



Doing Business in Hungary

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/ Introduction & Legal System

Legal & court system

Hungary is an independent, democratic, constitutional state. Under its Fundamental Law, Hungary is a parliamentary republic, meaning that its executive, legislative and judicature branches are separate.

The main and highest law of Hungary is the Fundamental Law. The Fundamental Law of Hungary regulates two classic constitutional areas: state administration (national and local government and organisations for the protection of rights) and citizens' basic rights.

Hungary has a civil law system. In addition to the Fundamental Law, there are acts of Parliament, governmental and ministerial decrees (which are valid only if published in the Official Gazette), and decrees of local governments (which also need to be published). Hungary became a Member State of the European Union on 1 May 2004.

The judiciary is independent of the executive and legislative branches. The highest court in the Hungarian court system is the Curia. First-instance jurisdiction in most matters rests with local courts, effecting the principle that the majority of cases should be settled at a local level within the easiest reach of the parties. Operating parallel to the local courts are the public administration and labour courts, specialising in the revision of decisions of public authorities and those arising in labour disputes. Appeals against the decisions of local courts may be submitted to higher courts (regional courts and regional courts of appeal) acting as appellate courts. In certain cases specified by law, however, regional courts act as the court of first instance. The territorial competence of the local and regional courts is determined by (and identical to) the areas of public administration. The right of remedy is ensured in the Hungarian jurisdiction. The regional courts of appeal hear the appeals lodged against decisions of local and regional courts. There are five regional courts of appeal throughout the country – in Budapest, Szeged, Pécs, Debrecen and Győr. Taking over the task of examining appeals, the regional courts of appeal have significantly reduced the backlog of cases in the Curia. As a result, the Curia can now concentrate on its main function of ensuring the uniform application of law and examining applications for the review of final judgments. Extraordinary remedy is also ensured in certain cases; if there is no further right to appeal, the parties have the right to an extraordinary remedy such as the review of the judgment of lower level courts by the Curia based on violation of the law.

Governmental system

The President holds the highest office in Hungary. He is elected by Parliament every five years. Although he is the commander-in-chief of the armed forces, he has a largely ceremonial role.

Legislative power is vested in both the Government and the unicameral Parliament which consists of 199 members elected by a one-round election system, which replaces the previous

two-round system. Since the most recent elections (April 2014), Parliament has once again been dominated by the conservative Fidesz party, with a two-thirds majority.

As the Hungarian political system is parliamentary, the Government is held accountable by the Parliament. Parliament monitors the Government, and if it concludes that the Government is not discharging its responsibilities satisfactorily, it may withdraw its support for it through a constructive vote of no confidence.

The Government is the most important organ of executive power and the chief controller of public administration. The Government has the right through the competent branch ministers to freely replace any public officer or governmental officer. This means that it implements decisions made by the Parliament, as the legislative organ, and pursues the goals laid out in the Government's programme (adhering to the Government's pre-formulated programmes of the Government).

The Hungarian Government comprises the Prime Minister and government ministers. The Prime Minister is the head of the Government. The Prime Minister is elected by the Parliament following a proposal from the President. At the same time, the Parliament votes on the Government's programme. The Prime Minister has to determine the general direction of Government policy within the context of the Government's programme. The President appoints ministers according to the Prime Minister's recommendations. In addition, the Prime Minister chairs cabinet meetings and ensures the implementation of Government decisions.

The Prime Minister may nominate one or more Deputy Prime Ministers, chosen from among the ministers. At present there are two Deputy Prime Ministers who carry out specific tasks in addition to deputising for the Prime Minister in certain situations he has specified. One of these Deputy Prime Ministers is responsible for the structure of public administration and its efficient operation, while the other coordinates and manages national policy and church affairs on a permanent basis.

A large part of a minister's work is taken up with guiding and supervising a given ministry (being a Government department). It is the task of a minister to develop statutory proposals to promote effective operation within the minister's specialist area of responsibility and to implement the Government's programme. They must also represent the Hungarian Government at the European Council or other international organisations.

Public administration operates efficiently when policy and traditional public administration tasks are separate. This is reflected in the new structure of public administration where a state secretary acts as a deputy for a minister, with full delegated ministerial powers for a given specialist department. Each minister can be responsible for several departments: for example one minister is responsible for education, sport and healthcare.

Ministers of state are divided into three categories: state secretaries responsible for special areas (e.g. education); state secretaries responsible for administrative tasks; and parliamentary ministers of state. State secretaries responsible for special areas are political leaders, while the posts of public administration and parliamentary state secretaries are politically neutral, as is the post of Deputy Minister of State. A public administration state secretary is a

specialist leader of a ministry's organisational operations, while the responsibilities of a parliamentary state secretary are towards Parliament.

Policy approach

Hungary is the only country in Central and Eastern Europe where all governments have been able to fulfil their four-year mandate with no interim elections.

In 1989, Hungary started its reintegration into the world economy. The country opened up to direct foreign investments and liberalised its trade regime. Privatisation began and was almost finished by the second half of the 1990s. Hungary joined the OECD in 1996 and NATO in 1999.

Over the past 25 years, conservative and social-liberal governments have alternately been in power. At the last parliamentary elections in April 2014, the conservative FIDESZ-Hungarian Civil Alliance (**FIDESZ-MPSZ**) won with a majority. Apart from Fidesz in 2010, no single party has had a two-thirds mandate since Hungary's transition to democracy 25 years ago. Fidesz's central key goals have been to reform the system of local governments, the electoral system and media law, and it aims to ease the process for Hungarian nationals in neighbouring countries to obtain dual citizenship.

Hungary offers a number of benefits and incentives for new investors as well as for companies already active in the country. Generally, investors qualify for incentives when they surpass a certain investment value or number of jobs created.

The Hungarian taxation system is now close to the level of complexity found in Western Europe. Tax laws in Hungary are enacted by Parliament and the tax authority provides interpretative and administrative guidelines for these laws. Court decisions play an increasing role in interpreting tax laws and, as a result of Hungary's accession to the EU, European Court of Justice case law is also applicable.

Hungarian tax is paid by self-assessment. All taxpayers have to register, determine their tax obligations, make payments in advance, file tax returns on their own behalf, make corrections to the tax returns as needed, keep records and supply information as required by law. Authorities randomly examine tax returns to keep track of the self-assessment system. Corporations are subject to continuous assessment throughout the year. The Head of the National Tax and Customs Authority (**NAV**) determines the target audit areas for the tax authority in the tax year concerned. The tax year is the calendar year for individuals and the calendar year or the financial year for companies (the financial year of companies varies from the calendar year only in limited cases). In general, tax returns must be filed annually. For VAT, payroll and withholding taxes, however, quarterly or monthly filings may be required.

Central taxes:

- Corporate income tax
- VAT
- Personal income tax

Local taxes:

- Building tax
- Land tax
- Communal tax
- Local business tax

Tax-related incentives:

- Development tax allowance
- R&D-related tax benefits

/ Foreign Investment Policy

Hungary is one of the most developed countries in Central and Eastern Europe. Many foreign investors have become active in Hungary since the beginning of the 1990s. As a result, modern industrial facilities and moderate incomes have created an attractive economic market with a high export potential. Here the companies with a Western European or overseas domicile also profit from Hungary's strategic location as a "bridge to Eastern Europe".

About one third of the country's foreign investments continue to originate from large and medium-sized companies, especially from the automobile and engineering industries in Germany. The Hungarian Government is building on its traditional strengths which include the training of specialists for technical products and IT. A wide range of concepts are being used to encourage foreign companies within these industries to invest in Hungary.

Within the state aid legal framework of the EU, the Hungarian Government supports investment projects with a one-stop-shop service including "VIP treatment" and comprehensive information about available subsidies for investment projects. The current structure of the governmental bodies coping with the support of foreign investors is coordinated by the Minister of Foreign Affairs and Trade, and include various types of organisations involved in the promotion of investment, such as investment banks, trading and investment promotion agencies.

Regarding the available incentives, it should be noted that Hungary is entitled to approximately €40 billion from EU funds during the period of 2014–2020, 60% of which will be spent on developing the Hungarian economy and focusing on R&D&I projects and investments of SMEs, according to the Government's plans. Beside EU funds, there are nationally funded subsidies as well, aiming to support investment projects creating new workplaces and targeting training projects to assure the availability of a well-educated workforce.

/ Types of Business Vehicles

Forms of business vehicle

Foreign investors prefer (in the majority of cases) to establish limited liability companies for the purposes of starting their business activities in Hungary. The main characteristics of the relevant limited liability corporate forms are described below.

In Hungary, limited liability companies can either be a "Kft." (company limited by quotas; hereinafter **Kft.**), a public company (**Nyrt.**, stock company, not described in this summary) or a private company limited by shares (**Zrt.**). For international operations, it is also possible to establish a European Company (**Societas Europaea**) with its registered office in Hungary, based on the conditions prescribed by the rules of the relevant European Union regulation.

Relevant vehicle

The limited liability company form is preferred, as its members/shareholders (with certain exceptions) are only liable for the company's losses to the extent of their contributions.

From the available corporate forms it is generally easier to establish a "company limited by quotas" (see description below).

Registration formalities

After signing the necessary documentation, the company must be registered in the trade register by the competent court of registration. This procedure is administered by a lawyer or a notary public.

Although it is possible to sign the formation documents outside Hungary, all the documents would need to be signed in front of a notary public and, in certain cases, an apostille also needs to be attached. If the documents are signed in Hungary, the involvement of a notary public is not required and lawyers may countersign documents.

A Kft. or Zrt. may be incorporated using an ordinary procedure or a simplified procedure, whereas a stock company (Nyrt.) can only be incorporated with admission to the Budapest Stock Exchange via traditional public offering from a Zrt.

The simplified procedure is significantly faster and cheaper but the founders are not free to decide on the contents of the company's articles of association. The founders are free to draft the articles under the ordinary procedure.

	Ordinary procedure	Simplified procedure
Registration costs	HUF 105,000	HUF 50,000
Timescale	15 business days after filing the application	1 working hour (+ 1 day should be taken into ac-

A company is legally established only upon registration in the Hungarian trade register, but it may conduct certain activities (as a pre-company) from the date of foundation, i.e. from the time of countersigning of the executed version of the articles of association by the attorney preparing the formation documents. However, any activities that are subject to prior authorisation (e.g. the commencement of any financial services related activities) cannot be conducted in the pre-company phase.

The Kft. has a lower capital requirement (minimum registered capital: HUF 3,000,000), while the Zrt. may only be established with a minimum capital of HUF 5,000,000, and the Nyrt. with HUF 20,000,000. Registered capital can be freely increased, i.e. no statutory maximum is applicable in this respect.

Members' contributions of capital can be provided either in cash or in kind, or as a combination of the two.

The quotas of a Kft. and the shares of a Zrt./Nyrt. may be freely transferred or encumbered unless a shareholders' agreement or the articles provide otherwise.

A Nyrt. or Zrt. can issue preference shares which may grant different preferential rights to the shareholders. The possibility to issue preferential shares may be an advantage for foreign investors planning to acquire shares in a Hungarian entity.

On the other hand, the issue of preferential business quotas is not possible in the case of Kfts. It is, however, theoretically possible to attach different rights to different types of quotas in the Kft.'s articles of association.

With regard to a Kft., if not otherwise stipulated or precluded in the articles of association, the members and then the company (in this sequence) have a pre-emption right, i.e. offers must first be made to existing quotaholders in connection to the quotas being transferred to a third party. It is also possible to set out pre-emption rights in relation to the shares in the case of a Zrt.

Corporate governance and management structure of a Kft. and a Zrt./Nyrt.

	KFT.	ZRT.	NYRT.
Highest decision-making body	<ul style="list-style-type: none"> ➤ members' meeting ➤ sole quotaholder (in the case of a single-member company) 	<ul style="list-style-type: none"> ➤ shareholders' meeting ➤ sole shareholder (in the case of a single-shareholder company) 	<ul style="list-style-type: none"> ➤ shareholders' meeting
Management	<ul style="list-style-type: none"> ➤ one or more managing directors ➤ manager ("cégvezető") 	<ul style="list-style-type: none"> ➤ board of directors (or one chief executive officer) ➤ manager ("cégvezető") 	<ul style="list-style-type: none"> ➤ board of directors (under the one-tier system a management board may be set up instead of the board of directors and the supervisory board)
Supervision	<ul style="list-style-type: none"> ➤ supervisory board ➤ auditor 	<ul style="list-style-type: none"> ➤ supervisory board ➤ auditor 	<ul style="list-style-type: none"> ➤ supervisory board ➤ auditor

Members' (shareholders') meeting

The members'/shareholders' meeting is the highest decision-making body of a Kft. and Zrt./Nyrt. and consists of the company's members/shareholders. Special rules apply with regard to "single-member/shareholder" companies (see below).

A simple majority vote of the members'/shareholders' meeting is sufficient in most cases. For some matters, however, a 75% majority is required by law (e.g. for changing the articles of association). The articles of association may specify certain matters where the members/shareholders may decide without holding a members'/shareholders' meeting, as well as the method of decision. The articles may also allow the holding of members'/shareholders' meetings by means of electronic communications.

The Kft. and Zrt. may also operate as a single-member/shareholder company. In this case, the single member/shareholder exercises the decision-making rights of the mem-

bers'/shareholders' by passing written resolutions. In addition, the single member/shareholder may directly instruct the management.

There are no restrictions with respect to foreign members/shareholders.

Management

The management of a Kft. is carried out by one or more managing directors (i.e. the single managing directors act on their own).

In the case of an Nyrt., a board of directors consisting of three or more members must be set up. A Zrt. must be operated by a single director or by a board of directors (three or more members).

The appointed directors may be authorised to sign on behalf of the company solely or jointly with other directors.

Directors carry out their duties independently, meaning that their activities are governed only by law, the articles of association and the previous members'/shareholders' resolutions. This also means that directors may not be instructed concerning their management activities (with the exception of single-member/shareholder companies).

The articles may, however, provide that certain decisions may only be made subject to the prior consent of the members'/shareholders' meeting (or the supervisory board). It should be noted that these restrictions on representation incorporated in the articles of association only bind the directors and the members/shareholders, i.e. the restrictions are not effective towards third parties (e.g. prior authorisation of the members' meeting may be required to conclude agreements above a certain contractual value limit).

Officers of companies may hold any nationality.

Directors' liability

Directors must carry out their activities with due care and in the interests of the company. Directors are jointly and severally liable to the members/shareholders for their acts and omissions. In certain cases, directors may also have liability towards the creditors of the company if, in the event of a liquidation procedure, the company does not have sufficient assets to satisfy its creditors.

The new Civil Code kept the previously adopted regulations introducing new statutory provisions excluding a person who has been an executive or member of an insolvent or phantom company from being an executive in a new business entity.

Parent company liability

A parent company's liability is generally limited to its capital contribution. However, there are certain important exceptions such as:

- if a company which is controlled by a dominant member (holding at least 75% of the voting rights in the company) is going into liquidation, the dominant member has to bear un-

limited liability for all liabilities of the company that are not covered by its assets (provided that the court has declared the unlimited and full liability of the dominant member responsible due to its history of making unfavourable business decisions in the debtor company) and

- if the company is liquidated, the members/shareholders who have abused their limited liability or the company's legal personality to the detriment of creditors must bear unlimited, joint and several liability for the unsatisfied obligations of the liquidated company (e.g. where risky, speculative business were conducted through the limited liability company, the members may not rely on their limited liability in all situations).

Effective as of 1 March 2012, regulations introduced new statutory provisions excluding anybody who has been an executive or member of an insolvent or phantom company from acquiring a majority share (50% + 1) in a new company.

Reporting obligation

Companies must file their annual balance sheets with the competent authorities by 31 May of each year. This balance sheet is publicly available.

Companies must fulfil certain disclosure and reporting requirements of the court of registration following any changes in the corporate data included in the trade register (e.g. any amendments to the articles of association, directors, members of the supervisory board, etc.).

Details for opening a branch office or representative office

A branch office is a business unit (without legal personality) through which the following entities may operate in Hungary: foreign legal persons (i.e. companies), foreign organisations without legal personality and other foreign-registered businesses.

A branch office comes into existence when the relevant court of registration registers the branch office in the trade register. Prior to its registration in the trade register, the branch office may not engage in any activities which require official authorisation and/or the conduct of which requires a licence (including activities relating to the purchase and lease of business premises).

The branch office may be represented by persons who (i) are employed by or are assigned to the branch office or (ii) have resident status in Hungary and have concluded a contract for services (i.e. a civil law contract) with the branch office.

The court of registration must process the branch office registration application within 15 working days.

A Hungarian commercial representative office (**CRO**) is a business unit of a foreign enterprise (founder) without its own legal personality, like a branch.

Business activities may not be conducted through a CRO; therefore the scope of its activities is significantly limited. A CRO may only act as an intermediary in the negotiation of contracts, participate in the preparation of contracts and carry out informational, marketing and

promotional activities on behalf of its founder and no other activities (i.e. in general, a branch office can be seen as an independent economic unit, whilst a CRO cannot).

A CRO comes into existence when the relevant court of registration registers the CRO in the trade register. The CRO may only commence its operations and engage in legally permitted activities following its registration in the trade register.

The CRO may be represented by persons who (i) are employed by or are assigned to the CRO or (ii) have resident status in Hungary and have concluded a contract for services (i.e. a civil law contract) with the CRO. The persons employed by the CRO are deemed to be in a legal relationship with the CRO's founder.

The court of registration must process the CRO registration application within 15 working days.

Information for listing on local stock exchange

The regulation and operation of the capital market in Hungary is supervised by the Hungarian National Bank (**HNB**) (*Magyar Nemzeti Bank*). The stock market operator authorised by the HNB is the Budapest Stock Exchange (*Budapesti Értéktőzsde*).

Listing equity on the Budapest Stock Exchange requires several steps. Its complexity and timeline also depends on the "type" of listing the company requires:

- "Simple" listing on the Budapest Stock Exchange is where there is no capital increase (i.e. issue of new shares) and no public offering of existing shares
- "Traditional public offering" is admission to the Budapest Stock Exchange together with the offer of shares to the public, i.e. either the issue of new shares or sale by owners or a combination of the two.

As a general rule, the admission of securities to trading on a regulated market must be made following the preparation of a prospectus. The prospectus must contain all relevant information on the economic, market, financial and legal position of the company, giving investors the widest possible range of information. A prospectus prepared for a listing on the Budapest Stock Exchange must be submitted to the Hungarian National Bank for prior approval. As a consequence of Hungary's EU membership and on the basis of a "single passport", the Budapest Stock Exchange also accepts prospectuses approved by a supervisory authority of any other EU Member State.

An application for listing must be submitted to the Budapest Stock Exchange, which must review the application and make a decision within 30 calendar days of receipt. Various documents must be published at least two trading days before the listing on the official site for publications of the Budapest Stock Exchange, such as the prospectus, constitutional documents, the ownership structure and the details of the registrar of shares, etc.

Listing of equity securities will fall under one of three categories, "A", "B" or "T". A category "B" listing requires the basic legal requirements to be fulfilled. However, a category "A" listing has additional requirements, and while the admission is stricter, category "A" equities

generally have a better reputation in the market. Category "T" is for technical listings only, the simplest procedure for a company to appear in the regulated market. For companies newly entering category "T", it will be easier to move to category "A" or "B" once a public offering has been completed.

Businesses with their securities listed on a regulated market must continue to observe certain governance rules and market transparency requirements.

The Hungarian Civil Code does not restrict the provision of upstream guarantees (non-beneficial decisions or decisions which provide more risks to the company and may harm the company's interests). However, in general the acts of shareholders or executive officers which negatively affect creditors and cause the company to become insolvent may lead to full and joint liability for such persons. Such actions may also be considered a criminal offence.

Laws relating to the charging of assets

The charging of corporate assets is permitted in principle, subject to certain limitations. More precisely, a company may not grant loans, give undertakings or surety or pay financial liabilities in connection with the subscription or acquisition of shares issued by the company prior to the subscription or acquisition of shares. This restriction only applies to joint stock companies (joint stock limited liability companies like Zrt. or Nyrt.). These provisions do not restrict the acquisition of shares by employees of the relevant company (i.e. the target company) or employees of companies under the majority control of the company, and transactions carried out by banks and other credit institutions in their ordinary course of business do not fall under the restrictions.

Furthermore, the quotaholders/shareholders and directors of a limited liability company and their close relatives may not enter into transactions for the acquisition, disposal, lease or encumbrance of corporate assets without the prior approval of shareholders. No such mandatory provision applies to joint stock companies, although the quotaholders/shareholders may include such a provision in the company's deed of foundation.

/ Employment

Employee relations

Hungarian labour relations are regulated by EU and statutory legislation, case law, collective bargaining agreements and individual employment agreements. Although case law has no legally binding force, it plays a significant role when interpreting the statutory provisions and therefore influences employment relations in a broad sense.

Employment regulations allow efficient contracting between employers and employees, enabling labour market flexibility on the one hand and protecting employees from discriminatory or unfair treatment by employers on the other hand. The protection for employees is also reinforced by the employee-friendly attitude of the Hungarian labour courts.

In general trade unions are not as strong as in some other countries in Western Europe, although in some sectors such as transport, education and public health they play a significant role in labour relations. Strikes are not as common as in some other countries in continental Europe.

The global financial crisis has significantly affected the Hungarian economy and has resulted in an increase in the overall unemployment rate (climbing to a record high of 11.8% in the first quarter of 2010). However, in the fourth quarter of 2015 this rate went down to 6.2% according to the Hungarian Central Statistical Office. National minimum wages still lag behind those in Western Europe: from 1 January 2016, the statutory minimum monthly wage for workers without secondary education is HUF 111,000, and for workers with at least secondary education HUF 129,000.

Employees in Hungary are generally highly skilled and educated, particularly in IT, engineering, pharmacy, mathematics and physics. The number of employees with foreign language skills is also increasing year-on-year.

Relevant labour and employment laws

The most important rules on labour relations are incorporated in Act I of 2012 on the Labour Code (**Labour Code**), which entered into force on 1 July 2012. The rules of the Labour Code are in many ways similar to the legislation of other industrialised countries. They comply with EU legislation and are applicable to all employment relations in Hungary.

Hungarian labour law – unless otherwise regulated by international private law, international contracts or agreements (bilateral or multilateral) or *ius cogens* – applies to (i) all employment relationships where work is performed in Hungary, i.e. the Code applies to temporary projects on Hungarian territory and (ii) where the employee of a Hungarian employer temporarily works outside Hungary.

Contracts, agreements and implied terms governing employment relationships

Employment may only be established by a written contract, which must contain at least the following information: the personal base salary, scope of work of the employee and the place of work. Oral agreements concluded by the parties are also deemed to be valid unless the employee notifies the employer of a disagreement within 30 days of their first day at work.

As a general rule, the parties may only diverge from the provisions of the Labour Code if the change is in the employee's favour. In some cases, however, deviating from the provisions of the Labour Code is prohibited (e.g. termination notices must be in writing).

The employment term may be for an indefinite or a definite period; the latter may generally not exceed five years.

If an employer is bound by a local collective bargaining agreement, the relevant terms must also be applied to the employees of the employer who are not members of the relevant trade union.

Again, individual employment contracts may only differ from the rules of the applicable collective agreement to the advantage of the employee. If an issue is regulated in both the applicable collective agreement and the individual employment contract, the regulation that is more advantageous for the employee will be deemed to apply.

The website of the Labour Ministry can be used to check whether there is an effective collective bargaining agreement applicable to a certain employer.

There are also collective bargaining agreements applicable to entire business sectors and employment relationships falling under the scope of the relevant sector collective bargaining agreement.

Furthermore, in certain sectors, a sectoral collective agreement applies to all employers active in that sector, whether or not they are members of a union.

Employees and management representation and corporate transactions

Works councils may be elected at companies and their individual business units if they have more than 50 employees. If less than 51 but more than 15 employees are employed at the same company or one of its individual business units, a works representative may be elected, and the representative has the same rights as the works council. Works councils and works representatives are elected for a period of five years.

The works councils have a co-determination right concerning the use of welfare funds, properties and institutions specified in the applicable collective bargaining agreement. In addition, works councils have a comprehensive right to express their opinion on issues such as plans made by the employer affecting a material number of the employees (such as any reor-

ganisation, restructuring, privatisation, modernisation of the employer, etc.), proposals on employee training, proposals on annual holiday and new performance requirements, etc. In such matters, however, no prior consent of the works council is required.

Employers must inform the works councils about certain other issues every half year. For example they must inform works councils about: the basic economic situation of the employer; any plans to change the business activities, any proposed changes to wages, the available assets and the number and scope of duties of the employer, etc. Works councils are entitled to request information from the employer relating to the social and economic interests of the employees and their equal treatment. The employer cannot refuse to provide such information. Any employer actions which breach the co-determination right of the works council and the right to express their opinion are deemed void.

In the event of mass redundancies, the employer must hold consultations with the works council before making its final decision on the redundancies. The employer must provide the works council with the relevant information regarding the planned redundancies during the consultation. The employer and the works council may enter into an agreement regarding the redundancies, but the works council's consent is not required.

In the event of legal succession of the employer (including a merger or demerger of companies or a transfer of undertaking), the employer must also hold consultations with the works council on the planned consequences of the legal succession that might affect employees. Again, the works council's consent is not required.

If the employer employs more than 200 employees full time, at least one third of the supervisory board members of the employer must be elected from among the employees.

Termination of the individual employment contract

In general, an employment contract may be terminated by mutual consent, by termination, or by termination with immediate effect by the employer or the employee. The termination of an employment relationship must be in writing.

Termination with immediate effect can occur only if the employee:

- commits a serious breach of a material obligation arising from the employment with intent or by gross negligence or
- exhibits behaviour which makes the continuation of the employment impossible – such as causing injuries to the employer, being absent from work without a proper excuse or endangering the economic interests of the employer.

The employee may terminate the unlimited term employment at any time by prior notice without cause. The employer, however, may only terminate unlimited term employment by termination due to the:

- employee's abilities
- employee's conduct in connection with the job
- employer's business operations.

Reasons relating to the employee's abilities include, among other things, professional inadequacy, health reasons, but also psychological reasons, e.g. inability to get on with co-workers and superiors. Reasons relating to the conduct of the employee include, among other things, the violation of workplace and performance rules or the provisions of the employment contract, refusal to carry out legitimate instructions from superiors and other behaviour violating the employer's business interests. Reasons relating to the employer's business operations include, for example, the restructuring or closing of the business operations.

No justification for termination by the employer needs to be given if the employee is beyond the statutory retirement age.

In the case of termination, the employment ends on the last day of the notice period. The statutory notice period is 30 days. Depending on the number of years' continuous service, the above period increases to a maximum of 60 days after 20 years of employment. The parties may agree on specific notice periods in the employment contract. These, however, may not be less than 30 days or more than six months.

In the case of termination by the employer, the employee has to be exempted from their duties at least for the half the notice period.

Employees who have been employed at the same employer for at least three consecutive years are entitled to severance pay upon termination by the employer, unless the employee is a pensioner. The amount of the severance payment depends on the time spent in service (minimum one month, maximum six months' "absentee fee").

Certain groups of employees enjoy special protection from termination (e.g. employees on sick leave, employees on maternity leave, etc.).

In the case of fixed-term contracts, the employer may terminate the employment agreement with immediate effect upon payment of one year's absentee fee or an absentee fee for the remaining period if less than one year of the term of employment remains. In such cases, no justification need be given for the termination. The employer may terminate the fixed-term employment agreement: (i) if the employer is subject to bankruptcy proceedings ; (ii) in connection with the employee's ability to work or (iii) if maintaining the employment relationship becomes impossible due to a force majeure event.

In the case of an unlawful termination of the employment by the employer, the employee has the right to contest the termination at court within 30 days of receipt of the termination notice. Should the court establish that the termination was unlawful, the court may, on request by the employee, reinstate the employee in his former position. In the absence of such a request, the employee may be awarded an amount equal to the absentee fee for the notice period. Furthermore, irrespective of the claim for reinstatement, the employer is obliged to reimburse the employee for his lost wages, any other allowances due and any further proven damages.

Redundancies and mass lay-offs

A mass lay-off occurs when an employer having (on average during the previous six months):

- more than twenty but less than one hundred employees, terminates the employment of at least ten employees
- more than one hundred but less than three hundred employees, terminates the employment of at least ten per cent of the employees or
- three hundred or more employees, terminates the employment of at least thirty employees within a 30-day period based on grounds connected to its business operations or by mutual consent.

In the event of a mass lay-off, a strict procedure must be followed during which consultations must be held with the works council (in the course of an agreement can be concluded between the employer and the works council on the terms of the redundancy) and the national employment agency must be notified of the relevant information on the planned redundancies.

Foreign employees: work permits and residency permits

Generally, foreign citizens require an employment permit and a residence permit in order to work legally in Hungary. The employer is entitled to launch the process for the employment permit on behalf of an employee at the competent employment agency. Obtaining a work permit generally takes one month, depending on the conditions. A permit is valid for a maximum term of two years and can be extended for an extra two years. There is a small fee.

No permits are required for EU/EEA citizens and refugees or persons holding resident status in Hungary.

If no permit is required for employment, the competent national employment agency must be notified of the employment by the production of certain information and the employee must obtain a registration card.

For EU/EEA citizens, no residency permit is required; however, a registration card must be obtained if they spend more than three months in Hungary. For non-EU/EEA citizens, a residency permit is required. Generally, obtaining such a permit takes 30–40 days.

An EU "blue card" is a permit for high-educated employees from third countries entitling the employee to reside and be employed inside any Member State.

/ Economy & Government

Hungary has a medium-sized economy and it is structurally, politically and institutionally open. Hungary is in Central Europe and is part of the European Union's single market. Like most Eastern European economies, the Hungarian economy experienced market liberalisation in the early 1990s as part of the transition from socialist economy to market economy. Hungary has been a member of the Organisation for Economic Co-operation and Development (OECD) since 1995, a member of the World Trade Organisation (WTO) since 1996, and a member of the European Union (EU) since 2004.

Restrictions/regulations

There are no general restrictions on foreign investments. In certain sectors (e.g. real property), however, licences may be required. In the case of takeovers, mergers or acquisitions, the approval of the competition authority may be required under competition law. There are no exchange control or currency regulations in Hungarian law.

Regarding state subsidies, on the one hand Hungary is entitled to approximately €40 billion from EU funds during the period of 2014–2020, 60% of which will be spent on developing the Hungarian economy and focusing on R&D&I projects and investments of SMEs, according to the Government's plans. These incentives are offered to foreign investors in the form of tenders including the targeted project parameters.

On the other hand, the following main national funded incentive programs are available for foreign investors:

- VIP cash grant (granted by the individual decision of the Government)
- job creation subsidy (cash grant granted by the individual decision of the Government)
- development tax allowance (exemption from the corporate tax to be paid by a company)
- training subsidy
- subsidy granted for the establishment or development of vocational training centres.

/ Taxation

Tax residency

Resident individuals are subject to personal income tax on their worldwide income.

An individual is deemed to be a resident if they are:

- a Hungarian citizen (except where they have another citizenship and has no permanent or temporary residence in Hungary)
- a natural person who is present in Hungary for at least 183 days in the relevant calendar year
- a national of another country or stateless person residing in Hungary if the person is present in Hungary for at least 183 days in the relevant year
- a person whose only permanent residence is in Hungary
- centre of vital interests is in Hungary (as determined by family ties and business relations), if they have no permanent residence in Hungary or elsewhere
- a person whose temporary residence is in Hungary, if their centre of vital interests is unknown and if they have no permanent residence in Hungary.

Non-resident individuals are subject to personal income tax on Hungarian-source income if the place of gainful activity is in Hungary or if the income is taxable in Hungary pursuant to an international agreement or treaty. Hungarian-source income includes income from being a senior officer or supervisory board member of a legal entity registered in Hungary, and dividends and interest received from Hungarian-registered businesses.

Income tax and social security contributions

Tax resident employees must pay personal income tax of 15%.

The tax rate for healthcare contribution is 7% (in kind at 4%, monetary at 3%), a labour fund (the amount paid is used to help the unemployed sector of the country capable of working to contribute to the possibility of their future employment) contribution at 1.5% and pension contribution at 10%.

Non-tax resident employees pay the same taxes and contributions as tax resident employees but only on Hungarian-source income.

Employers must pay a social contribution of 27%, and a vocational training contribution at 1.5% calculated on the employee's gross monthly wage.

Business vehicles

A business vehicle is tax resident if it is incorporated and registered under Hungarian law. Foreign legal entities are deemed resident if their place of management is located in Hungary.

A business vehicle is non-tax resident if it is not incorporated and registered under Hungarian law but carries out business operations through branches in Hungary.

Tax-resident companies generally pay corporate income tax of 19% on their worldwide income. The corporate income tax rate is only 10% up to a positive tax base of HUF 500 million (€1.85 million).

VAT is payable at 27% on supplies of goods and services. Certain goods and services listed in the annexes to the VAT Act are subject to special rates of 5% or 18%, as applicable.

Non-tax resident business vehicles are subject to corporate tax at the same rate as tax resident businesses but only in respect of income from business activities conducted through a permanent establishment located in Hungary.

Corporate shareholders are not subject to tax on dividends declared in favour of them, irrespective of their residency.

Individual shareholders must pay income tax at 15% on dividends received, unless a double tax treaty applies. A corporate shareholder does not have to pay income tax on dividends received, unless a double tax treaty applies.

The same taxes apply to IP royalties paid as for interest.

Thin capitalisation rules

Thin capitalisation rules apply if the company subject to corporate income tax has obligations in respect of outstanding loans, outstanding debt securities offered privately or an over-drawn account.

Under Hungarian thin capitalisation rules, pre-tax profits must be adjusted by adding a pro rata portion of all interest paid on any of the above obligations that exceed three times the company's equity capital, with the exception of interest paid to financial institutions (which are not affiliates). This means that for example in the event that a loan is granted by the parent company to the Hungarian entity and this loan exceeds the Hungarian Kft's equity multiplied by three, then the payable interest which falls on the loan exceeding the above limit (i.e. three times the equity of the Hungarian entity) will not be deductible for tax purposes.

Profits of a foreign subsidiary

Companies deemed to be controlled foreign companies are:

1. foreign-resident entities or
2. entities deemed as foreign-resident on account of their place of management, and which either:
 - a) have a Hungarian-resident beneficial owner on at least 183 days of the calendar year or
 - b) derive more than 50% of their revenues from Hungarian sources in the tax year and where the effective tax, equivalent to Hungarian corporate income tax, paid by the foreign company is:
 - below 10% of the company's taxable profits for that accounting period or

- zero, because the company has a zero or negative tax base, despite making profits for that period.

No CFC rules apply to companies with a registered office or resident status in an EU or OECD Member State or in a treaty country where the company carries out genuine economic activities.

The taxable profits of the Hungarian company must be increased by an amount equal to the controlled foreign company's after-tax profits as at the last day of the tax year less any dividends paid to its shareholders, provided that the Hungarian shareholder controls at least 25% of the votes or shares or has a controlling interest in the controlled foreign company and no Hungarian-resident individual holds any interest in that Hungarian-resident shareholder.

Transfer pricing rules

If two or more companies are deemed to be affiliated companies under the Act on Corporate Tax and Dividend Tax and do not use arm's length prices in the course of their dealings, the pre-tax profits of the affiliated companies are adjusted to reflect the arm's length price.

The arm's length price is generally determined using the comparable price, the resale price, the cost plus, the transactional net margin or the profit split methods.

Companies qualifying as small or medium-sized enterprises (**SMEs**) are not required to apply the above transfer pricing rules to long-term agreements concluded with an affiliated company, established for the purpose of joint purchases and sales, in which the total voting rights held by such SME exceed 50%.

Companies not qualifying as SMEs on the last day of the tax year must record the arm's length price, the method used to determine the arm's length price and the facts and circumstances supporting such price until the date of filing their corporate tax returns.

Imports and exports

Exports are subject to zero VAT. Imports are subject to VAT at the applicable rates. The relevant EC Directives are implemented.

Double tax treaties

Hungary has double tax treaties with all of the original EU Member States and most of the newly joined EU Member States.

/ Dispute Resolution

Court process

In Hungary, the civil court system has four levels: local courts, regional courts (in Budapest the Budapest Capital Regional Court), regional courts of appeal and the Curia. In civil law cases the local courts or regional courts have jurisdiction at first instance. Regional courts deal with cases where the value of the claim exceeds HUF 30 million (approximately €100,000). Court decisions can in general be appealed and will be heard by the relevant higher court.

In Hungarian civil procedure, legal disputes begin with the filing of a written statement of claim, including supporting facts and evidence. The court hears the statements of the parties and the evidence filed, which can include witness testimonies, expert opinions and other material evidence. In Hungary, civil lawsuits usually last for several months. Representation by an attorney is mandatory if the value of the claim exceeds HUF 30 million (approximately €100,000) and in other cases where the regional courts have jurisdiction in the first instance.

There is no jury trial in Hungary. Judges decide both factual and legal questions and are fully trained lawyers. Generally, there is a single judge at first instance (in certain cases accompanied by two civil assessors) and a panel of three judges at second instance. The Curia consists of three or five judges, depending on the complexity of the case.

Pre-trial disclosure or class/group actions are not recognised in Hungarian procedural law. As a general rule, all legal fees of the successful party must be reimbursed by the unsuccessful party.

Arbitration

In addition to the ordinary court system, arbitration is possible in certain circumstances. Parties to a contract may agree to submit to the jurisdiction of an arbitral tribunal instead of an ordinary court. If so, ordinary courts will have no jurisdiction with regard to the dispute. Arbitration is frequently used by business entities.

The main permanent arbitral tribunals in Hungary are the three Permanent Courts of Arbitration (for Financial and Capital Markets, Telecommunications and the Energy Industry) and the Court of Arbitration attached to the Hungarian Chamber of Commerce and Industry.

The detailed rules, fees and costs of arbitration proceedings are set out in the rules of procedure of each arbitral tribunal.

Hungary recognises and enforces foreign arbitral awards.

/ Competition

The most important source of Hungarian competition law is Act No. LVII of 1996 on the prohibition of unfair market practices and restraints of competition (**Competition Act**). The Competition Act sets out the key provisions concerning:

- the prohibition of restrictive agreements and concerted practices between undertakings ("anti-competitive agreements")
- the prohibition of abuses of a dominant position ("abuse of dominant position") and
- provisions on the control of mergers between undertakings ("merger control").

Anti-competitive agreements

Like European law, section 11(1) of the Competition Act prohibits agreements and concerted practices between undertakings as well as decisions by associations of undertakings which aim to or have the effect of preventing, restricting or distorting competition. Certain practices are set out in the Competition Act in a (non-exhaustive) list of prohibited measures, for example, the fixing of prices and conditions; the restriction and control of production, distribution, technical development and investments; the allocation and limitation of access to supply sources and customers; the obstruction of market access and the discrimination of customers or suppliers as regards price and sales conditions.

De minimis exemption: The prohibition of restrictive agreements does not extend to agreements of minor significance, i.e. if the parties to the agreement have a joint market share below 10% during the term of the agreement. The fixing of prices and the allocation of markets, however, are still prohibited regardless of market share.

Block exceptions: The Hungarian Government is entitled to exempt certain groups of agreements and concerted practices from the above prohibition if – similar to Article 1(3) of the Treaty on the Functioning of the European Union – the agreement contributes to improving the production or distribution of goods and services, promotes technical or economic progress or advances environmental protection or competitiveness, while allowing consumers or customers a fair share of the resulting benefit and not imposing restrictions on the undertakings concerned that are more than necessary to achieve those objectives and not eliminating competition in respect of a substantial part of the affected products. Accordingly, various governmental regulations provide block exemptions for vertical agreements relating to the repair of cars, insurance agreements, agreements on research and development and the transfer of technology. The Hungarian regulations are only applicable if the agreements do not affect the Common Market (in which case they would be governed by the equivalent European regulations).

Special exemptions: Special regulations may be applicable in the agricultural sector, where the ministry in charge may establish that reasonable justifications exist to exempt an

agreement from the applicable competitive regime. Also, in the agricultural sector, the competition authority may oblige the parties concerned to bring their commercial practices in line with the applicable competition regime, prior to imposing fines.

Participants in anti-competitive agreements may apply for leniency under the leniency policy set out in the Competition Act. The first participant to inform the Competition Authority about the anti-competitive agreements and provide satisfactory evidence of its existence and participants may receive amnesty. The second, third or fourth participants may receive reductions in the fine the Competition Authority might impose on them.

Abuse of dominant position

Hungarian competition law also prohibits the abuse of a dominant position by an undertaking. The Competition Act provides a non-exhaustive list of business practices which are considered abusive, such as applying unfair prices and sales conditions; requesting unreasonable benefits for the company against the customer (typically excessive costs for a service) and imposing disadvantageous conditions upon customers; restricting production, distribution and technical development to the detriment of consumers and customers; refusing or withholding goods from the market with the purpose of increasing their price or to obtain other unreasonable advantages; discriminating arbitrarily between customers in similar business dealings; applying unreasonably low prices which are not justified by increased efficiency; and restricting and obstructing entry into the market by other undertakings, etc.

In contrast to certain other jurisdictions, the Competition Act does not set out a specific market share threshold above which an undertaking is considered to have a dominant position. Instead, the existence of a dominant position is determined in each particular case, taking into account the financial, technical and legal barriers and risks associated with entering or leaving the market, the financial resources of the undertaking concerned and the structure of the affected market and, in particular, competitors' market shares and their conduct as well as the economic influence exerted by the undertaking concerned on the affected market.

Merger control

The Competition Act also regulates the procedure for controlling mergers between companies. If the turnover thresholds of the Competition Act are met and the merger does not fall within the jurisdiction of the European Commission, a merger between undertakings will require the Hungarian Competition Authority's (**HCA** – Gazdasági Versenyhivatal) prior approval. Hungarian merger control also extends to mergers between foreign companies if the Hungarian market is affected. Hungarian merger control is mandatory and supervisory, so if a merger is completed without prior clearance by the HCA, the undertakings concerned may be severely fined. Further, the HCA may also order the breakup of the merged undertaking if the merger would have not qualified for clearance.

The material test in Hungarian merger control is a combination of the "significant lessening of competition" test which is meant to point out the possible changes in the relative

strength of the competition on the affected market together with the "dominance" test, i.e. the creation or strengthening of a dominant position in the affected market.

Penalties and fines

Breaches of the Competition Act may be subject to fines from HCA. The maximum fine is 10% of the undertaking's turnover in the previous business year.

Furthermore, anti-competitive agreements and concerted practices in connection with public procurement procedures are considered a criminal offence and individuals could face imprisonment for up to five years.

Private enforcement

Hungarian legislation recognises the importance of privately enforcing damage claims arising out of anti-competitive arrangements. Accordingly, the Competition Act contains certain rules which aim to reduce burdens for claimants. In particular, decisions by the HCA as well as the European Commission are sufficient to establish an infringement in the context of a follow-on damages action. Furthermore, the Competition Act provides a presumption (rebuttable for both the claimant and defendant) that a hard-core cartel resulted in a price increase of 10% in order to facilitate damages calculations, and thus eases the burden of proof regarding the damage caused by the cartel.

/ Intellectual Property

Intellectual property rights can be divided into two categories: industrial property rights and copyright. Industrial property rights include patents, trademarks, designs, plant variety, utility model and topography protection, as well as the protection of geographical indications. Copyright covers literary and artistic works as well as related rights protecting artists or economic investors contributing to the dissemination of the works to the public (performers, producers of phonograms, broadcasters).

How to obtain protection?

In order to obtain protection for industrial property, an official protection procedure must be followed including registration in the Patent Register by the official body responsible for the management of industrial property rights.

The protection of copyright does not require a registration procedure since copyright protection exists as soon as the work is created.

Extent of protection

Intellectual property creates exclusive rights which, similar to property rights, ensure protection against all others for the creators of intellectual works by recognising and safeguarding their economic and moral rights.

Industrial property rights

Patent protection lasts for 20 years from the day on which the patent application is filed and applies solely in the countries where the protection was granted.

A Hungarian patent may be obtained by national or European application or by an application submitted within the framework of the Patent Cooperation Treaty (**PCT**), provided that the application and the invention comply with the relevant statutory requirements.

Trademark protection lasts for 10 years from the date of filing the application. However, protection may be extended by further 10-year periods at the registered owner's request.

As a fundamental rule, the author's rights are protected for his lifetime and 70 years afterwards. After the death of the author, the rights may be exercised by the author's heirs. In the case of works created by joint authors, cinematographic creations and when the author cannot be identified, the length of protection is determined in a different way.

An author may license the use of his work in return for consideration (the "copyright" itself is not transferable, only the use of it). The legal provisions concerning licence agreements are found in the Copyright Act. There are two basic rules that must be followed in any licence agreement: (i) the exploitation rights cannot be licensed for an indefinite period of time and (ii), the specific exploitation right must be set out in the agreement. The Copyright Act regulates publishing agreements and licence agreements concerning software and cinematograph-

ic creations as further special types of agreements. Besides copyright provisions, the provisions of the Civil Code on agreements must also be applied to licence agreements.

Enforcement

The Copyright Act and other statutes set out a large variety of ways to enforce intellectual property rights. If an infringement of rights has occurred, the rightsholder may seek a remedy under civil or criminal law (e.g. plagiarism, infringement of copyright and certain rights related to copyright, compromising or defrauding the integrity of technological measures for the protection of copyright and certain rights related to copyright, falsifying data related to copyright management, violation of industrial design rights) or initiate the customs protection, i.e. seizure. The rightsholder may take legal action and claim (i) the Court's declaration of the infringement; (ii) cessation of the infringement; (iii) compensation from the infringer; (iv) surrender of any enrichment obtained through the infringement; (v) communication of information concerning the infringement; (vi) seizure of the means used for the infringement and of infringing products; (vii) measures by the customs authorities to prevent free circulation of infringing goods; and (viii) damages.

/ Marketing Agreements

Agency agreements

In Hungary, agency agreements are governed by the Civil Code, which implements Directive 86/653/EEC on self-employed commercial agents.

The primary obligation of a commercial agent is to negotiate agreements on the sale of goods or otherwise concerning goods on behalf of his principal. It should be noted, however, that a commercial agent acts as an independent contractor, rather than an employee. Generally, a commercial agent is not authorised to conclude agreements, but the parties may agree otherwise. The principal is obliged to pay remuneration for the activities of the commercial agent and provide the agent with the necessary documentation and materials.

The parties to an agency agreement are entitled to stipulate a restraint of trade clause. Such a clause is valid only if it is concluded in writing, lasts for not more than two years after termination of the agency agreement, specifies the remuneration and relates to the scope of activity covered by the agency relationship in the contract.

Distribution agreements

Only basic elements of distribution agreements are regulated by the Hungarian Civil Code. The Civil Code contains model clauses which apply by virtue of law to all distribution agreements, including supply of products or of services. However, deviation from the model clauses is possible in all cases. The key model clauses are described below:

- Protection of good reputation: According to the new Civil Code the distributor is obliged to protect the good reputation of the supplier
- Instructions & control: The supplier is entitled to instruct the distributor and control the performance of the distributor. However, if the instructions given by the supplier are unreasonable or inappropriate, the distributor is obliged to warn it, and any damage resulting from maintaining the instructions despite the warning will be the liability of the supplier.

Franchising

Franchising agreements are regulated by the Hungarian Civil Code. With regard to franchising agreements, the Civil Code contains model clauses which apply by virtue of law to all franchising agreements. However, deviation from the model clauses is possible in all cases. In the following the key model clauses are described:

- The franchisor is required to ensure that the franchisee has ongoing and uninterrupted access to the use, utilisation and exploitation rights that are required for running the franchise during the full term of the contract. The franchisee is required to take measures to protect the know-how placed at its disposal.

- Supply obligation: If the franchisor is obliged to supply the franchisee with the goods to be sold or to supply basic materials for the production of goods and the franchisor fails to fulfil the franchisee's order, the franchisee will be entitled to obtain the goods or the basic materials from other sources.
- Protection of good reputation: The franchisee is obliged to protect the good reputation of the franchisor.
- Instructions & control: The franchisor is entitled to instruct the franchisee and monitor the franchisee's performance. However, if the instructions given by the franchisor are unreasonable or inappropriate, the franchisee is obliged to warn him and any damage resulting from maintaining the instructions despite the warning will be the liability of the franchisor.

It should be noted that competition and anti-trust restrictions apply in the case of franchise agreements, as they are subject to the Act against Restrictions on Competition and EU competition law with the exceptions under the "Pronuptia" ruling of the ECJ.

/ E-commerce

The key Hungarian law on e-commerce is the Act on Electronic Commerce and Information Society Services, Act CVIII of 2001 (**E-Commerce Act**).

The E-Commerce Act regulates "information society services" rendered from Hungary or directed from abroad to Hungary. The E-Commerce Act has a wide scope and applies to a very wide variety of electronic services provided at a distance (particularly e-commerce services).

With regard to e-commerce contracts, the Act sets out conditions which must be followed in the course of the provision of e-commerce services. Contracts entered into by means of simple electronic correspondence (i.e. email and related technologies) are excluded from these legal provisions and in the case of non-consumer e-commerce contracts, parties can derogate from these conditions.

In addition to the above, the E-Commerce Act contains special provisions on e-advertisements.

The Hungarian Decree on Consumer Contracts (Decree No 45/2014) – implementing EU Directive 2011/83/EU – applies to consumer distance selling contracts. Non-consumer contracts are generally exempted from the protective measures of this decree. The decree protects the interests of consumers by provisions such as the statutory cancellation right for consumers without prior notice within 14 days of contracting or delivery, subject to further conditions beyond the scope of this booklet.

The Hungarian Act on E-signatures (Act XXXV of 2001) sets out the statutory conditions for using authorised e-signatures in certain circumstances, such as company registration procedures. Where the law requires a statement to be put in writing, an electronic document furnished with an advanced security e-signature will have an identical effect.

/ Data Protection

The Privacy Act (Act No CXII of 2011 on Informational Self-Determination and Freedom of Information (**Privacy Act**)) contains the key principles with regard to the authorised processing of personal data. According to this key principles, personal data (meaning in broad terms all data related in some way to data subjects, i.e. natural persons) may only be processed (i) with the prior consent of the data subjects or (ii) in limited cases with the prior authorisation by law. Since Hungarian law provides for statutory rights to process personal data only in limited cases (see point (ii) above), the data subject's consent must be obtained in most cases.

One of the important provisions of the Privacy Act is that personal data may also be processed without the prior consent of the data subject, provided that it is impossible or requires disproportionate effort to obtain the data subject's consent. However, this exemption is only applicable if data processing is necessary (i) for the data controller to comply with a legal obligation, or (ii) for the data controller to assert its legitimate interests and such interests are not overridden by fundamental privacy principles. Further, if personal data has been collected and processed on the basis of a data subject's consent, such data may continue to be processed even if the data subject revokes his or her consent, as long as either condition (i) or (ii) above is met (note: the above provisions aim to implement Article 7c) and f) of Directive 95/46/EC).

It should be highlighted in this respect that data subjects must be informed about all relevant aspects of the processing of their data because informed consent is required. This also means that even if the data subject has provided prior consent, personal data may only be processed within the scope of the actual and agreed data collection activity.

The Privacy Act established a new Data Protection Supervisory Authority (**DPA**) replacing the previous Data Commissioner. The new authority has an increased scope of activity, such as powerful investigative authority and the right to impose fines.

Significant changes were introduced in the field of data protection in 2015. The Hungarian Parliament has amended the Privacy Act. The most important amendments of the Privacy Act are described below.

A new tool, the binding corporate rules (**BCRs**), has been introduced in the amendment. BCRs are intra-group company global privacy policies which set out standard internal procedures and comply with EU data protection requirements. According to the new rules Hungarian companies and multinational company groups with Hungarian subsidiaries may – subject to completing the approval procedure before the DPA – rely on BCRs when transferring personal data with their group. The approval procedure takes 60 days and the administrative fee is HUF 266,000 (approximately €900).

In order to help individuals inform on any wrongdoings involving their personal data and to facilitate DPA investigations, all data controllers are required to maintain a register of data

breaches for at least five years. It is not necessary, however, to notify the authority of such breaches.

The upper limit of monetary fines that may be imposed by the DPA has been increased to HUF 20 million (approximately €65,000).

Several other acts (decrees) contain additional data protection provisions. For example, personal data collected for the purposes of direct marketing and research is regulated by Act CXIX of 1995. Also, the E-Commerce Act (see above) contains special data protection provisions.

A gross infringement of data protection provisions may in some cases lead to criminal liability and can constitute a criminal offence (the relevant legal provisions are found in the Hungarian Criminal Code).

/ Product Liability

Product liability is now mainly regulated by the Civil Code implementing Directive 85/374/EEC). The Civil Code provides that the manufacturer of the defective product is liable for damage caused by the product defect and allows only few defences, e.g. the manufacturer did not put the product into circulation, the product was not manufactured or distributed in the course of the manufacturer's business or the defect could not be discovered at the time the product was put into circulation according to the scientific and technical knowledge. A product is defective if it fails to provide the level of safety generally expected. The term "manufacturer" is defined widely, and covers manufacturers in different phases of production. Apart from the person attaching their name/trademark, the importer or the distributor can be held liable. Examples of damage which may be subject to compensation are: damage resulting in death, bodily injury or health damage. Property damage, other than damage to the defective product itself, exceeding the equivalent of €500 in the Hungarian currency is recoverable if the other property is of a type ordinarily intended for private use or consumption and was usually used by the injured person for such purposes.

Product liability claims can be made under contract and tort law or other claims stipulated by law, in addition those under the Civil Code.

The general rules on product safety, applying to products that are intended for or made accessible to consumers are set out in Act CLV of 1997 (on Consumer Protection (**CPA**), implementing Directive 2001/95/EC) and Act LXXXVIII of 2012. In addition, specific safety rules apply to certain product groups, e.g. pharmaceuticals under Act XCV of 2005 and Decree No. 52/2005 of the Minister of Healthcare.

The CPA and Act LXXXVIII of 2012 establish public law duties for the manufacturers of consumer products, e.g. marking the product with appropriate labels, monitoring product safety on a regular basis, investigating complaints raised in connection with product safety and withdrawing or recalling the product from the market.

Non-compliance with product safety requirements can be punished by the competent market surveillance authorities. Non-compliance with the CPA may be enforced by ordering the withdrawal or recall of the unsafe product or by levying fines.

/ Bribery & Corporate Crime

Bribery is punishable under Act C of 2012 on the Hungarian Criminal Code, either committed in the public or the private sector, or committed actively or passively. Bribery may give rise to imprisonment for between one and five years (in certain qualified cases up to ten years). Criminal liability attaches to both the bribery of civil servants as well as directors and employees of companies and associations. Bribing directors and employees of foreign companies as well as civil servants of foreign countries and organisations also qualifies as a crime. Note that criminal liability attaches to the active conduct of bribing any of the above or requesting a bribe or another advantage. This also applies to the passive acceptance of, and the agreement with, another person's demand for such bribe.

The European Money Laundering Directive has been incorporated into Hungarian law by Act CXXXVI of 2007 on the prevention of money laundering and the financing of terrorism (**Money Laundering Act**). According to the provisions of the Money Laundering Act, companies in the financial sector, auditors, tax advisors, attorneys, notaries, casino operators and traders of precious metals have to identify their customers and monitor and report suspicious transactions. Failing to comply with the above reporting obligation qualifies as a criminal offence and may give rise to up to two years imprisonment.

Assisting or participating in transactions relating to money laundering activities is also deemed a criminal offence and may result in imprisonment for up to eight years.

In general, only acts of individuals are subject to criminal liability, and thus only individuals may be subject to criminal punishments relating to their criminal liability. Certain criminal measures, however, can be made against companies as well if the crime – committed by a director, supervisory board member, employee or member etc. in their scope of duties – aimed to obtain any kind of advantage for the company. These kinds of criminal measures against companies can range from imposing a fine or restriction of activity to their compulsory termination.

/ Real Estate

Based on the provisions of Act CXXII of 2013 on Transactions in Agricultural and Forestry Land, Hungarian or foreign entities and non-EU nationals are not allowed to acquire ownership of agricultural land, whereas EU nationals may now acquire agricultural land if they meet the requirements set forth in the Act.

Foreign individuals and legal entities registered in the European Union may own any other real property without any further restrictions.

Acquisition of real estate by foreign individuals and legal entities registered outside the European Union is subject to the approval of the relevant governmental body, as set out in Government Decree No. 251/2014.

Freehold and leasehold are not recognised concepts in Hungarian law, i.e. ownership rights are not limited in time.

Ownership of real estate may either be by co-ownership or sole ownership. In the case of co-ownership, all owners have a theoretical ownership ratio in relation to the property which is the basis of decision-making voting rights and costs.

Condominium ownership is a combination of the two forms: certain parts of the property are solely owned, while other parts are co-owned by the owners.

With certain legal exceptions, the ownership of land and of the building on the land cannot be separated.

Other interests may also be registered in relation to real property, for example:

- A "right of usufruct" is a right for a person to hold and use a certain asset and to benefit from its products, without having the right to dispose of the property
- A "right of use" is a particular type of the right of usufruct, and, like the latter, is the right for a person to hold and use a certain asset to the extent that it serves himself and his family members
- An "easement" is the right to use a part of a real property of another without possessing it. Easements require the existence of at least two parties.

Certain rights set out in Act CXLI of 1997 may only be validly created by registration in the land register. These rights are: ownership based on transfer, asset management rights, use of land, usufruct and the right of use, easement and mortgages based on contract.

This means that the transfer of ownership of a property is only effective if registered in the land register.

For the purpose of valid registration, sale agreements need to be either countersigned by a lawyer or prepared by a notary public in the form of a notarial deed.

The transfer of real property is subject to transfer tax, payable by the purchaser.

The standard transfer tax rate is 4% on the part of the purchase price up to HUF 1 billion (approximately €3.2 million) and 2% on the excess part, up to a maximum of HUF 200 million (approximately €630,000).

For properties registered as apartments, the transfer tax is 4% of the difference between the purchase prices of the apartment bought by the buyer and the previous apartment sold by the buyer if the sale of the previous apartment is within one year of the purchase of the new apartment.

The general rule is that the transfer of real property between legal entities is subject to VAT, with certain exceptions defined by law.

Existing law is stated as it applied in January 2015.

/ Further Information

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