roles of those two groups of specialists, is also confirmed by the data. The sixth group, constituted by organizational structures of the merging companies, is inferred
from the data analysis. Compared with the theoretical assumptions of frame of reference, human factors are more stretched in time and become particularly important during the phases of First Contact and Negotiation. Another important insight emerging from the study is the fact that in certain industries, such as the chemical processing, the success of M&As is often driven by strategic factors. This finding is perceived important due to the fact that the current research tends to associate value of M&As with human factors and ‘soft issues’ (Evans et al., 2010), which often leads companies to put these factors in the spotlight during the preliminary stage of the deal. The study shows that it remains important to begin the preliminary analysis of the merger from strategic grounds.

With five factor groups confirmed and one more revealed, the summary of factors affecting the deal is presented in Figure 15 below.

**Figure 15 Six groups of factors influencing the success of M&As at the preliminary stage**

All the distinguished factors were identified in the case study. From this perspective, key factors influencing the deal are: 1) talent management and organizational culture (human factors); 2) limited communication before the integration and uncertainty (irrationalities of decision-making process); 3) target selection (strategic factors); 4) organizational structure (structure of the company); 5) preparation before the integration (integration factors); 6) involving good advisors, experts (interaction of lawyers and managers).

The following challenges were identified in the studied company case: 1) organizational culture; 2) uncertainty; 3) limited communication before the integration; 4) talent management; 5) organizational structure. From the way the company addressed them, the following key
factors are attributed to the success of M&As: 1) talent management; 2) target selection; 3) involving good advisors and experts.

A large part of this thesis concerns the interaction between different groups of experts working on the deal, in particular managers and lawyers. The following three findings of the study are most important in this regard. First, contrary to the body of research, the interaction of the experts, even though it does take places from the early phases of the acquisition process, is mostly limited to the last phases of the preliminary stage (phase 5, First Contact and phase 6, Negotiation) due to legal constraints and considerations of secrecy of the deal. Second, this interaction is very limited in terms of people involved (mostly top management of the merging companies, selected lawyers and finance experts). This way, line managers are typically unaware of the differences in mental models of lawyers and managers and an inherited conflict between those two groups of experts. Third, in addition to the existing research, the role of a consultant can include a function of a buffer for data exchange and that of a guarantor of compliance with the law.

The role of managers in M&As consists of 1) leading people; 2) dealing with uncertainty; 3) managing new and existing assets. Their mental model can be characterized by 1) practical and business focus; 2) personal involvement and material interest; 3) time pressure. In turn, the role of lawyers consists of: 1) risk management; 2) implementation of transaction; 3) ensuring continuity of ongoing distribution. Their mental model is composed of the following objectives: 1) to avoid the claims afterwards; 2) to focus on details, concrete, practical aspects; 3) to satisfy the needs of business customers. These findings affect the actual interaction of managers and lawyers in the following way.

First, differences in motivation and organizational roles of lawyers and managers with a foreseeable conflict, mapped in the frame of reference, are confirmed. Second, in addition to the existing research, while the principal role of managers is found to be leading people and dealing with uncertainty, lawyers are primarily concerned with risk management and have a central role during the deal closure. Third, the theoretical assumption that managers are mostly concerned with the results of the deal, while prime interest of lawyers is safety of the transaction, is confirmed. Fourth, another confirmed theoretical assumption is that organizational roles, goals and underlying values of lawyers and managers are likely to lead to misunderstandings, conflicts of interests and to create impediments during the time they are working together on the deal. Fifth, a common interest of ensuring continuity of ongoing business operations and conducting the deal quickly is ascribed to both managers and lawyers. Sixth, the assumptions
regarding a distinct way of reasoning typical for the discipline of law are not directly confirmed by the results of the study, but the process of managerial reasoning is found to be mainly shaped by the goals set by the organizational roles of individual corporate managers. The assumption about organizational goals being affected directly and indirectly by law holds true as well. Finally, line managers are found to be often unaware of the differences between the mental models of lawyers and managers.

Most importantly, the interaction of lawyers and managers: 1) contains a given conflict due to the accelerating role of managers and restricting role of lawyers; 2) is very limited in terms of time and number of people involved; 3) is determined by large by the central role that legal function has during the closure of the deal.

The alterations provided by the data analysis are mapped in Figure 16 below.

In sum, the main themes emerging from the results are complexities related to human factors, matters of culture, communication and uncertainty. The new speculation suggested by the data analysis is a special importance attached to the factor of talent management, which is seen as equally challenging and contributing to the success of the deal. Interaction of managers and lawyers is characterized by a given conflict due to the differences in their mental models and organizational roles; it is also limited in terms of time and people involved. Following the interpretation of the results of the analysis, the conclusion of the frame of reference, complemented and specified by the findings of the study, reads as follows:

- six groups of factors come into play at the preliminary stage of M&As; among them, human factors and irrationalities of the decision-making process take place throughout the whole stage and deserve acute attention;

- strategic factors, especially in certain industries, remain extremely important for the success of M&As. It therefore becomes essential to evaluate alternatives to the merger during the first stage of decision-making at the preliminary stage of M&As;

- structure of the company forms a separate group of factors, not acknowledged in the existing research, and follows the three previous groups in terms of importance;

- different kinds of merger designs could be recommended to companies depending on a group of factors; it becomes therefore important to decide which of the merger models should be used as a basis for integration and if it is realistic for the companies in question;

- finally, timely involvement of good advisors and setting right grounds for their interaction often becomes key to M&As success. Different mental models and decision-making processes of lawyers and managers are likely to create impediments for such interaction. However, overcoming these impediments (for example, by identifying
similar goals of completing the deal quickly and ensuring continuity of ongoing operations) to a large extent enhances the success of the deal.

Figure 16 Interaction of managers and different groups of experts at the preliminary stage of the deal: results of the study

<table>
<thead>
<tr>
<th>Developing strategy of the entire business</th>
<th>Developing acquisition plan related to the business plan</th>
<th>Active search for the acquisition candidates</th>
<th>Screening and prioritizing the prospects</th>
<th>Initiating contact with the target</th>
<th>Refining valuation, taking final decision (DePamphilis, 2005)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Managers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Leading people</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Dealing with uncertainty</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Managing new and existing assets</td>
</tr>
<tr>
<td>Strategic consultants</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consulting on strategic aspects of the business plan</td>
<td>Consulting on sensibility of M&amp;As</td>
<td>Suggesting search criteria in line with the strategy of phases 1-2 (Jemison &amp; Sitkin, 1986)</td>
<td>Providing the platform for info exchange Ensuring legal compliance Facilitating cultural alignment</td>
<td>Defining financial criteria of candidates Financial due diligence of the target (Angwin, 2001)</td>
<td>Financial due diligence of the target (Angwin, 2001)</td>
</tr>
<tr>
<td>Financial advisers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Due diligence of the legal aspects of the target and local/industrial regulations from this point</td>
<td>Preparing the text of initial offer in terms of defining obligations for the parties and merger legal form</td>
<td>Financial due diligence of the target (Angwin, 2001)</td>
<td></td>
<td>Defining legal consequences of the deal (obligations of the parties, property rights) (DePamphilis, 2005)</td>
<td>Financial due diligence of the target (Angwin, 2001)</td>
</tr>
<tr>
<td>Lawyers</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Risk management</td>
<td>• Implementation of transaction;</td>
<td>• Continuity of ongoing distribution</td>
<td>• Risk management</td>
<td>• Implementation of transaction;</td>
<td>• Continuity of ongoing distribution</td>
</tr>
</tbody>
</table>

Nowadays, firms turn their experience of successful acquisitions into sustained M&As capabilities, which enables them to execute acquisitions in future and becomes an important source of competitive advantage in the global economy (Evans et al, 2010: 527).
5.3. Prescriptive sub-aim

For M&As in general, the main conclusion of this study is that success of an acquisition depends by large on its preliminary stage and the interaction between different groups of specialists at this time. Five of seven reasons for M&As’ failure can be addressed before the actual integration, and four of six success factors can be ensured during this time. Therefore, the key assumption of this study, namely that paying proper attention to the preliminary stage minimizes the challenges of actual integration and increases the likelihood of the successful outcome of the merge, holds true.

The companies can also learn from the fact that two additional groups of factors influencing M&As were outlined by the study. Compatibility between organizational structures of the companies can be examined during the due diligence stage, and a respective set of measures can be introduced before the integration to minimize the tension. Knowledge about the interaction between managers and lawyers, which also constitutes a separate group of factors determining the success of M&As, is also beneficial for companies in general. Since the conflict between lawyers and managers is predefined by the differences in their organizational roles and mental models, the companies can introduce a number of practices and workshops. The purpose of such workshops could be to inform those two groups of experts about their differences and to build on their mutual interests and objectives to complete the deal quickly and to ensure continuity of business operations, thus increasing the success of M&As.

The findings regarding the interaction between managers and lawyers expand the circle of parties to benefit from the results of this study from companies engaged in M&As to business and law schools. It is recommended that these institutions introduce specialized courses, where future managers and lawyers would study the mental models of their future counterparts in acquisition process and learn how to interact with them in the most productive way. Since managers are mostly generalists and lawyers are often specialized in a particular area, the same recommendation about educating lawyers on how to interact with managers holds true for the law offices specializing in M&As.

For the companies in chemical processing industry, the takeaway from the study is that focusing solely on R&D as a success driver and product portfolio as a rationale of acquisition is narrow-minded, since to ensure continuity of ongoing business operations it is of paramount importance to keep people responsible for these products in the organization. In this sense, even in chemical processing industry, it is worth remaining aware of human factors in M&As and ensuring retention of top talent.
From the perspective of practices and lessons learnt from this particular case, the prescriptive sub-aim resulted in the following takeaways: 1) at the initial stage of the deal, it is important to align the merger with the strategy of the company and the industry context; 2) limited communication of the initial phase of the deal can be overcome by using an independent consultant and 3) the strategy of ‘soft touches’ can be implemented to make sure that the key talent remains in the company.

In practical terms, the conflicts between managers and lawyers are most likely to occur during the last three phases of the preliminary stage of the deal: Screen, First Contact and, in particular, Negotiations. As both the existent research and the results of the study show, lawyers generally get involved into M&As later than managers do, so the decision about the merger and its rationalization is an entirely managerial task and initiative. To some extent, this fact explains the high degree of managers’ commitment to the idea of an acquisition itself, unwillingness to consider alternatives to it and lack of patience to go through the practical aspects of the deal lawyers are most interested in.

Thus, when it comes to screening the prospects, managers want to choose one the soonest, while lawyers focus on safeguarding the deal. Their evaluation of prospects is therefore different, since the criteria both parties are using for it are rooted in their different organizational goals. At this stage, it would help to bring these two groups of experts together and have them work out a common scale of evaluation, discussing objectives and expectations of both managers and lawyers. Not only developing such a common scale will minimize delays due to the continuous discussions about the target, but it will also clarify the interests of the two groups of specialists, thus laying a base for their consequent cooperation.

The following step of the acquisition process, First Contact with the target, is fraught with a possible conflict since managers want to initiate contact the soonest. Their goals at this stage are to map integration, to ensure continuity of business and to retain the talent. Lawyers, in turn, according to their role, want to ensure compliance of these steps with the law, which causes delays. To reconcile these contradicting goals, the experts should seek each other’s understanding and work on the solutions together. It would help if managers manifest understanding and respect for the work that lawyers do and see legal function as a key, not as a problem. In the case study, the manager who implemented the policy of ‘soft touches’ coordinated his actions with Legal Director and got verbal permission to proceed with his plan and advice on how to ensure legal compliance of his actions. This is a good example of how these two groups of experts can – and should – cooperate.
The final step of the preliminary stage of M&As, Negotiation, brings all the conflicting factors into play. The management team cannot wait to see the results of the merger in practice, the pressure to conclude the deal augments and the responsibility of the legal to conduct it without exposure raises as well. At the same time, often Negotiation is the first time when certain information becomes available to the lawyers, so they have to foresee its possible consequences and deal with them on the spot. Lawyers and managers look for different kind of information, and the recommendation in this case is for the lawyers to communicate to managers from the very beginning what kind of information legal experts can be interested in and to request it at the soonest. In addition, during this phase as well as during the whole preliminary stage, managers and lawyers should remain aware of their differences and both of their common goals (to conduct the deal quickly and to ensure continuity of business operations), and build on the latter. Since leading people is part of managerial role, managers should take initiative in this process.

5.4. Practical and academic contribution of the study

The results of this study seem to be both of academic and practical value. From the academic perspective, the paper contributes to the knowledge on M&As by examining the preliminary stage of the deal, while most of the research has been concentrated on the integration one, associating it with the most challenges of acquisition process (Evans et al., 2010; Jemison & Sitkin, 1986; Stahl & Vaara, 2007). In addition, the study adds to the research on mental models of different experts and addresses the gap in the existent literature on the interaction between managers and lawyers during the preliminary stage of M&As. It also adds to the understanding of the context of this interaction by characterizing its time, length and parties involved.

In relation to the factors influencing the outcome of the deal, the results of the study confirm the presence of the four groups identified in the existing research (strategic factors, integration factors, human-related factors and irrationalities factors). This fact gives ground to further, more detailed, research on these factors and their interaction. In this study, for example, strategic considerations outplaced human-related factors. It would be interesting to examine how one group of factors affects another and what is the best way to balance between all the groups. The results of the study also confirm the presence of the fifth group of factors, formed by interaction of lawyers and managers, which was mapped after the literature review. The sixth group constituted by organizational structures of the merging companies, is new to the existent research and forms an academic contribution of the study.
The main findings regarding interaction of managers and lawyers are as follows. First, contrary to the existent literature, the interaction of the experts mostly takes place during the last two steps of the preliminary stage of M&As (First Contact and Negotiation) due to the legal constraints and considerations of secrecy of the deal. Second, this interaction is very limited in terms of people involved (mostly top management of the merging companies, selected lawyers and finance experts). Third, in addition to the existing research, the role of a consultant can include a function of a buffer for data exchange and that of a guarantor of compliance with the law.

The role of managers in M&As consists of 1) leading people; 2) dealing with uncertainty; 3) managing new and existing assets. Their mental model can be characterized by 1) practical and business focus; 2) personal involvement and material interest; 3) time pressure. In turn, the role of lawyers consists of: 1) risk management; 2) implementation of transaction; 3) ensuring continuity of ongoing distribution. Their mental model consists of the following elements: 1) to avoid the claims afterwards; 2) to focus on details, concrete, practical aspects; 3) to satisfy the needs of business customers. The abovementioned findings attach the actual interaction of managers and lawyers with the following characteristics: 1) there is a given conflict due to the accelerating role of managers and restricting role of lawyers; 2) the interaction itself is very limited in terms of time and number of people involved; 3) it is determined by large by the central role of legal function during the closure of the deal.

In practical terms, several sets of findings contribute to the knowledge about M&As: that related to acquisitions in general, that specific to the chemical processing industry and practical recommendations in terms of actions to ensure in any M&As case.

For M&As in general, it is important to remain aware of the importance of strategic grounds of the deal. In some industries, like in the chemical processing, strategic reasons for acquisitions and respective choice of the target remain of the foremost importance. The general takeaway is, therefore, the necessity to study the industry the deal takes place in and its success drivers before deciding in favor of M&As. If acquisition is the best strategic choice, the management of the company should concentrate on the aspects of the deal that are in line with the industry success drivers. One of the underlying assumptions of this study is that most of the challenges of the integration can be addressed during the preliminary stage. In this, the study contributes to the practice of the companies engaged in acquisitions by examining the groups of factors influencing the success of M&As. Companies that pay timely attention to the outlined groups of factors are likely to increase the likelihood of the success of the M&As they conduct.
From the perspective of industry the acquisition took place, the main finding is that the principal source of competitive advantage in the chemical processing stems from R&D and its legal protection. Maintaining the right balance between existing popular products that generate cash and innovating new products with a longer life cycle has traditionally been at the heart of the leading companies’ business model; and it often becomes a strategic reason for M&As. However, as the results of the study show, the success of acquisitions also depends to a large extent on talent management, or keeping people responsible for the acquired products in the company.

In line with the prescriptive sub-aim of the study, some practical recommendations are suggested for the companies engaged in M&As: 1) not to lose focus on the industry context and its strategic success drivers; 2) to address the challenge of limited communication by involving an independent consultant; 3) to ensure the retention of key people by contacting them before the actual integration in unofficial yet legally compliant manner (the policy, which in the study referred to as ‘soft touches’).

In terms of interaction between managers and lawyers, the following can be recommended during the last three steps of the preliminary stage of the deal. During the Screen step, it is advantageous if lawyers and managers develop a common scale of target evaluation, addressing issues important for both parties. At the following phase of the acquisition process, First Contact with the target, managers should be appreciative of lawyers’ work and treat legal function as a key, not as a problem. The case study example of the manager who implemented the policy of ‘soft touches’ after having coordinated his actions with Legal Director is an indicative example of such cooperation. Finally, the recommendation for the final step of the preliminary stage of the deal, Negotiation, is for the lawyers to communicate to managers from the very beginning what kind of information legal experts are looking for and to request it at the soonest. During the entire preliminary stage managers and lawyers should remain aware of their differences; however, more important are their common goals, which can be used as a base for cooperation of these two groups of experts during this time. It is recommended that managers should take initiative in this process since leading people is part of their organizational role.

5.5. Suggestions for further research

A number of suggestions for future research results from the limitations of the study, while the others stem from its findings.
In terms of factors influencing the success of the deal, the study points out to the importance of strategic factors, which are often being outplayed in the recent research by all kinds of ‘soft issues’, starting with that related to HR. Even though it is short-sighted to underestimate the influence of HR factors, the studied case is a good example showing that often the industry by itself defines the success drivers to pay foremost attention. The target, the company with a very well developed personified approach to its employees, was sold to the acquirer, a business driven and rather impersonal organization. In this respect, it seems promising to conduct research on interrelation between the key factors influencing M&As. In particular, it would be interesting to establish the degree to which company should foster its human related principles to make sure they do not override strategic considerations. Reasons that form a rationale for prioritizing a certain group of factors are also of academic and practical interest. One practical suggestion would be to draw a parallel between success drivers in a certain industry and a group of factors, if any, that traditionally enjoys attention from the companies in this industry.

One of the main limitations of this study is its focus on the preliminary stage of the deal. It is therefore perceived as valuable to continue the analysis of interaction between different groups of experts to the post-integration stage to trace the development of the distinguished trends in their communication. It would be interesting to establish to which extent lawyers and managers interact after the deal is signed and which factors (immediate goals, organisational roles and mental models) shape the dynamics of this interaction. One side of such an examination would be to see if these factors are consistent with those distinguished at the preliminary stage of the deal. If yes, this research can be taken to a level exceeding M&As, and a set of general recommendations, applicable to all the cases where those two groups of experts interact, can be drawn. To make the picture complete, separate research can be undertaken on interaction between managers and another group of specialists working on M&As, namely finance experts, their mental models and organizational roles. In particular, it would be interesting to see if there are any inherent conflicts in this case, if (and how) such interaction affects the success of M&As and if there are ways to minimize the conflicts by taking respective steps in advance.

Another limitation of this study is that its data are gathered at the subsidiary level. It would be beneficial to see if (and how) the dynamics of interaction between managers and lawyers changes when the focus of the study shifts to the headquarters. In particular, such research should examine when different groups of experts become involved in the deal, the extent of their involvement, their rights and responsibilities. Headquarters’ level of data collection would also allow an in-depth study of the acquisition rationale and choice of the target. It would allow
in depth study of factors associated with managerial behaviour, such as irrationalities of decision-making process, at the top executive level.

On a separate note, it is worth studying legal mental models in more detail, since the limitation of organizational structure of the company resulted in only one lawyer being directly involved in the deal. Enlarging sample size would enable to confirm (or to refute) if this particular way of reasoning, consisting of legal logic and legal ethic, is really typical of this profession. One way to do it would be to conduct a series of in-depth interviews with several lawyers to understand their guiding values, decision-making processes and prioritization mechanism (for example, if human issues are really secondary for lawyers, as the existent literature suggests, and if their decision making is really shaped by logic). Open-ended questions, complemented by means of observation, are seen as the best way to reach this goal.

In terms of managerial mental models, this study maps the features of the model itself and traces its formation from the organizational role of a manager. Further research could define the model in more details and expand on the ways it affects the acquisition process. For instance, the findings about organizational cultures suggest a possible direction for future research. It was established, first, that it is almost impossible to conduct a preliminary evaluation of cultural differences, and, second, that adoption of cultural practices largely depends on local managers’ initiative. In this vein, it would be interesting to distinguish what exactly in the managerial mental model helps managers to navigate among the related choices. Another example is the ‘soft touches’ policy, cited as a company practice worth noticing, in the prescription section of this study. Again, the policy was entirely an initiative of an individual manager; it might be beneficial to establish the mechanism that triggers human related decisions by an individual, in more detail.

In addition, mental models of managers and lawyers were studied in terms of their influence on the interaction of managers and lawyers. Examining mental models of these two groups of specialists in relation to each other, not in terms of actions they cause but sort of interaction between their mental models, might result in interesting data and suggest some practical takeaways applied to M&As process. Together with the findings about the interaction during the post-purchase stage of the deal, this information can be taken as a lead to new research on general dynamics of interaction of managers and lawyers, which would hold true in other situations where those two groups of experts interact. Translated into the set of practical recommendations, this knowledge would enhance success of organizations in general.
The findings regarding a secondary role of a consultant suggest that experts have a variety of additional roles in the acquisition process, which can be used to address the main challenges of M&As. One of the directions of further research can be to map additional roles of experts in addition to those listed in the literature and in the results of this study. The research questions of such study should be formed around what the experts can do in addition to their traditional roles, and how involving experts can help to address the challenges of the preliminary stage of the deal and minimize the inherent conflict between managers and lawyers.
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APPENDIX 1  INTERVIEW GUIDE

In conducting the interview, particularly the one implying open-ended questions, it is important to keep the purpose of the study along with its research questions in mind to remain in control of the conversation. The following questions types are proposed basing on the purpose of the study and its three sub-aims, repeated below to facilitate its use in developing the interview guide. Considerations regarding pre-understanding of the researcher and that of the informant, stated in parts 3.1 (Method description and justification) and 3.4 (Methodology of Interview) of this study are given respective attention as well.

Purpose and sub-aims of the study

<table>
<thead>
<tr>
<th>Purpose: to explore factors influencing the outcome of M&amp;As from a subsidiary perspective, with a particular focus on the interaction of managers and lawyers</th>
<th>RQ1. In which environment did the acquisition in question take place? What was the main driver for the deal and choice of the target? RQ2. What was the disposition of managers and lawyers in this deal in terms of the structure of respective organizations and the extent of involvement of these two groups of specialists in the deal (their rights and responsibilities)?</th>
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<tr>
<td>Descriptive sub-aim: to describe an acquisition undertaken by a particular company from the perspective of one of its subsidiaries, with a focus on the interaction between managers and lawyers.</td>
<td>RQ3. Which factors create most problems in the acquisition in question, and find out how these problems have been handled. RQ4. Which of the abovementioned factors are identified in the studied case? How have they been handled by the company? RQ5. To which extent the interaction of managers and lawyers influenced the acquisition process? What are the fundamental differences in the mental models of managers and lawyers and how do they influence their interaction during the preliminary stage of the deal?</td>
</tr>
<tr>
<td>Exploratory sub-aim: to determine the factors that created the most problems in the acquisition in question, and find out how these problems have been handled.</td>
<td>RQ6. Which practices and lessons learnt by the companies could be taken into account to facilitate the success for future M&amp;As?</td>
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<tr>
<td>Prescriptive sub-aim: based on the findings of this study, to develop a set of best practices for conducting the preliminary stage of M&amp;As.</td>
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Probes to use:

- *silence* (motivates the informant to elaborate on the subject);
- *nodding* (motivates the informant to elaborate on the subject, can be combined with silence);
- interjections like *'uh-uh', 'mmmm'* (showing appreciation and encouraging the informant to continue talking);
- *asking* to add some information directly: *'Could you please elaborate on this one?'*;
- *specifying question by adding context*: *'Let’s say, the strategic development of the company indicates a need of a merger and you found a suitable company. What kind of factors would you consider before starting negotiating a deal?’*
- **asking the informant to compare**, thus encouraging him/her to share more information about the attitudes underlying the choices made, especially useful for testing preliminary results or contradictory findings).

### Types of questions primary used in the interview

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<thead>
<tr>
<th>Type of questions</th>
<th>Purpose</th>
<th>Examples</th>
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<tbody>
<tr>
<td>Experience and behavior questions</td>
<td>To shed light on the informant’s experience and behavior</td>
<td>What is your experience in M&amp;As? What is the main lesson you learnt from the last M&amp;A deal you conducted?</td>
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<tr>
<td>Opinion and values questions</td>
<td>Mental activity underlying the decisions taken (“head stuff”)</td>
<td>How do you see the role of managers (legal advisers, lawyers)?</td>
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<tr>
<td>Pre-assumption questions</td>
<td>Taking existence of a certain understanding of the informant as a starting point and testing it</td>
<td>What would you name as a main reason for the companies to merge? (What is the main source of value creation during M&amp;A?)</td>
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<tr>
<td>Questions, testing the results of preliminary analysis of the data collected from observation</td>
<td>Testing the results of the analysis, confirming/ disconfirming the informant’s awareness of his or her own fixed assumptions regarding M&amp;As</td>
<td>So, from what you are saying it might be possible to conclude that … (i.e. the main challenge is associated with human factor/ technology transfer; most of the times the value of the deal is concluded in ‘soft’ skills/ retail network of the acquired company).</td>
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Source: based on Patton (2002)

Finally, the following **dos and don’ts** should be kept in mind while conducting the interview.

#### Dos and don’ts of interviewing

<table>
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<tr>
<th>Dos</th>
<th>Don’ts</th>
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<tr>
<td>- let the informant talk: be attentive;</td>
<td>- don’t interrupt, comment on what was just said and give your opinion on the question;</td>
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<td>- be very careful with wording of the questions, make sure you indicate the topic of conversation and its direction without suggesting the answer;</td>
<td>- don’t affect the content of the informant’s response;</td>
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<td>- make it clear that there are no right or wrong answers and that the point of interview is to know the informant’s personal opinion; follow the framework of truly open-ended questions;</td>
<td>- don’t lead the informant to the desirable answers or suggest them;</td>
</tr>
<tr>
<td>- use the Interview Guide as a map of your conversation and be well prepared but remember that the conversation can take unexpected turns leading to richer data;</td>
<td>- don’t remain fixed in the order of subjects to discuss if the informant suggests a new turn;</td>
</tr>
<tr>
<td>- be grateful for the informant’s time, show that you appreciate his/her collaboration: use body language as well as talking to encourage the informant’s participation; be tactful discussing subjects that cause tension.</td>
<td>- don’t take the informant’s participation for granted, insist on the answers for the questions that make him/her feel uncomfortable.</td>
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