

# DOING BUSINESS IN HUNGARY

SEPTEMBER 2015

NAGY & TRÓCSÁNYI

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## GEOGRAPHY

Hungary's official name in Hungarian has recently changed from "Magyar Köztársaság" ("Republic of Hungary") to "Magyarország" ("Hungary"). Hungary is situated in Central Europe, in the Carpathian Basin with a land surface of 93 030 square kilometers (35,919 square miles). The neighboring countries are Slovakia to the north, Ukraine to the northeast, Romania to the east, Croatia and Serbia to the south and Austria and Slovenia to the west. Hungary is in the Central European Time Zone (CET). The climate of the country is moderate.

## PEOPLE

Hungary has a population of 9.91 million people, 1.74 million of whom live in Budapest, the capital of Hungary.

Although the majority of the population consider themselves Christian (51,9% are Roman Catholic, 18.9% are Protestant), there are no religious influences or prohibitions on the way business is conducted.

Hungarian is the only official language, but many people speak either English or German as a second language. These two foreign languages are widely spoken in business, legal, tourist related and academic fields. Some French is also spoken, mainly in western Hungary.

## TRANSPORTATION

Hungary is connected to all seven of its neighboring countries by road and rail. The motorway-network is the second densest among the new members of the European Union.

Volánbusz runs regular bus transport services to about 18 different countries. The railway system is also well developed: Magyar Államvasutak (MÁV) has express rail services (the InterCity network) that run as far as St Petersburg and Rome.

As a destination of most international airlines, Budapest has one airport. Besides that there are four other international airports, one of them is close to Lake Balaton (Sármellék Airport); one is located in Debrecen, the 2nd largest city in Hungary, one is in Győr-Pér, and last but not least one in Pécs-Pogány.

There are four metro lines in the capital connecting the most frequented places of the city. Besides these several tram, bus and trolley bus lines are provided to reach almost any part of the city.

## COMMUNICATIONS

The International Country Calling Code is 36. Public telephones are either coin-operated or accept pre-purchased telephone cards, though these are rare to find nowadays. Thanks to good network coverage, mobile communication is possible all over the country. Roaming agreements exist with international cell phone service providers. Hungary is one of the leading countries when it comes to cell phone coverage.

The internet is becoming gradually more available throughout the country through ADSL, cable or mobile internet connection. Internet cafes are also operated in larger towns and free Wi-Fi access is also available on several public places.

## PUBLIC SERVICES

Public services (water, electricity and gas) are mostly privately owned in Hungary.

## 1. INVESTMENT POLICIES

The attraction of the quite favorable Hungarian investment climate lies mainly in the following factors:

- > favorable geographical location in the European Union;
- > bridge towards Southeast Europe and the Balkan states;
- > relatively well developed infrastructure;
- > modern market economy;
- > political and financial stability;
- > low rate of inflation;
- > highly skilled and talented workforce;
- > favorable investment incentive system.

In order to encourage investments the Hungarian government founded the Hungarian Investment Promotion Agency (Nemzeti Befektetési Ügynökség, "HIPA", <http://hipa.hu/en>), an agency responsible for facilitating domestic as well as foreign investments. HIPA informs foreign investors on tender possibilities and state subsidies. State subsidies include tax benefits, direct financial subventions and many other methods for increasing the profitability of the investment.

In the past decade the rate of inflation has decreased continuously, in 1999 it was still around 10% but in 2005 it was only about 3.6%, and was last reported at -0,2% in January of 2014. The expansion of the Hungarian GDP was around twice that of the EU average, from 1999 to 2006, consecutively: 4.2%, 5.2%, 3.8%, 3.5%, 2.9%, 4.7%, 4.1%, 3.9%. The global recession has had a severe effect on the Hungarian economy. In 2007 the expansion rate fell back to 0.1%, and while it increased slightly in 2008 to 0.9%, the year 2009 saw an economic decline in Hungary, with the GDP rate decreasing by 6.8%. From then on, the performance of the Hungarian economy has been growing again slowly, the expansion rate being 1.8% in 2011, 1.7% in 2012 and 1.6% in 2013. According to the latest data of the Hungarian Central Statistical Office the expansion of the GDP rate was 3.6 in 2014.

The corporate tax rate is 10% of the positive tax base up to HUF 500 million, and 19% of the remaining portion of the tax base, one of the lowest in Europe. Other than these there are additional tax incentives related to investments. A couple of them are subject to certain employment-encouraging conditions. The current unemployment data show a rate of 6,7%. In 2013, Hungary's GDP at current prices amounted to HUF 29 billion. In per capita terms, the amount of GDP was HUF 2.943.000 which corresponds to € 9.912 at the average annual exchange rate of the Hungarian National Bank (€ 1 = HUF 296.92). According to Eurostat calculations, the GDP at purchasing power parity (PPP) was 67% of the EU-average in 2012.

In general, the size of the Hungarian market is rather moderate, but many companies have their Central European headquarters in Budapest.

Foreign direct investments have been operating in the sectors with a need for cheap and unskilled labor. Nowadays, however, there is a clearly perceptible tendency to move towards the skilled sector, such as that of information technology or car manufacturing.

## 2. DIPLOMATIC RELATIONS

Hungary has established diplomatic relations with almost all the countries in the world and nearly every country is represented in Budapest, either with an embassy or a consulate.

The list of embassies and consulates is available on the following website:

<http://www.kormany.hu/hu/kulgaszdasagi-es-kulugyminiszterium/kulkepviseletok>

On December 21, 2007 Hungary became full-member of the Schengen Area. (The members of the Schengen Area are 22 states of the EU, as well as Norway, Iceland, Switzerland and Liechtenstein.) The most important change by virtue of the full membership of Hungary is that the visas and residence permits issued by other Schengen countries are valid in Hungary and the

visas and residence permits issued by Hungary are valid in the other Schengen countries. The citizens of the European Economic Area (EEA) can enter Hungary without a visa, and they are allowed to stay without a residence permit for up to and including 90 days. Should they wish to extend their stay they are obliged to apply for a so-called European Economic Area (EEA) residence permit.

Citizens of the following European Economic Area (EEA) member countries can enter Hungary with a valid identity card: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Greece, The Netherlands, Poland, Romania, Liechtenstein, Lithuania, Luxembourg, Malta, Germany, Italy, Portugal, Spain, Slovakia, and Slovenia.

Some European Economic Area (EEA) member states, such as Denmark, The United Kingdom, Iceland, Ireland, Latvia and Norway do not issue identity cards, so the citizens of these countries can enter Hungary with a valid passport.

Foreigners planning to visit Hungary for a period not longer than 90 days with a purpose other than that of employment or earning income shall check the list of agreements on abolishment of visa requirements first.

The list of the agreements is available on the following website:

<http://www.konzuliszolgalat.kormany.hu/en>

Foreigners planning to visit Hungary for a period longer than 90 days or with the purpose of employment or earning income must apply for a visa. For travel information, especially the requirements of a visa, please contact

Konzuli Szolgálat (Consular Services)  
Address: H-1027 Budapest, Nagy Imre tér 4.  
Phone: +36 (1) 458 1000  
Fax: +36 (1) 201 7323  
E-mail: konz@mfa.gov.hu  
<http://konzuliszolgalat.kormany.hu/en>

### 3. HUNGARIAN PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION

Between January 1, and June 30, 2011 Hungary held the office of the presidency of the Council of the European Union. Hungary's task has been to shape the issues on the agenda of the European Union to match the interests of the then 27 Member States. In order to maintain the course amidst its many obligations, the Hungarian presidency has defined the topics that it considered to be of outstanding significance. The Hungarian Presidency worked along four priorities during the first half of 2011. Beside this, it intended to keep in the focus point the human factor, as the basis for intelligent, sustainable and inclusive growth when dealing with all other issues ranging from the economy, through common policies to the issue of enlargement.

The main accomplishments of the presidency are:

- > European semester aimed at the control of Member States' budgets,
- > six legislative proposals for reforming the economic governance,
- > Roma strategy,
- > Danube strategy,
- > conclusion of the accession talks with Croatia,
- > reinforcement of the external Schengen boards, the "creation of capacities necessary to contain migration", and the important steps taken in order to deepen and expand the Schengen cooperation.

### 4. GOVERNMENT

#### 4.1. ELECTION SYSTEM

The Fundamental Law of Hungary (the constitution) includes the active and passive right to vote among the fundamental rights. The parliamentary elections are held every four years in April or in May. The municipal elections were held every four years, however, since October 2014 the terms have extended to five years. The last parliamentary election was held on April 6, 2014.

As a result of a constitutional amendment which reduced the former number of the representatives, the current number of Members of Parliament is 199, with a further maximum of 13 members representing national and ethnic minorities. Until 2010 the number of Members of Parliament was 386 but this number was limited by the above mentioned amendment. According to the current rules the members of Parliament are elected by popular vote with a system of proportional and direct representation to

serve a four-year term. During the next parliamentary election in 2018, Members of Parliament can obtain a seat in one of two ways:

- > **candidates are voted** for and the candidate who obtains the most votes becomes the Member of Parliament;
- > **parties are voted for** and they obtain seats according to the percentage of votes;

If a party does not reach the electoral threshold limit (at present 5% of all the votes cast), it loses all the votes it obtained. The advantage of this system is that small political parties are not allowed to get into the Parliament.

#### 4.2. A SHORT POLITICAL HISTORY OF HUNGARY SINCE THE 1990'S

The first election following the democratic transformation in 1990 was won by a conservative party, the Hungarian Democratic Forum (Magyar Demokrata Fórum - MDF). The government of Mr. József Antall had to make several unpopular decisions while the living standard of the population was continuously decreasing. Thus, after the elections in 1994, the Hungarian Socialist Party (Magyar Szocialista Párt - MSZP), which was founded on the ruins of the former communist party in 1990, obtained a majority in the Parliament and established the cabinet of Prime Minister Mr. Gyula Horn. They continued the economic transformation of Hungary but in 1998 they lost the elections. Another conservative party, The Alliance of Young Democrats, (Fiatl Demokraták Szövetsége - FIDESZ) won and Mr. Viktor Orbán established the government. During those 4 years the expansion of the Hungarian economy reached its peak. However, in 2002 Fidesz lost the election and the Socialists won with a minimal majority, although Mr. Medgyessy and his Cabinet resigned in 2004. Prime Minister, Mr. Ferenc Gyurcsány entered into office in October 2004, following the resignation of Mr. Péter Medgyessy and his Cabinet. This was the first time a government had not fill its 4-year-mandate since the democratic transformation in 1990. In 2006 MSZP won the election again. After the resignation of Mr. Ferenc Gyurcsány and his cabinet, a new government was formed by Mr. Gordon Bajnai in April 2009. The current Prime Minister is Mr. Viktor Orbán, who has served since 29 May 2010.

#### 4.3. JUDICIAL SYSTEM

The ordinary jurisdiction is exercised on four levels:

- > **105 local and - in the capital - 6 district courts of justice (111 court in total)** functioning as courts of first instance with general jurisdiction ("local court");
- > **19 County Courts and - in the capital - the Metropolitan Court** functioning as courts of first and second instance, 5 of them are specified by law to deal with military cases,
- > **5 Regional Courts (of appeal)** are only appellate courts;
- > **Curia of Hungary**, which is the highest court with double jurisdiction: judgment and harmonization of the judicial practice.

Labor and administrative disputes are being judged by the **20 Public Administration and Labor Courts** that operate at the seat of the County Courts and in the Metropolitan Court. Labor Courts have jurisdiction of a court of first instance.

The independence of the judges is supported by constitutional guarantees. Pursuant to the Fundamental Law judges are independent and subordinate only to law. Judges must not be members of political parties and must not engage in political activities. They can only be removed on the grounds of and in accordance with the procedures specified by law.

In Hungary everyone is equal before the court. Everyone has the right to legal proceedings if any accusations are brought against him. Rights and duties are judged in a fair, public trial by an independent and impartial court established by law.

Legal disputes have to be judged by a reasonable deadline, which is determined by the specifics of the proceeding.

Arbitration is the alternative method of dispute resolution. It is permitted only in commercial cases. Instead of court proceedings arbitration may take place, if

- > at least one of the parties is a person dealing professionally with economic activity, and the legal dispute is in connection with this activity, furthermore
- > the parties may dispose freely of the subject matter of the proceedings, and
- > the arbitration was stipulated in an arbitration agreement.

The resolution of foreign courts and foreign arbitration tribunals can be executed on the basis of law, international conventions or reciprocity.

## 4.4. THE LEGISLATIVE SYSTEM

In the hierarchy of legislation there are 5 stages: (1) the Fundamental Law of Hungary (constitution), (2) acts, (3) governmental and ministerial decrees and decrees adopted by the Governor of the Hungarian National Bank or the head of an autonomous regulatory agency, (4) decrees adopted by the Prime Minister and other ministers, and (5) local government ordinances. Moreover, legal act shall also mean the decrees issued by the National Defense Council during a state of national crisis or by the President of the Republic in a state of emergency.

The new constitution of Hungary entered into force on 1 January 2012, which includes rather symbolic than substantive changes. Acts can only be enacted by the Parliament. The constitution specifies various exclusive legislative subjects - in general, the regulations pertaining to fundamental rights and duties can only be determined in acts with the provision not to restrict the basic meaning and contents of fundamental rights. There are many important acts, which can only be amended by a majority of two-thirds of the votes of the Members of the Parliament.

## 5. ENVIRONMENTAL CONSIDERATIONS

Under Hungarian law, a National Environmental Protection programme must be developed every six years and forms part of the National Nature Conservation Master Plan.

Thanks to the recently operated 3rd National Environmental Protection Programme, which covered the period 2009-2014, the emission of greenhouse gases in Hungary has decreased, as have the quantity of generated waste and water usage. Forest areas have, in contrast, increased by 20 percent. The development of the 4th National Environmental Protection Programme has already been finished and it covers the period 2014-2019.

An amount of HUF 36 billion had been spent within the framework of the Environment and Energy Operational Programme (abbreviated as "KEOP" in Hungarian) during the EU financing period 2007-2013. The budget for the new Environment and Energy Efficiency Operational Programme ("KEHOP") for the current budgetary period until 2020 is HUF 31.3 billion, but the decrease in funding is purely illusionary as several other operational programmes also include environmental items.

Thirty percent of Hungary's territory is semi-natural, which is an excellent ratio in European comparison. According to governmental plans, some 250,000 hectares of national park land should be returned to state ownership to secure the protected restoration of habitats, an objective that has already been realized with regard to 150,000 hectares, with the remaining 100 thousand hectares becoming state property by 2015. The 2014 budget included HUF 1.4bn in funding for this purpose.

## 6. LAW ON INTELLECTUAL PROPERTIES

Hungary is a member of many international treaties related to intellectual property; consequently the law for the protection of intellectual property is in accordance with the European regulations:

- > Berne Convention for the Protection of Literary and Artistic Works;
- > Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations;
- > Paris Convention for the Protection of Industrial Property;
- > Madrid Agreement Concerning the International Registration of Marks;
- > Lisbon Agreement for the Protection of Appellations of Origin and their International Registration;
- > TRIPS Agreement (Trade Related Aspects of Intellectual Property Rights); etc.

Literary and artistic works are automatically protected from the moment they are created, but industrial properties have to be registered for their protection: the registration of trademarks, commercial names, patents or intellectual property is necessary for protection.

## 1. GOVERNMENTAL AND REGIONAL INCENTIVES

Governmental and regional incentives are available in a very wide range. However, this range has been diminished as a result of Hungary's accession to the European Union.

Generally incentives as a whole are regulated by certain government and ministerial decrees (Decree no. 1/2001 (I.5.) of the Minister of Economy, Decree no. 19/2004 (II.27) of the Minister of Economy and Transport, Decree no. 6/2008 (III.7.) of the Minister of Economy and Transport, Government Decree no. 210/2014 (VIII.27.)). According to these decrees incentives can only be issued within a financial aid program or as an individual incentive.

According to the decrees, incentives that qualify as incentives under Subsection (1) of Article 107 of the Treaty on the Functioning of the European Union shall qualify as incentives under the decrees.

The decrees provide that the form of the incentives are as follows: any refundable or non-refundable financial assets, interest free credit, credit with discounted interest, incentive provided to the payment of interests, surety given with favorable conditions, state guarantee, state capital injection, tax incentives, tax base incentives, discounted leasing, services provided free of charge or with favorable conditions, service of real estates, waiver of receivables, assumption of debt and lease with discounted conditions.

## 2. TAX INCENTIVES

Act LXXXI of 1996 on Corporate Tax and Dividend Tax ("**Corporate Tax Act**") provides on the possible tax incentives.

### 2.1. TAX INCENTIVES OF SMALL AND MEDIUM SIZED BUSINESSES

Taxpayers who qualify as small and medium-sized enterprises pursuant to Act XXXIV of 2004 on Small and Medium-sized Enterprises and the Support provided to such Enterprises shall be eligible for tax allowances for the entire year when the relevant loan contract (or financial leasing contract) is signed regarding the purchase or creation - financed by a financial institution - of a tangible asset, based on the interest on the loan. The amount of tax allowance is 40 percent of the interest paid during the tax year if the loan contract was concluded before December 31, 2013 and 60 percent if the loan contract was concluded after this date. The amount of tax allowance received shall not exceed HUF 6 million per year.

The taxpayer shall be eligible for the tax allowance first in the tax year on the last day of which the tangible asset in question is shown in its records, but not later than the year in which the loan is to be paid off in full as contracted.

### 2.2. INVESTMENT TAX INCENTIVES

Investment tax incentives are available if the value of the investment exceeds HUF 3 billion (approx. EUR 10 million). In case of disadvantageous towns or villages the minimum amount of investment shall be HUF 1 billion (approx. EUR 3,3 million). While in case of food production, environmental protection, Internet service, workplace establishment related investments, film and video production, research or development related investments the minimum amount shall be HUF 100 million (approx. EUR 300,000). A further requirement is that the investment shall provide new workplaces. The number of new workplaces to be provided varies according to the type of investments, the size of the business association and the location of the investment in question. There are further conditions to be fulfilled.

### 2.3. LOCAL BUSINESS TAX INCENTIVES

According to Act C of 1990 on Local Taxes local business tax incentives are only available to business enterprises whose tax base does not exceed HUF 2.5 million. The incentives were only available until December 31, 2007 according to Annex X of the Accession Treaty to the European Union.

### 3. EXPORT FINANCING AND EXPORT INSURANCE

According to Act XLII of 1994 on the Hungarian Export-Import Bank (“**Eximbank**”) and on the Hungarian Export Credit Insurance Company (“**Mehib**”) the purpose of these institutions is the support of Hungarian products and services and the interest of Hungary with regard to export activities.

#### 3.1. EXIMBANK

Eximbank is a solely state owned company limited by shares. Except as mentioned in the introduction Eximbank is meant to support Hungarian products and services in export and import matters. Furthermore Eximbank supports Hungarian investments abroad. Thus Eximbank provides financial and investment services such as granting credit and loans or providing surety bonds, bank guarantees and credit reporting services.

The services on offer to certain type of products are not limited, but only the export of Hungarian products or services can be financed. Hungarian products or services shall be understood to mean products or services manufactured or provided by Hungarian business entities. Business entities that have their headquarters in Hungary shall qualify as Hungarian.

#### 3.2. MEHIB

Mehib is a solely state owned company limited by shares. Mehib insures mainly non-marketable<sup>1</sup> risks arising out of export and provides information related to crediting, suretyship and financial losses.

Except as previously mentioned the above activities of Mehib are mainly related to the export of Hungarian products and services. Hungarian products or services shall be understood to mean products or services manufactured or provided by Hungarian business entities. Business entities that have their headquarters in Hungary shall qualify as Hungarian.

Mehib is obliged by law to contract only in cases where the following conditions are fulfilled:

- > the risk qualifies as a non-marketable risk ,
- > in case of insuring export crediting, the credit contract shall be in accordance with the requirements of the OECD Convention on Officially Subsidized Export Credits and with the OECD determined provisions on project financing,
- > the contracting party or parties shall reveal in a written statement that they did not participate in bribery and are not aware of any corruption related to the transaction,
- > according to the statement issued by OECD on the Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, the business activity concerned with the proposed insurance contract shall not qualify as harmful to the environment or to human rights,
- > Mehib concludes the proceedings prescribed by the statement issued by OECD on the Principles and Guidelines for Sustainable Lending to Low-Income Countries.

The insurance fee depends on the deductible risk, the scope of insurance method of payment, conditions of repayment, the targeted country (the classification of country-risks) and on the qualifications of the debtor and of the guarantor. The fee shall not be less than the minimum fee determined by the OECD Convention.

The following targeted countries do not qualify within the scope of non-marketable risk: member states of the European Union (except Greece), Australia, Canada, Iceland, Japan, New-Zealand, Norway, Switzerland and United States of America.

<sup>1</sup> Non-marketable risks shall have the meaning of any risk that cannot be insured or reinsured on the insurance market.

## 1. STRUCTURE OF THE BANKING SYSTEM

Hungary has a two-level banking system. The first level is the Central Bank of Hungary which, being the central bank, defines and implements the monetary policy consistent with the protection of the value of the national currency and has the exclusive right to issue banknotes and coins. The Central Bank of Hungary is also responsible for the supervision of the financial markets and has consumer protection competencies with regard to the financial system. The commercial banks are on the second level of the banking system. Commercial banks may maintain bank accounts for individuals and business entities, accept deposits from and extend credit to them, and may provide other financial services and auxiliary financial services as well.

## 2. FINANCIAL INSTITUTIONS

In Hungary credit institutions and financial enterprises shall be construed as financial institutions. Credit institutions may be banks, specialized credit institutions or credit institutions incorporated as private limited companies or set up as cooperatives. A credit institution set up as a cooperative society may operate in the form of a savings and loan, or credit union. Financial enterprises are (i) financial institutions licensed to perform one or more financial service with the exception of certain activities, (ii) financial holding companies, and (iii) clearing houses for credit institutions. All financial institutions are subject to the supervision of the Central Bank of Hungary.

## 3. THE INVESTOR'S BANK ACCOUNT

Investors may operate businesses in Hungary in several forms. Any foreign entity may establish a branch office or commercial representative office in Hungary. It is also possible to found a registered Hungarian business association or to become a shareholder/quotaholder in existing Hungarian business entities. According to the legal regulations business associations (including branch offices and representative offices of foreign companies) are obliged to keep all their monetary assets in a bank account, with the exception of currency kept on hand for cash transactions, execute their financial transactions through such bank account, and enter into a bank account contract for this purpose.

## 4. REQUIREMENTS FOR OPENING A BANK ACCOUNT

Banks may open a bank account for persons subject to the statutory requirements of opening a bank account under the following conditions:

- > for duly registered business entities, if they produce a document that was issued by the registration authority within 30 days to date in evidence of such registration, and if they disclose their tax number and statistical code;
- > for business associations, whose registration is in progress, if they produce an official copy of their articles of association to the bank, and if they produce a copy of the certificate issued by the Court of Registry upon submission of the application for registration if opening a bank account is not mandatory in connection with the registration requirement at the time of submission of the application.

## 5. RESTRICTIONS ON THE INVESTOR'S USE OF THE ACCOUNT

A bank is only allowed to debit a bank account without or in contradiction with the instruction of the account holder to discharge an executable court or administrative ruling that involves the payment of money, or to satisfy a bill presented to a credit institution designated upon its maturity by the drawee of the bill, and in other cases specified by legal regulation. The banks may provide specific rules on the usage of the bank accounts opened at their offices.

## 6. STOCK MARKET

The Budapest Stock Exchange Ltd. is the official trading platform for publicly emitted securities. The widening range of products available on the market can be categorized as equities, debt securities and derivatives sections. The Budapest Commodities Exchange also exists.

Pursuant to Act XXIV of 1988 on the Investments of Foreigners in Hungary, non-resident companies may engage only in the following business activities without settling in Hungary:

- > education,
- > artistic performances,
- > professional sports activities,
- > activities limited to the provision of services and the sale of products acquired in Hungary, provided that they are accomplished without personal presence, by the use of a commercial card issued abroad by the foreign national in question,
- > utilization of real estate and natural sources of energy for payment of consideration; delivery, sale and contribution of valuable rights connected to real estate and natural source of energy for payment of consideration.

Since the accession of Hungary to the European Union the companies residing in the European Economic Area may perform cross-border services without having to be settled on the territory of Hungary.

According to Act XCIII of 2001 on the Termination of Foreign Exchange Restrictions a company qualifies as national, if it has its seat in Hungary except for free zone companies and national unions. Offshore companies and a Hungarian branch office of a company with its seat abroad also qualify as national. The following entities qualify as non-resident: (i) a company with its seat abroad, (ii) a non-resident branch office of a resident company, (iii) a commercial representation of a non-resident company, (iv) free zone company, (v) Hungarian branch of a foreign company if the branch was established in a free zone or if it operates there.

By virtue of its accession to the European Union, Hungary is required to lift all restrictions relative to direct or indirect investments, except interim measures in respect of the acquisition of secondary residence and of agricultural land, provided by the Accession Treaty.

Since 2001, foreign exchange controls have been almost completely abandoned. The customs authorities should be notified of the transfer of currency exceeding HUF 3.6 million across the border of Hungary in accordance with the anti-money laundering rules. Repatriation of profit is not restricted, neither is its convertibility. The rate of exchange is freely determined by the authorized exchangers; however the Central Bank of Hungary should adopt intervening measures on the money markets, in the cases of certain changes in the actual rates.

## 1. HUNGARY'S GATT AND EU MEMBERSHIP

Hungary concluded the Accession Agreement with the GATT on August 10, 1973 (Decree no. 23/1973 of Counsel of Ministers). Hungary, the EEC and the Member States of the EEC concluded the European Agreement on the partnership established among them (Act I of 1994). Hungary has been an EU Member State with full power as of May 1, 2004 ("**Accession Day**"). Today Hungary is a party in several free trade agreements.

Concerning the clearance of products – since Hungary has signed the European Agreement and is a full-fledged EU Member State as of May 1, 2004 – the relevant EU custom rules are in force. The characteristics of a custom union are the use of common external customs tariffs and the abrogation of customs regarding the internal commerce between the member states.

## 2. EXPORT / IMPORT

The Member States of the EU use the TARIC system (TARIC = "**TAR**if Intégré de la **C**ommunauté"), which includes the Combined Nomenclature, the applicable tariffs and custom, and the commercial and agricultural measures regarding each tariff. Due to its structure, the TARIC enables the national custom administrations to execute the emerging tasks in a unified way in the EU Member States.

In Hungary the issuance of export and import licenses fall within the scope of authority of the Hungarian Trade Licensing Office.

A new act entered into force on May 1, 2004. Act CXXVI of 2003 on the Enforcement of the Community Custom Rules. This act provides the basis of the use of the community custom system in Hungary. The details are provided in Decree no. 15/2004 (IV. 5.) of Minister of Financial Affairs on the Detailed Enforcement of Community Custom Rules.

### 2.1 LICENSING

The EU licensing rules apply to Hungary. For some special product - however - special Hungarian legislation is also in force, obviously not contradicting any EU regulations.

These special legislations are:

- > Governmental Decree No. 52/2012 (III.28.) on the Cross-Border or Cross-Customs Commerce of Goods, Services and Valuable Rights. This decree applies for export import and re-export between EU and non-EU countries as well. It provides that the export, import and re-export of goods listed in the Schedules of the Decree is subject to the license granted by the Hungarian Trade Licensing Office
- > Governmental Decree no. 160/2011 (VIII. 18.) on the Export, Import, Transfer and Transit Licensing of Military Equipment and Services and on the certification of enterprises also provides separate rules on licensing.
- > Governmental Decree no. 13/2011. (II.22.) on the licensing of the international commerce of dual-used items.

### 2.2 PROCEDURAL RULES

Act CXXII of 2010 on the National Tax and Customs Administration contains the determination of competence and jurisdiction, organization, and several other issues.

## 1. IN GENERAL

Anyone may establish a business organization under Hungarian law: Hungarian and foreign natural persons, as well as Hungarian and foreign legal entities or organizations without legal personality. There are no restrictions regarding the number of nationals to participate, or on the nationality of CEOs, directors, supervisory board members, etc. Moreover, it is possible for a business organization registered in Hungary to be founded exclusively by foreign persons. There is only one “restriction” for foreign persons who take part in a Hungarian business organization, namely if the foreign person does not have a residence in Hungary, an agent for service of process shall be designated.

The state may participate in a business organization without any restrictions through its (legally or organizationally) distinct units with the capacity to establish business organizations set forth by law.

The rules of the business organizations are laid down in many of acts, such as Act XLV of 2004 on European Company Limited by Shares, Act XLIX of 2003 on European Economic Interest Grouping, Act X of 2006 on Cooperatives, Act LXIX of 2006 on European Cooperative Societies, Act CXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign Registered Companies, but the basics of the regulation have involved in the Act V of 2013, the current Hungarian Civil Code.

Act IV of 2006 on Business Associations was also an important source of the business entities but according to the tendencies of the civil law legislation its rules have also become a part of the Civil Code.

Under the scope of this act the investor may have liability to its partners, other investors and third parties, as well as to other members of the business association. According to Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings controlling members may have unlimited and full liability in case of liquidation procedures, if the assets do not cover the debts of the business association due to continuously making unfavorable business decisions from the standpoint of the debtor business association.

## 2. BUSINESS ORGANIZATION FORMS

### 2.1 CIVIL CODE (ACT V OF 2013)

#### Business associations

Business associations constitute a specific group of the business organizations. They are separate entities – legal persons –, with distinct assets, and established for the pursuit of business operations. The contributions provided by the members/shareholders (together “members”) constitute the property of the business association. The business associations must be registered at the Court of Registry. However the business associations exist as of the date of the registration, they may operate as a pre-company from the day of signing the articles of association.

Under the Civil Code (Part 3 of Book 3), the following forms of business associations exist:

- > *General (unlimited) partnership (Kkt)*

The partners have secondary, joint, several and unlimited liability for the obligations of the company not covered by the assets of the company. There is no requirement for minimum subscribed capital.

- > *Limited partnership (Bt)*

The company must have at least one member with limited (limited partner) and one member with unlimited liability (general partner) for the obligations of the company. The general partner has secondary, joint, several and unlimited liability for the obligations of the company not covered by the assets of the company, the limited partner has liability limited to his contribution to the capital of the company. There is no requirement for minimum subscribed capital.

- > *Limited liability company (Kft)*

The liability of the members towards the company is limited to their capital contributions. The members are (with certain specific exceptions) not liable for the obligations of the company. The articles of associations may set forth the obligation of

accessory contribution and/or additional payment. The minimal subscribed capital is HUF 3,000,000. The capital contributions may be provided in cash or in kind.

> *Private company limited by shares (Zrt)*

There are two forms of the company limited by shares: private company limited by shares and public company limited by shares. The main difference is that the shares of the public company are listed in the stock exchange.

The shareholders are not liable for the obligations of the company. The shareholders' liability towards the company, as in case of the limited liability companies, covers merely their capital contributions. The minimum subscribed capital is HUF 5,000,000. The capital contributions may be provided in cash or in kind.

It is to be noted that only the capital contributions to the company (shares) limited by shares may be embodied in securities.

> *Public company limited by shares (Nyrt)*

The shareholders are not liable for the obligations of the company. The shareholders liability towards the company, just like in case of the limited liability companies, covers merely their capital contributions. The subscribed amount of capital must be at least HUF 20,000,000. The capital contributions may be provided in cash or in kind.

It is to be noted that only the capital contributions of the company limited by shares may be embodied in securities.

> *Cooperative association (Egyesülés)*

The Civil Code provides for a so-called cooperative association. The aim of this association is to sustain the profitability of the members' business through the co-ordination of their business activity, and may also represent the members' professional interests. It is a nonprofit company; it is not intended to make its own profit. The members have secondary, unlimited, joint and several liability for the debts of the cooperative association not covered by its assets.

#### *Civil law association (Pjt)*

In Part 3 of Book 6, the Civil Code also provides for the civil law association (Pjt) which is not a business association per se. The purpose of this association is to serve as a legal framework for the cooperation of the contracting parties in order to achieve their common aim. Such common aim may be to carry out an economic activity as well. The parties have personal, joint and several liability for the obligations arising from the association's activity. Each party has an obligation to provide contribution (in equal value if they do not agree otherwise); such contribution may be money, asset, right and/or service (including personal labor). The contributions will become the common property of parties or, in case the contribution is consumable, they may have common use on it. Civil law associations shall not be registered at the Court of Registry.

#### *Cooperative (Szövetkezet)*

Cooperatives are also not business associations per se. It is nowadays a rarely used form (mainly used in the agricultural sector), governed by the Civil Code (Part 4 of Book 3), but Act X of 2006 on Cooperatives also lays down some particular rules (for example on specific kind of cooperatives). A cooperative is a legal person established with a capital made up of the members' contributions; it operates under the principle of open membership and variable capital, with the objective of lending assistance to its members so as to satisfy their economic and societal needs, where the obligation of its members toward the cooperative covers the provision of capital contribution and their personal involvement as provided for in its statutes. Members shall not bear liability for the obligations of the cooperative. The cooperatives shall be registered at the Court of Registry.

## 2.2 ACT ON EUROPEAN ECONOMIC INTEREST GROUPING (ACT XLIX OF 2003)

The European Economic Interest Grouping (EEIG) is a legal person regulated by Act XLIX of 2003 and Council Regulation (EEC) No. 2137/85 of 25 July 1985. According to the latter, the purpose of an EEIG is to facilitate or develop the economic activities of its members and to improve or increase the results of those activities; its purpose is not to make profit for itself. Its activity is related to the economic activities of its members and must not be more than ancillary to those activities. If the obligations of the grouping are not covered by its assets, the liability of the members is unlimited, joint and several.

## 2.3 ACT ON EUROPEAN COMPANY LIMITED BY SHARES (ACT XLV OF 2004)

The European Company Limited by Shares (SE) is a legal person regulated by Act XLV of 2004 and Council Regulation (EC) No 2157/2001 of 8 October 2001. According to the latter, the capital of SE is divided into shares. No shareholder is liable for more than the amount he has been subscribed. The subscribed capital shall not be less than EUR 120,000. There are four ways of forming an SE: merger, formation of a holding company, formation of a joint subsidiary, or conversion of a public limited company previously formed under national law. Formation by merger is available only to public limited companies from different member states. Formation of an SE holding company is available to public and private limited companies with their registered offices in different member states, or having subsidiaries or branches in member states other than that of their registered office. Formation of a joint subsidiary is available under the same circumstances to any legal entities governed by public or private law (excluding nonprofit organizations). A public limited-liability company may be transformed into an SE if for at least two years it has had a subsidiary company governed by the law of another member state.

## 2.4 ACT ON EUROPEAN COOPERATIVE SOCIETIES (ACT LXIX OF 2006)(SCE)

The purpose of the Act on Cooperative Societies is to enable national cooperatives to form European Cooperative Societies, which operate in accordance with the provisions of European Council Regulation (EC) No. 1435/2003. SCEs may be established to fulfill the needs of their members and to improve their economic and social activities. They are legal persons, and shall be registered at the Court of Registry. The subscribed capital shall not be less than EUR 30,000.

## 2.5 ACT ON HUNGARIAN BRANCH OFFICES AND COMMERCIAL REPRESENTATIVE OFFICES OF FOREIGN COMPANIES (ACT CXXXII OF 1997)

A foreign investor has the possibility to establish a branch office or a commercial representative office in Hungary.

### > *Branch office*

A branch office is the Hungarian registered part of a foreign undertaking that operates in Hungary with economic independence but without legal personality. A branch office may carry out business activity, may acquire property, exercise certain rights and assume liabilities in its own name. In general a branch office shall not act as a representative or agent of the foreign undertaking or of other branches of the foreign undertaking; however, the financial branch set up by a foreign company established in any EEA Member State is an exception.

### > *Commercial representative office*

A commercial representative office is registered in Hungary as part of a foreign undertaking, without legal personality and without any capacity to act in its own name. It may represent the foreign undertaking; carry out preparatory and auxiliary activity for the benefit of the foreign undertaking. The commercial representative office may conclude contracts necessary to its operation, but only in the name of the foreign undertaking. The mere existence of a commercial representative office does not render the parent company subject to Hungarian corporate taxation.

## 3. OTHER FORMS

### 3.1 JOINT VENTURE

Joint ventures usually unify foreign investment with Hungarian resources.

### 3.2 SOLE PROPRIETORSHIP

A foreign investor, as a Hungarian one, may be a sole proprietor. Only a private company limited (Zrt.) by shares or a limited liability company (Kft.) may be a sole member company. There are no special provisions regarding foreign investors being sole proprietors of companies registered in Hungary.

## 3.3 FIDUCIARY ENTITIES

### > *Foundation*

Natural persons, legal persons and legal entities without legal personality are entitled to create a foundation in order to serve a long-term objective. A foundation may not be established for the principal purpose of performing economic activities. A foundation must have allocated sufficient assets for achieving its objectives. A foundation is a legal entity.

The foundations are registered at the competent County Court. The Court registers the foundation, if all requirements prescribed by law are fulfilled. After having registered the foundation, the founder may not withdraw it.

### > *Nonprofit companies*

The foundation, activity and termination of nonprofit companies are governed by the Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings, the relevant sections of the Civil Code and Act CLXXV of 2011 on Civil Organizations. Any business association may be a nonprofit company, if its articles of association contains that the profit of the company may not be distributed among the members (shareholders) rather it shall be retained by the company. These legal persons shall be registered at the Court of Registry under a name containing the "nonprofit" word.

### > *Association*

Associations are legal persons with registered members, created for the purposes defined in their statutes in order to achieve their common objectives on a continuous basis. They are governed by the Civil Code and Act CLXXV of 2011 on Civil Organizations. Associations may not be formed with the objective of performing economic activities, although they are authorized to perform economic activities if such are directly related to the achievement of the goals of the association. Associations shall use their assets in accordance with their objective; they are not allowed to distribute their assets among their members, and may not pay dividends to their members. Associations are liable for their debts with their own assets. The members, above and beyond the payment of membership dues, are not responsible for the liabilities of the association with their own assets. Associations are registered with the competent County Court and they come into existence as of their registration.

## 4. RESTRICTIONS

### 4.1 REAL ESTATE

There are strict rules governing the acquisition of Hungarian real estate by foreign persons.

In accordance with Act CXXII of 2013, as of May 1, 2014 agricultural lands and lands under forest management, as a general rule, may not be acquired by foreign individuals and legal persons (whether domestic or foreign). Only specific legal person may acquire land under specific circumstances (e.g. recognized churches as a gift or heritage). However, the law prefers "land cultivators": citizens of Hungary or EU member states who have relevant professional qualification or experience in Hungary exceeding 3 years. Those Hungarian or member state citizens who do not qualify as land cultivators may only acquire land in the aggregated size of 1 hectare (if the seller is not a close relative to the buyer). Even land cultivators may only have lands in the aggregated size of 300 hectares. Land purchase agreements are subject to the approval of the competent authority. Moreover, there are also rules on the use of lands, although not as restrictive.

According to Act LXXVIII of 1993 and Government Decree No. 251/2014 (X.2.), real properties, other than agricultural lands and lands under forest management, may only be acquired by foreign individuals or legal persons upon the approval of the competent authority. The approval must be granted to all foreign individuals, who plan to settle in Hungary as independent entrepreneurs, if it is directly related to the activity they want to settle for.

### 4.2 MONEY TRANSFER

There are no restrictions concerning the currency repatriation or other operations regarding currency. In accordance with the principle of free movement of capital, one may freely exercise an authority over his money. Notwithstanding, statistical and money-laundering preventive data-services may have to be provided in case of a money transfer.

## 5. COSTS

### 5.1 REGISTRATION FEE AND PUBLICATION FEE

The incorporation of a business association under the Civil Code is burdened by registration fee and publication fee (the registration shall be published in the Official Gazette). The fees and charges are the following:

- ▶ *Registration fee:*
  - European company limited by shares: **HUF 600,000**
  - private company limited by shares: **HUF 100,000**
  - private company limited by shares (simplified procedure): **HUF 50,000**
  - limited liability company: **HUF 100,000**
  - limited liability company (simplified procedure): **HUF 50,000**
  - general partnership, limited partnership: **HUF 50,000**
  - general partnership, limited partnership (simplified procedure): **HUF 25,000**
  - other legal entities: **HUF 100,000**
  - branch office of a foreign undertaking: **HUF 50,000**
  - representative office of a foreign undertaking: **HUF 50,000**
  
- ▶ *Publication fee*
  - registration of legal entities: **HUF 5,000**
  - registration of legal entities (simplified procedure): **none**
  - registration of changes in all cases: **HUF 3,000**
  
- ▶ *Fees of the procedure of licensing the issuance of shares*
  - price of ISIN code (mandatory code of securities) paper format: **HUF 19,500**
  - price of ISIN code (mandatory code of securities) electronic: **HUF 9,500**

### 5.2 MISCELLANEOUS CHARGES

Other charges may arise during the creation of a business organization: price of the official translation of company documents, fee of the notary public, correspondence etc. The amendments in the documents or changes in the data of a business association must be reported to and filed with the Court of Registry. Such amendment procedure is subject to certain fees as well.

## 6. TIMING OF REGISTRATION

The length of the registration procedure depends on the type of procedure. The registration is done via a general electronic procedure or a simplified electronic procedure.

The general electronic procedure may last up to 15 business days in case of business associations from the time of filing the documents and the request for registration with the Court of Registry provided that the Court of Registry does not require further documents or procedures when these deadlines may be extended. An additional 1-2 weeks shall be calculated for the preparation works (preparing and signing documents, opening a bank account, paying the registered capital etc.)

In the simplified electronic procedure the Court of Registry shall adopt a decision on the registration of a company within 1 business day after the tax authority generated a tax number for the company, starting at 9 am on the day following the filing day of the request. In a simplified registration procedure the company must prepare its articles of association in a standard contract form. The 1-2 weeks preparation time shall also be calculated in this case. In this procedure there is no possibility for additional filing. If the registration request has any formal or material problems the Court of Registry will reject the request.

# REQUIREMENTS FOR THE ESTABLISHMENT OF A BUSINESS

## 1. FOREIGN ENTITIES AND BRANCH OFFICES

Generally speaking, the same acts apply for the Hungarian and foreign companies, but

- > Act LXXVI of 2009 on general rules on taking up and pursuit of service activities
- > Act XXIV of 1988 on the Investments of Foreigners in Hungary, and
- > Act CXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign-Registered Companies

set forth special rules concerning the business activities of foreign companies and/or branch offices.

The foreign companies may commence enterprise activities by founding a company or by participation in a Hungarian company or its branch office<sup>2</sup>. The branch office must be registered by the Court of Registry, as must all other types of companies in Hungary (see above). The Civil Code came into effect on 15th of March 2014 did not bring any changes concerning above. The branch office has legal capacity; it can gain rights and undertake obligations for the foreign business entity under its own company name. Specifically this means that it can gain assets, enter into contracts, can start litigation and litigation can be started against it.

Foreign nationals may engage in independent business activity that is being carried out on a regular basis, for profit by taking business risk in one of the following format: a) private entrepreneurs or sole proprietorship as defined in Act CXV of 2009 or self-employed activity; b) branch office or commercial representative office; or c) holding shares/quota in Hungarian seated business enterprises, groupings or cooperatives. Providing that no Hungarian employee is hired, no such format described above is required to research activity at a school or university, artistic performances, professional sport activities, utilizing real property or natural resources for consideration, or to activities limited to selling local goods that were obtained by the foreigner [owner] abroad or limited to providing services that does not require personal presence in Hungary and being carried out by using commercial cards issued abroad.

From May 1, 2004 nationals of the European Economic Area (EEA) and the companies registered in the European Economic Area (EEA), as a general rule may perform cross-border services without settlement for business purposes. The detailed rules regarding these services are governed by the above mentioned Acts.

Foreign companies may also establish permanent, direct commercial representative offices in Hungary, which must be registered by the Court of Registry as well.

A commercial representative office is an unincorporated organizational unit of a foreign company not involved in entrepreneurial activities, established upon its entry into the Company Register. It acts in the name and on behalf of the foreign parent company, mediates contracts in the name of the foreign company, participates in preparation and conclusion of contracts, provides information to clients and partners and performs other related client service activities.

## 2. ANTITRUST LAWS

### 2.1 CARTELS, UNFAIR COMPETITION AND UNFAIR INFLUENCING OF CONSUMERS' DECISIONS

Act LVII of 1996 on the Prohibition of Unfair Market Practices and the Restriction of Economic Competition ("Competition Act") prohibits vertical and horizontal agreements and coordinated practices between undertakings which are aimed at the prevention, restriction or distortion of economic competition, or which may display or do display such an effect. Misleading business partners in economic competition is prohibited.

Agreements and concerted practices between companies and association of companies that aim to prevent, restrict or distort the economic competition, or that display such an effect, are prohibited. This prohibition shall, in particular, apply to the following:

- > fixing the purchase or sales prices and defining other business conditions directly or indirectly;
- > restricting or keeping under control manufacturing, distribution, technical development or investment;
- > dividing the sources of purchases and restricting the freedom of choosing from among them, as well as excluding a set circle of consumers, business partners from the purchase of certain goods;
- > dividing the market, excluding anybody from selling, and/or restricting the choice of sales opportunities;
- > preventing anybody from entering the market;

<sup>2</sup> branch office: an organizational unit of a foreign company, without legal personality, vested with financial autonomy and registered as an independent form of company in Hungarian company registration records as a branch office of a foreign company

- > discriminating against certain partners with respect to transactions of the same character or value, etc.
- > gearing the agreement to such undertaking which, with respect to its nature and the regular contractual practice is not in connection with the subject of the contract.

Agreements of minor importance and agreements concluded by related corporations are not subject to prohibition. Corporations qualify as related if the corporation controls another or if they are controlled by the same corporation or are controlled by the same corporations jointly.

An agreement qualifies as of minor importance if the total joint share of the parties concluding the agreement and of the undertakings that are not unrelated to such parties does not exceed ten percent in the market in question, except if it pertains to directly or indirectly fixing purchase or sale prices between competitors or dividing the market among competitors.

From national strategic point of view, for example in order to save workplaces, the government may qualify concentration of enterprises as significant. These cases no approval of the Competition Authority is required. In addition to the above, certain groups of such prohibited agreements are exempted from the prohibition<sup>4</sup> by a government decrees. The government may exempt an agreement or a planned agreement from the prohibition by focusing on the following aspects:

- > it contributes to a more reasonable organization of production or distribution, or to the promotion of technical or economic development, or to the improvement of the situation of environmental protection or competitiveness;
- > a fair part of the benefits arising from the agreement is channeled to the consumer or to the business partner;
- > the inherent restriction or exclusion of economic competition does not exceed the extent required for attaining the economically justified common goals;
- > it does not enable the complete exclusion of competition in connection with a considerable part of the goods concerned.

The Competition Act deals not only with cartels, but contains provisions on unfair competition, unfair influencing of consumers' decisions, the abuse of dominant position and merger control also.

Unfair competition is prohibited. The Competition Act bans generally conducting economic activities in an unfair manner, violating or jeopardizing the lawful interest of competitors or consumers. The Competition Act also specifies some typical activities that violate the prohibition of unfair competition.

It is also prohibited to unfairly influence consumers' business partners' decisions. The Competition Act prohibits misleading consumers in an unfair manner and consequently influencing consumers' decisions. It is prohibited to employ business methods unjustifiably restricting the consumers' freedom of choice or to misrepresent a purchase as a highly advantageous bargain

## 2.2 ABUSE OF DOMINANT POSITION

The abuse of dominant position is prohibited, but the existence of dominant position on its own is not subject to prohibition.

A corporation is in a dominant position on the related market if it may perform its business activity independently from others, if it can decide its own market behavior without having to consider the market behavior of its competitors, suppliers, buyers or other business partners. If a corporation has significant market share, usually it can be presumed to be dominant, depending, of course, on other circumstances, as described below.

The following shall, in particular, be examined in assessing dominant position: (i) the costs and risks entailed by entry into the market concerned and exit there from, and the realization of the technical, economic or legal conditions that it requires; (ii) the assets, financial strength and revenue situation of the undertaking and group of undertakings, and/or the development thereof; (iii) the structure of the market concerned, the ratios of market shares, the conduct of the participants of the market, and the economic influence exercised by the undertaking over the development of the market trends.

A single undertaking or group of undertakings or several undertakings together can be in a dominant position.

The Competition Act contains a non-exhaustive list of practices that constitute an abuse, i.e. establishment of purchase or sales prices unfairly or stipulation of unjustified advantages in another manner; restriction of production, distribution or technical

<sup>4</sup> 202 of 2011 (XI.7.) Gov. Decree on the exception of certain groups of specialization agreements under the prohibition of restrictive market practices; 203 of 2011 (X.7.) Gov. Decree on the exception of certain groups of insurance agreements under the prohibition of restrictive market practices; 204 of 2011 (X.7.) Gov. Decree on the exception of certain groups of vehicles' aftermarket agreements under the prohibition of restrictive market practices; 205 of 2011 (X.7.) Gov. Decree on the exception of certain groups of vertical agreements under the prohibition of restrictive market practices; 206 of 2011 (X.7.) Gov. Decree on the exception of certain groups of research and development agreements under the prohibition of restrictive market practices; 86 of 1999 (VI. 11.) Gov. Decree on the exception of certain groups of technology transfer agreements under the prohibition of restrictive market practices; etc.

# REQUIREMENTS FOR THE ESTABLISHMENT OF A BUSINESS

development to the detriment of the consumers; refusal of establishment or maintenance of business relations adequate for the nature of the transaction without any justification; unreasonable discrimination of business partners by imposing different conditions to similar transactions, usage of dumping prices, etc.

## 2.3 MERGER CONTROL

Competition Act controls concentration of corporations. Corporations become concentrated if (i) two or more previously independent (unrelated) companies merge, or one merges into another, or a part of an undertaking becomes a part of another undertaking which is independent of the first undertaking, (ii) one or more undertakings acquire direct or indirect control of the whole or parts of one or more other previously independent undertakings, or (iii) several independent (unrelated) undertakings jointly set up an undertaking to be controlled by them which can realize all functions of an independent company durative.

One undertaking (or more undertakings acting jointly) has direct control if (i) it holds over fifty per cent of the shares, stocks or voting rights in the controlled undertaking, or (ii) it has the power to designate, appoint or dismiss the majority of the executive officers of the other undertaking, or (iii) it has the power, by contract, to assert major influence over the decisions of the other undertaking, or (iv) it acquires the ability to assert major influence over the decisions of the other undertaking.

An undertaking has indirect control over another undertaking when the latter is controlled, whether independently or jointly, by one or more undertakings under the control of the former.

The permission of the Hungarian Competition Authority ("Competition Authority") is required for any concentration of undertakings if the combined net sales revenue of all groups of companies involved and the net sales revenues of the companies controlled jointly by members of the groups of companies involved with other companies in the previous financial year exceeded HUF 15 billion, and among the groups of companies involved there are at least two groups with net sales revenues of HUF 500 million or more in the previous year together with the net sales revenues of companies controlled by members of the same group jointly with other companies.

The companies involved are the companies involved directly and indirectly in the concentration. Direct participants are those between whom the concentration arises, meanwhile indirect participants are other members of the group of companies in which the direct participant is also a member.

'Group of companies concerned' means any direct participant, plus the indirect participants with which it is affiliated.

A company shall be regarded to be part of the same group with any company (i) that it controls independently directly or indirectly, (ii) that controls it independently directly or indirectly, (iii) that is controlled directly or indirectly by a company referred to in point (ii); (iv) that is controlled jointly by any two or more of the companies referred to in points (i)-(iii) and the company.

In connection with the merger of insurance companies, the value of the gross insurance premiums shall be taken into account instead of the net sales revenue. For the merger of investment service providers and investment funds, the revenue from investment services and membership fees, respectively, shall be taken into account.

In the course of calculating the net sales revenues of (non-resident) undertakings whose corporate domicile is abroad, the net sales revenues generated in the previous business year from the goods sold in the territory of Hungary shall be taken into account.

In the case of merger or fusion, the direct participant or, in all other cases, the party acquiring the business unit or direct control has to apply for authorization from the Competition Authority.

The application for authorization shall be submitted to the Competition Authority within thirty days from the publication of the public invitation to tender, the conclusion of the contract, or the acquisition of the right of control, whichever occurs earlier. In case of the concentration of credit institutions as well as of insurance companies, the application for authorization shall be submitted to the Competition Authority simultaneously with the application for the permit of supervisory agency defined in specific other legislation.

The permission of the Competition Authority is required for the conclusion of a contract resulting in a concentration of companies according to the Competition Act.

# REQUIREMENTS FOR THE ESTABLISHMENT OF A BUSINESS

When assessing an application for permission, amongst others the advantages and disadvantages resulting from the concentration, the structure of the relevant market and the effect of concentration upon the suppliers, business partners and consumers shall be taken into consideration.

The Competition Authority may not refuse authorization if the concentration does not create or intensify a dominant position in so far as to prevent the development, maintenance or expansion of effective competition in the relevant market or in a considerable segment thereof.

In the interest of reducing the disadvantageous effects of concentrations, the Competition Authority may make its permission contingent upon prior or subsequent conditions.

## 2.4 PROCEDURE OF HUNGARIAN COMPETITION AUTHORITY, SANCTIONS

The Competition Authority may give an opinion on laws and regulations introduced or planned involving the freedom of competition, prices or the terms and conditions of sales. It helps developing the competition culture and aims to raise consumer awareness. The Competence Authority is proceeding regarding actions violating the Competition Act, except for violation of the prohibition of unfair competition, which is in competence of the courts.

The Competition Authority (the proceeding Competition Council) can authorize the concentrations, declare a conduct illegal, order the termination of any illegal conduct, prohibit the continuation of any illegal conduct, prescribe certain obligations in connection with illegal conduct, impose a fine, etc.

The party has to advance and, regardless of the outcome of the proceedings, cover the costs of the proceedings instituted on its application.

Procedural fees are defined in the Competition Act. In case of application for permit of concentration of corporations – except proceedings for legal remedy –, the applicant has to pay a fee of HUF 16 million, meanwhile in other cases the fee is HUF 4 million. When the request is submitted to the Competition Authority HUF 4 million has to be paid.

The proceeding Competition Council may impose a fine for any violation (which is in its competence) of the provisions of Competition Act. The fine shall be a maximum of ten per cent of the company's net sales revenue, or the net sales revenue of the group - of which the company penalized is identified in the resolution as a member - for the financial year preceding the year when the resolution on the illegal conduct was adopted.

## 2.5 ACQUISITION OF A QUALIFYING INTEREST IN CORPORATIONS

Antitrust rules applicable to private limited-liability companies and companies limited by shares are also included in the Civil Code. Since it has been in force the rules concerning to the extra obligations of the qualifying quotaholder are regulated within the frameworks of it. General partnerships and limited partnerships had to become compliant with the provisions of the current regime until 15th March 2015 by modifying their Articles of Association. As a matter of fact, limited liability companies, companies limited by shares and cooperative associations got a year plus to beseem this requirements.

If any member of a limited-liability company or a company limited by shares acquires directly or indirectly at least 75 per cent of the voting rights („qualifying interest”) within that company subsequent to its foundation, the person acquiring such holding shall notify online the competent Court of Registry within fifteen days following acquisition of the holding.

Provisions of the Civil Code are similar to the ones above, although the Civil Code does not set forth the electronic way of notification of the Court of Registry in cases of obtaining  $\frac{3}{4}$  of the voting rights. The new Civil Code also adds that the aim of the notification is registration and publishing.

If the owner of a qualifying holding makes a series of poor business decisions on behalf of the controlled company, hence imposing substantial strain on the controlled company in meeting its liabilities, the competent Court of Registry may - at the request of any creditor of the controlled company - instruct the owner of a qualifying interest to provide collateral security, or may impose judicial supervisory sanctions specified upon him.

Apart from the liability in case of poor business decisions (see below) the above provisions of the Company Act are not upheld by the Civil Code

If such company is terminated without succession, the owner of the qualifying interest shall bear unlimited liability for all debts of the company.

According to rules of the Civil Code if the company is dissolved without succession, at the request of the creditors the owner of the qualifying interest shall cover any claim for which no satisfaction had been provided, provided that termination without succession was brought about in consequence of the poor business decisions of the owner of the qualifying holding (which does not have to be a series of the poor business decisions anymore). This provision is not applicable in the case where the company is wound up without going into liquidation.

## 2.6 EC COMPETITION LAW

Since May 1, 2004 the date of Accession to the European Union, EC Competition Law has been directly applicable in Hungary. If an anti-competitive behavior has community dimension, Competition Authority has to apply EC competition law as well.

## 3. ENVIRONMENTAL REGULATIONS

### 3.1 ENVIRONMENTAL LAW

The same environmental acts and regulations have to be applied for the Hungarian and the foreign companies' business activity in Hungary.

Act LIII of 1995 on the General Rules of Environment Protection ("Environmental Act") contains the main principles on protection of environment, including protection of land, water, air nature and the built environment. There are separate laws on protection of land, forests, fishing, building construction, water management, air pollution, waste management, etc., establishing quality standards and detailed rules of protection.

Due to Hungary's accession to the European Union, Hungary has had to harmonize its environmental law with the EC environmental laws.

In general, anyone violating the rules of environmental protection may be subject to a fine, other administrative sanctions, civil damages and criminal sanctions. Persons causing such harm are obliged to stop endangering or polluting the environment and shall cease to damage the environment, accept responsibility for the damages caused, and restore the state of the environment to its state prior to the activity.

In case of activity endangering or polluting the environment, the authority or court may restrict the performance of the activity or may suspend or ban it until the conditions it has established are dealt with.

Even if a plant is operated in accordance with environmental regulations (i.e. under valid environmental license, in accordance with rules and standards set up in decrees, etc.), as a party causing contamination it may be liable for it based on the Civil Code.

### 3.2 ENVIRONMENTAL LICENSES, ENVIRONMENTAL STATEMENT AND IMPACT ASSESSMENT

Those activities, which have effect on the environment, can be carried out only with different kinds of permissions or licenses. The process of obtaining the permissions/licenses is regulated by the Environmental Act and separate laws (governmental and ministerial decrees).

Under the scope of the Environmental Act, "use of the environment" is an activity involving the utilization or loading of the environment or a component thereof that is subject to an official license.

Any use of the environment may be commenced or continued after receipt of an (i) environmental protection license or (ii) standardized environmental use permit or (iii) environmental operating permit or (iv) consolidated environmental use permit, or (v) a decision issued either by the environmental protection authority or other authority typically relaying on the position of a specialized authority.

Prior to commencing activities with significant impacts on the environment, an environmental impact assessment has to be carried out.

# REQUIREMENTS FOR THE ESTABLISHMENT OF A BUSINESS

314/2005 (XII.25.) Gov. Decree on Environmental Impact Assessment defines activities with significant impacts on the environment and provides the detailed rules of environmental impact assessment.

The impact assessment shall consist of, in some cases - a preparatory and a detailed assessment phase. The applicant shall present the findings of the phases of impact assessment in a preliminary environmental statement and in a detailed environmental impact statement.

The applicant shall notify the competent environmental protection inspectorate of its intent to start an activity. A preliminary environmental statement shall be attached to the application.

On the basis of the application and the preliminary environmental statement, the inspectorate (i) prescribes the submission of a detailed environmental impact statement and determines the issues to be studied during the preparation of the detailed environmental impact statement and/or the requirements that may be determined (are to be met) on the basis of the available data; (ii) issues the environmental license required for the activity by simultaneously notifying the local governments competent at the planned location(s) of the sitting; or (iii) begins the procedure in the cases specified in specific other legislation for the consolidated environmental use permit following conclusion of the impact assessment; or (iv) rejects the application.

According to the aforementioned rules, procedures to obtain permits, including environmental impact assessment, may entail significant consulting costs.

## 4. GOVERNMENTAL APPROVAL

In general, no governmental approval is required for pursuing a business activity in Hungary. A government approval has to be obtained only in very special and sensitive sectors like the sector of nuclear energy.

## 5. INSURANCE

The requirement to have insurance is not general. However, there are special sectors where the activity cannot be carried out without having insurance (such as bank activities), where the interests of creditors and depositors must be secured (e.g. the National Fund of Deposit Insurance).

Users of the environment may be obligated to give an environmental bond, form environmental provisions or take out environmental liability insurance - as specified in specific legislation - in order to commence their activity.

There is no state monopoly on insurance. If, for a specific activity, in order to protect the interests of clients, consumers or business partners, separate financial guarantees (such as cash deposit, bank guarantees, joint and several surety contract or liability insurance) are required by law.

## 6. PERMISSIONS AND LICENSES

There are activities that can be carried out only with permits of the competent authority. In these cases the activity can be started only after the permit is obtained. Relating to certain activities a license is required even for the foundation of the company (i.e. insurance companies, banks and other credit institutions) or for the foundation of places of business (these activities listed in 57/2013 (II.27.) Gov. Decree).

The form of the application process and the procedure depends on the type of the permission. Detailed rules of obtaining licenses/permits are in separate laws.

## 1. EMPLOYER/EMPLOYEE RELATIONS

The legal basis of Hungarian labor law is Act I of 2012 on the Labor Code. The Labor Code regulates all labor relations. However, for public employees and public officials special regulations are applicable (Act XXXIII of 1992 on the Legal Status of Public Employees and Act CXCIX of 2011 on Public Officials) and the Labor Code is only a subsidiary law regarding public employees and officials. There are other laws regulating labor relations such as laws regulating strikes, unemployment, labor safety and hygiene, supervision of labor, etc. Government- and ministerial decrees are also applied in the regulation of labor relations. These laws either regulate specific issues or implement a higher level of regulation. Collective agreements are also significant sources of labor regulation.

Employers must ensure that the employees acquire the proper knowledge for the performance of work. This includes the training and instruction of the employees. Employers shall provide adequate training for employees to obtain theoretical and practical knowledge regarding occupational safety and health, and to be able to apply such during their employment, along with the necessary rules, instructions and information upon beginning work, changing workplace or position, as well as upon changes in occupational safety and health standards, having a work instrument converted, or a new work instrument introduced, introduction of a new technological process.

## 2. EMPLOYMENT REGULATIONS

Investors may employ nationals or foreign workers with permission to work in Hungary and in possession of a visa. In 2015, the statutorily regulated 'minimum wage' per month, in case of time based pay is gross HUF 105,000 (cca. EUR 350), while the 'guaranteed wage minimum' for those who employed in a position which requires a secondary school diploma or advanced vocational training, or higher is 122,000 (cca. EUR 400). The general working time of full-time employment is eight hours a day.

Based on employment-related provisions or an agreement between the parties, the working time of such full-time employment may be increased to not more than twelve hours daily for (i) employees on stand-by, or (ii) employees who are close relatives of the employer or the owner.

Employees are entitled to annual leave comprised of basic and extra annual leave, for each calendar year spent in employment. The amount of basic annual leave shall be twenty business days per year. This amount increases up to thirty days according to the employee's age. Special provisions apply, and therefore extra annual leave days are available, among others, to employees under the age of eighteen, employees assuming the greater role in raising a child, single parents and blind employees.

Employees are entitled to 15 days of sick leave per calendar year for the time during which the employee is incapacitated to work due to illness, not including accidents at work and occupational diseases as specified by social insurance provisions. Employees are paid 70 per cent of the absentee pay for the duration of sick leave.<sup>3</sup>

## 3. HIRING AND FIRING REQUIREMENTS

The employer is not obliged to employ a minimum number of employees or a minimum number of nationals. Moreover, there are no rules on holding certain positions in the company for nationals.

The Labor Code includes the basic rules of hiring an employee. The labor relation is based on a written contract and any kind of discrimination is prohibited.<sup>4</sup>

The employment agreement concluded for an indefinite period of time may be terminated by dismissal, extraordinary dismissal, mutual agreement and prompt termination during the probation period stipulated.

Unless otherwise agreed, the employment agreement is for an indefinite period of time. The employment agreement concluded for a definite period of time may be terminated only by extraordinary dismissal, mutual agreement and prompt termination during the probation period stipulated.

<sup>3</sup> For more details see the Labor Code and Act LXXXIII of 1997 on the benefits provided by the mandatory health insurance system.

<sup>4</sup> For more details see Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunity.

### 3.1 ORDINARY DISMISSAL

Both the employer and the employee may terminate the employment relationship established for an indefinite period of time by notice. Employers must justify their dismissals. In case of dispute the employer must prove that the reason for the dismissal was clear, real and causable. Prior to dismissal, an opportunity shall be given to the employee for defense against the complaints raised against him, unless such act cannot be expected of the employer in view of all circumstances. In case of ordinary dismissal the employee is entitled to severance pay. During a specific period the employers shall not terminate an employment relationship by ordinary dismissal. As a general rule, in case of termination of an employment relationship by ordinary dismissal the notice period is 30 days. As a special rule, however, if the employment relationship is terminated by ordinary dismissal of the employer, the 30-day notice period shall be extended, up to a maximum of additional 60 days after twenty years of service. Special provisions apply for group dismissals, where the Labor Code gives significant role to the employees' representatives and labor exchange offices.

### 3.2 EXTRAORDINARY DISMISSAL

Both the employer and employee may terminate the employment relationship by extraordinary dismissal (prompt notice) in the event that the other party willfully or by gross negligence commits a grave violation of any substantive obligations arising from the employment relationship, or otherwise engages in conduct rendering further existence of the employment relationship impossible. Prior to the employer's announcement of extraordinary dismissal an opportunity shall be given to the employee to learn about the reasons for the planned action and to defend himself regarding the complaints raised against him, unless providing such opportunity cannot be expected of the employer in view of all circumstances.

The right of extraordinary dismissal shall be exercised within a period of fifteen days of gaining knowledge of the grounds thereof, but not more than within one year calculated from the occurrence of such grounds.

### 3.3 MUTUAL AGREEMENT

The employer and the employee may mutually agree to terminate the employment relationship. This of course has to be done in written form.

### 3.4 PROMPT TERMINATION DURING THE PROBATION PERIOD

The employer and the employee may stipulate a probation period of not more than 3 months in the employment agreement. During this period of time both the employer and the employee may promptly terminate the employment relationship without justification. All the above mentioned types of termination are valid only in writing.

Upon termination of the employment relationship the employee must vacate his position as ordered and settle accounts with the employer. The employer must sufficiently provide for the conditions of job transfer and accounting, the wage must be paid to the employee, and s/he must be supplied with the statements and certificates prescribed by legal regulations. At the employee's request, upon termination of his/her employment, or within a year thereof, the employer must provide work evaluation.

## 4. LABOR AVAILABILITY

In Hungary, most of the employees are highly qualified and skilled in every sphere of the labor market. The unemployment rate is around 6,7 per cent.

## 5. LABOR PERMITS

Unless otherwise stipulated by treaty, foreign nationals wishing to enter Hungary for the purpose of employment subject to authorization by law, or some other gainful activity, must have an extended stay visa for admission. By request of a foreign national staying in Hungary with a valid extended stay visa, the regional immigration authority has competence to issue a residence permit to extend the period of stay. As mentioned above, foreign individuals need either a valid stay visa or a residence permit to stay and work in Hungary.

According to the general rule all employment of foreign nationals in Hungary shall be subject to a permit.

Types of work permits: (i) individual work permit, (ii) collective work permit, and (iii) individual work permit within a collective permit.

The number of work permits issued to foreign nationals for employment in Hungary at any given time may not exceed the average monthly number of workers requested by employers as reported during the previous year.

The Minister for National Economy shall publish the maximum number of work permits to be issued to foreign nationals calculated in the Official Hungarian Gazette (Magyar Közlöny) by February 1 of each year.

Individual work permits shall be issued under the following conditions: (i) the employer has a valid workforce requisition on file for the position for which the foreign national is to be hired before the application for work permit is submitted, (ii) prior to filing the workforce requisition no Hungarian worker was available for the position in question who satisfied the employment conditions prescribed by legal regulation or required by the employer, (iii) the foreign national satisfies these employment conditions.

No work permit is required, for example:

- > if so prescribed by international agreement;
- > for the director of a branch or representative office of a foreign-registered business association, as defined by international agreement;
- > for the staff of diplomatic or consular missions of foreign states, or the branches or offices thereof, if delegated by the state which it represents, for employment at the mission or other body, or for the employment of the close relatives of the staff of a diplomatic or consular mission of any foreign state, subject to reciprocity between the states concerned;
- > for the staff of international inter-governmental organizations operating in the territory of Hungary under international agreement, and international organizations operating in the territory of Hungary and recognized as such by the public authorities of Hungary ("international organization") if working for the international organization, including their close relatives;
- > for persons delegated by states which are parties to the agreement for setting up an international organization or a common organ not recognized as an international organization ("delegates") if working for the international organization or the common organ, including the close relatives of such delegates subject to reciprocity between the states which are parties to the agreement;
- > for carrying out work that involves commissioning, warranty repair, maintenance or guarantee service activities performed on the basis of a private contract with a business entity established in a third country, if it does not exceed fifteen working days within a thirty-day period at any given time;
- > for work performed by an employer established in a state that is a party to the Agreement on the European Economic Area within the framework of cross-border services by way of posting, temporary assignment to a Hungarian employer for the purpose of fulfillment of a private contract;
- > for work performed by a temporary agency worker within the framework of temporary agency work for a Hungarian employer under placement by a temporary-work agency established in a state that is a party to the Agreement on the European Economic Area;
- > for the chief executives and supervisory board members of business associations with foreign participation;
- > for a foreign national winning a tender for post-doctorate related employment, or the János Bolyai Research Scholarship for work performed as part of the tender or the scholarship program;
- > for the employment of a third-country national studying at a foreign institution of higher education as part of an apprentice training program arranged by an international student organization;
- > for foreign nationals pursuing full-time studies at vocational schools, secondary schools, basic art schools or institutions of higher education located in the territory of Hungary, for performing work under the term of such legal relationship;
- > education activities in primary, secondary and tertiary educational institutions in a foreign language, if performed - as verified by the minister in charge of education - under an international education program signed by the competent ministers of the States affected;
- > for the activities of natural persons in the service of an ecclesiastical legal entity of a listed church (ecclesiastical personnel) within the framework of a special ecclesiastical service relationship, under contract of employment or other similar relationship;
- > for persons applying for refugee or asylum status, or for subsidiary protection, and for persons granted authorization to stay, for working in Hungary or inside the premises of the reception center, respectively;
- > for activities in the field of education, science or art for not more than ten working days per calendar year;
- > for researchers for work carried out within the framework of an international agreement between Hungary and another State, provided that this is verified by a certificate issued by the Magyar Tudományos Akadémia (Hungarian Academy of Sciences);
- > for the employment of third-country nationals attending practical training courses within the framework of the Comenius, Erasmus, Leonardo da Vinci and Grundtvig programs;

- > for the employment of the widow of a Hungarian national, if they lived together in Hungary for at least one year before the spouses death;
- > for researchers for the purposes of carrying out research in Hungary under a hosting agreement concluded with a research organization accredited according to the Government Decree on the Accreditation of Research Organizations Hosting Researchers Who Are Third-country Nationals, and on Hosting Agreements;
- > for professional athletes involved in sports activities, and for trainers for their activities to prepare the said professional athletes for sports activities;
- > for the employment of the close relatives of the military personnel of Member States which are parties to the Convention between the Parties to the North Atlantic Treaty on the Status of their Forces, signed in London on 19 June 1951 ("NATO-SOFA Agreement") and promulgated by Act CXVII of 1999, stationed in the territory of Hungary and of the civilian staff described under Paragraph a) and b) of Point 1 of Article I of the NATO-SOFA Agreement;
- > for the family member of a sponsor provided for in Section 19 of the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, holding a residence permit issued for the purpose of family reunification and legally residing in Hungary for at least one year, provided that the sponsor can be employed without a work permit; and
- > for the family member of a person who has been granted refugee or subsidiary protection status, or to the parent of an unaccompanied minor recognized as a refugee, or to his/her guardian in the absence thereof, provided that he/she holds a valid residence permit for the purpose of family reunification;
- > for the employment of a third-country national within the framework of public benefit employment, if eligible under Paragraph b) of Subsection (4) of Section 1 of Act CVI of 2011 on Public Benefit Employment and on the Amendment of Regulations Relating to Public Benefit Employment and Other Acts.

The exemption described above does not apply for any work performed by a foreign national in excess of the limits to which the exemption pertains. The requirements for exemption are to be evidenced by the applicant employer.

There are special rules applicable to collective work permits and individual work permits within the collective permit<sup>5</sup>.

Foreign citizens working in Hungary need to request (i) a Social Insurance Identification Number ("TAJ-szám" in Hungarian) from the competent body of the National Health Insurance Fund Administration (only by possessing a certificate to this effect does the foreign citizen become entitled to health care), and additionally (ii) a tax identification number from the tax authority.

## 5.1 RULES FOR EEACITIZENS

No permission, only notification is required for the citizens of the European Economic Area to enter into an employment relationship in Hungary.

Citizens of EEA Member States qualify as "persons entitled to the right of free movement and residency".

The employer is obliged to notify the labour centre competent, based on the place of work, about the employment of a person entitled to the right of free movement and residency.

The notification shall contain the number of people employed, their age, qualification, citizenship, the HSCO<sup>6</sup> ("FEOR" in Hungarian) number of the position, the form of the employment relationship, in case of relatives the 'relative' status, the statistical core number of the employer and data whether the employment relation just started or ceased, all in a way that the employees cannot be identified based on the above information.

The labour centre verifies if the notification is complete and keeps the records of the data provided.

The employer is obliged to keep the documentation and the verification about starting and ceasing the employment relationship - the subject of the notification- for 3 years after the employment relation terminated. In case of checks the employer is obliged to produce the aforementioned documentation.

The completion of the notification obligation and/or its verification is not a prerequisite to the initiation of the employment relationship and/or to the start of the activity based upon that.

<sup>5</sup> Government Decree 445/2013 (XI. 28.) on the Authorization of the Employment of Third-country Nationals in Hungary by a Procedure Other Than a Single Application Procedure, on Cases of Exemptions from the Authorization Requirement, on the Involvement of the Employment Centers of County (Budapest) Government Agencies in Single Application Procedures in the Capacity of Specialist Authority, on the Notification of the Employment of Third-country Nationals Who can be Employed Without a Work Permit, and on Wage Compensation

<sup>6</sup> Hungarian Central Statistical Office publication No.7/2010. (IV. 23.) on the Hungarian Standard Classification of Occupations (FEOR in Hungarian)

## 6. SAFETY STANDARDS

The Fundamental Law of Hungary (constitution) lays down the foundations of the fundamental rights with regard to health. Everyone living in the territory of Hungary has the right to the highest possible level of physical and mental health. Hungary implements these rights, among others, through institutions of labor safety and health care.

Labor health and safety regulations cover all kinds of labor relations. It means that these rules apply to public employment and public official relations as well as to service relations etc. The protection of health and safety should not depend on the type of the labor relation. Rules regarding health and safety set up only a general framework. In reality, the employer's instructions and acts put these rules into a specific form.

The basic source of the protection of labor health and safety is Act XCIII of 1993 on Labor Safety. Decrees of the Minister of Social and Family Affairs regulate certain fields of safety issues, whilst decrees of the Minister of Health regulate the field of labor health in detail. Ministerial rules and standards are also significant sources of labor health and safety regulation.<sup>7</sup>

## 7. UNIONS

The fundamental rights of employees to trade union representation are based on the Fundamental Law (constitution) and on the Labor Code. These rights include, among others, the right to set up an organization at the workplace, the right to representation, the right to information and consultation, the right to collective bargaining, freedom of association and the right to strike.

The government shall discuss issues of national significance pertaining to labor relations and employment relationships with the organizations of employees and employers through the National Economic and Social Council. State authorities, local governments and employers should cooperate with trade unions as well.

The employer has no obligation to organize unions, but a workers' council is to be elected at all employers or at all of the employers' independent operational facilities (divisions) with more than fifty employees.

## 8. MODIFICATION OF THE LABOR CODE WITH REGARD TO THE NEW CIVIL CODE

On March 15, 2014 a new Civil Code entered into force in Hungary and with the aim to create harmony between the Labor Code and the new Civil Code, the Labor Code was amended as of the very same day.

Some of the most important modifications of the Labor Code are the following:

- > the common rules of conduct were supplemented with the provisions relating to attributability ("felróhatóság"), meaning when performing the employment agreement, a person must act in the manner that can be reasonably expected of him, and no one may rely, in support of his claim, on an unlawful act he has committed,
- > the Labor Code was supplemented with a list of provisions of the sections of the Sixth Book of the new Civil Code ("Contractual Law") which are applicable in the absence of a provision of the Labor Code to the contrary,
- > when applying the provisions of the new Civil Code relating to exemplary compensation for wrongdoing, the rules of the Labor Code on liability for damages shall prevail, thus the employee's liability for damages is restricted also in the case of exemplary compensation for wrongdoing,
- > the rules concerning legal acts requiring written form were modified,
- > the provisions of the new Civil Code on liquidated damages shall be applied in connection with non-competition agreements and study contracts,
- > the concept of "relatives" is specified more precisely, in accordance with the new Civil Code,
- > the concept of deduction-free part of wages was also specified in the Labor Code.

<sup>7</sup> Relevant statutes and laws, for example, Act XLII of 1999 on the Protection of Non-smokers; 50/1999 Decree of the Minister of Health on the Rules of Labor Activities in front of a Screen; Joint Decree No. 3/2002. (II. 8.) of the Minister of Social and Family Affairs and the Minister of Health on the Minimum Labor Safety Requirements at Working Places, etc.

## 1. GENERAL

The general form of doing business is a business association registered at the Court of Registry.

According to the new Civil Code and the Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings (hereinafter referred to as "Companies' Registration Act") the business association shall terminate without succession if:

- > it was established for a fixed duration, and such period of time expires;
- > it was subject to termination upon a certain condition, when this condition is met;
- > declared terminated by its members or founders; or
- > terminated by a body so authorized;
- > declared terminated by the court of registry on the grounds set out in the Companies' Registration Act.

provided in all cases that the legal person is cancelled from the registry following completion of the appropriate procedure for the settlement of the legal persons financial affairs.

The business association shall terminate with succession in the case of conversion, merger and demerger ("transformation").

The termination with legal succession is regulated by the Third Book of the new Civil Code under Chapter XIII, XIV and XXI. The termination of the business association can be either through Bankruptcy Proceeding (Csődeljárás) or Liquidation Proceeding (Felszámolás) governed by the Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings, or through Voluntary Dissolution (Végelszámolás) governed by the Companies' Registration Act (Act VI of 2006). (There are special rules relating to insurance companies, investment funds etc.)

### 1.1 FINAL SETTLEMENT

According to the Companies' Registration Act the dissolution is a voluntary proceeding based on the decision of the owners (exceptionally the Court of Registry can initiate the process). Dissolution means the proceeding initiated by the business association that is not insolvent aimed to satisfy its creditors upon its winding up and termination of its corporate existence.

The duration of termination can change from case to case. Some important deadlines are regulated by law. The supreme body of the company shall fix its decision to terminate the company's corporate existence without succession and to go into dissolution in a resolution. It shall lay down in its resolution the time of the opening of dissolution proceedings and shall appoint a receiver, and shall provide for the future of legal entities in which the company maintains a financial interest, as well as the foundations and non-governmental organizations in which it participates.

The receiver shall notify the competent Court of Registry concerning the opening of dissolution proceedings in the form of an amendment notification, that must contain the date of the resolution for ordering dissolution, the time of the opening of dissolution proceedings, the name (corporate name), home address (registered office), tax identification number, date of birth and mother's maiden name of the receiver; if the receiver is not a natural person, the registration number and the name, address, date of birth and mother's maiden name of the natural person appointed, and the termination of the relationship of the former executive officer(s). The Court of Registry orders the publication of the decision in the Company Gazette (Céggazettség).

The company's creditors shall notify their claims to the receiver within forty days following the date of publication of the dissolution notice.

The receiver shall submit the list of claims to the competent court of registry within another fifteen days for the purpose of having it archived among the company's public documents. The receiver shall inform the creditors of disputed claims during the same period of time that their claims are being listed under disputed claims.

Dissolution shall be completed within three years following the time of the opening of dissolution proceedings. If a request for the cancellation of the company from the records is not submitted within three years, the company shall be subject to forced cancellation procedure.

The interests of the employees are secured during the dissolution process. Within a period of thirty days following the time of the opening of dissolution proceedings the company's former executive officer shall forthwith notify the employees, and the trade unions and the workers' councils (shop stewards) specified in the Labor Code regarding the opening of voluntary dissolution proceedings. According to the Hungarian Labor Code the employment relation is terminated by the dissolution. The Labor Code contains the financial consequences of the termination.

## 1.2 BANKRUPTCY PROCEEDING

Bankruptcy proceeding is the proceeding when the debtor/creditor petitions for moratorium to the Court in order to settle its financial situation by virtue of a composition agreement concluded with its creditors. The Court orders the moratorium if the creditors gave their consent. If this consent is granted the Court decides on a 120-day moratorium. During the moratorium the debtor aims to reach a composition agreement with his creditors. If the debtor and its creditors concluded an agreement and the Court approves it, the Court declares the bankruptcy proceedings concluded. If the parties cannot reach an agreement, or does not conform according to the provisions of the Act on Bankruptcy Proceedings and Liquidation Proceedings the Court terminates the bankruptcy proceeding.

## 1.3 LIQUIDATION

Liquidation means the proceeding aimed at providing satisfaction to the creditors of an insolvent debtor upon its dissolution and termination of its corporate existence.

## 1.4 EX OFFICIO CANCELLATION PROCEDURES

The Court of Registry shall ex officio strike a company from the records:

- ▶ based on a final ruling sent by way of electronic means by the court conducting the liquidation proceedings
- ▶ concerning the winding up of the company,
- ▶ during the forced cancellation procedure, if the Court of Registry determines that after the initiation of the forced cancellation procedure
  - no one notified claims against the company to the Court of Registry and
  - no one informed the Court of Registry regarding the company's assets.

Procedures for the termination of companies whose registered office is unknown:

If the competent Court of Registry gains knowledge that the company can no longer be found at its registered office, business premises or branch, or that its authorized representatives cannot be located or their address is considered unknown or its delivery agent is unknown the Court of Registry shall initiate the procedure for termination and directly look for the members of the company registered in the Company Register or, if necessary the Court of Registry shall publish a notice in the Company Gazette to advise the company's members (shareholders) to take the measures necessary for lawful operations within sixty days

If lawful operation has not been restored the Court of Registry shall publish in lieu of service of process, a ruling, which shall include a request for any person who has any information concerning the company's address, its operation (including if there is a lawsuit in progress against the company) or the whereabouts of the company's representative to convey such information to the Court of Registry within thirty days from the date of publication.

If no useful information is received concerning the company's address, the Court of Registry shall terminate the procedure and shall declare the company as terminated.

Procedures for the termination of companies whose tax numbers were cancelled:

If the National Tax and Customs Administration notifies the Court of Registry by electronic measures that the company's tax number was cancelled and such decision is final, the Court of Registry shall declare the company as terminated, within fifteen days subsequent to the receipt of the National Tax and Customs Administration's notification.

## 2. GOVERNMENT INTERVENTION

Generally, the termination of business can be carried out without governmental approval or intervention. There are some sectors (e.g. bank sector, insurance companies etc.) where it is necessary to get special permissions from the authorities.

## 3. INVESTOR'S PARTICULAR FORM

If the foreign company establishes a branch office or a commercial representation office in Hungary there are certain rules that must be followed in case of termination. The decision relating to termination must be sent to the Court of Registry. The following requirements must be fulfilled: (i) the foreign company has no public debts in Hungary concerning the branch office or its commercial representative office; (ii) the branch office or the commercial representative office has to publish an announcement about the termination; (iii) there are no procedures in progress before the Courts or other authorities against the foreign company concerning its branch office or commercial representative office; (iv) there is no insolvency procedure against the foreign company or its branch office.

Cancellation of a branch office from the records by request shall not be contingent upon the conditions (i)-(iii) described above if the country where the foreign company is seated is party to an international agreement with Hungary on court jurisdiction, the execution of court decisions and the collection of public debts in civil and commercial matters or if these matters are regulated under EU legislation. The branch office shall nevertheless be required to publish an announcement in the Company Gazette concerning its dissolution with an invitation to its creditors to notify the branch office regarding any claims they may have within thirty days; the branch office shall, furthermore, provide information on the options available to creditors to enforce their unsatisfied claims.

In the event that the foreign company is dissolved without legal successor, removal of the branch office shall also be requested from the Court of Registry. The abovementioned provisions shall be applied in this case as well.

## 1. ADVERTISING

Restrictions on advertising are mainly governed by Act XLVIII of 2008 on Basic Requirements and Certain Restrictions of Commercial Advertising Activity, Act CLXXXV of 2010 On Media Services and Mass Communication and Act LVII of 1996 on the Prohibition of Unfair Trading and Unfair Competition ("Competition Act"). Advertising is prohibited from being published if it infringes personal rights or encourages violence or generates a sense of fear. Advertising targeted at children may not be published if it may harm their physical, intellectual or moral development or directly encourages them to motivate adults to purchase goods. The advertisement of certain goods is restricted, for example pornographic goods, certain pharmaceuticals, tobacco products and certain alcoholic beverages. Special laws are applicable for advertising of the following products: biocide products, stocks, cosmetics, vehicles, funeral services and dangerous mixtures. Advertising any kind of weapon or other means posing extreme threat to public safety is prohibited. It is forbidden to publish misleading advertisements and restrictions are available for publishing comparative advertisements.

## 2. ATTORNEYS

In company registration proceedings and proceedings before the Land Registry legal representation is mandatory. Being a member of a local bar association is required to engage in legal practice. A member of the bar association must be a citizen of any State that is a party to the Agreement on the European Economic Area. Legal representation is also mandatory in litigation in certain cases before the County Courts, Regional Courts (of appeal) and the Curia of Hungary.

A local counsel can be easily found in the bar registries on the Internet (e.g., [www.bpbar.hu](http://www.bpbar.hu)).

An attorney is entitled to a fee and compensation for expenses in return for the legal services. The attorney's fee is freely decided by agreement between the attorney and the client.

## 3. BOOKKEEPING REQUIREMENTS

Act C of 2000 on Accounting is the basic legal source of bookkeeping. Every economic entity in Hungary has to keep local books of accounts in Hungarian language and in the form the relevant acts and decrees provide.

## 4. BUSINESS ETHICS / CODES

The Hungarian Chamber of Commerce and Industry has several business ethics and other codes for the different activities. However, being a member of the Chamber or its regional organization is not obligatory. Certain associations of business activities constituted their own codes of ethics, for instance the Ethics Code of Building Companies Against Corruption, the Codes of the Hotel Association of Hungary, Hungarian Marketing Associations, etc. These codes constitute Ethics Committees that call the violators of the rules to account.

## 5. CONSUMER PROTECTION LAWS

Act CLV of 1997 on Consumer Protection is the framework of consumer protection, which was converted by Act XLII of 2008 as part of harmonization of EU directive 29/2005 (Unfair Commercial Practices Directive) but several other acts and laws regulate this field, such as the Civil Code, the Competition Act and other laws regulating certain fields such as food law.

As a general rule, business-to-consumer contracts are governed by the law of the country where the consumer has his habitual residence. The mandatory rules of such law shall apply in place of the selected law if the chosen law would deprive the consumer from the protection afforded to him by the law of his habitual residence.

## 6. CONSTRUCTION

Act LXXVIII of 1997 on the Formation and Protection of the Built Environment regulates the main issues of construction. An application for building permit is required before construction.

A building authority permit is required for the formation of lots and for the construction, remodeling, expansion, renovation, rehabilitation, improvement, demolition, relocation and occupancy or modification of the original function of a structure or a section thereof or group of buildings.

The building authority has thirty days from the filing the application to bring its decision. When the construction is finished, another permit is required for the occupancy of the structure. The general requirements with regard to buildings constructed are to ensure the safe and appropriate use of the neighboring buildings, to ensure the possibility for public vehicles to reach the building (e.g. ambulance cars), to ensure the special requirements and interest of the protection of the environment; in case of public buildings to ensure that handicapped persons are able to reach the building safely. For the purpose of construction, building material can be traded, used or built in only if a certification of adequacy with the relevant laws is possessed.

Specific rules apply for among others, reconstructing historical buildings or monuments, construction of telecommunication buildings, road construction, building dangerous or nuclear construction, etc. In these cases an additional permit is required from the relevant authority.

There is currently a general moratorium on building commercial units exceeding an area of 400 square meters, unless permitted by a committee established by the Minister for National Economy.

## 7. CONTRACTS

A foreign investor can freely enter into local contracts. However, according to Act CXII of 2013 on Transactions in Agricultural and Forestry Land foreign natural persons and legal entities cannot acquire title of ownership of arable land and nature preservation areas. However, there are certain exceptions. The rules for inland natural persons apply for those EU and EEA national persons that meet the definition of 'farmer' of the Act. The size of the acquired land is limited.

According to the 251/2014 (X. 2.) Gov. Decree all other forms of acquisition of real estate are subject to an authorisation procedure carried out by the competent authorities. The Gov. Decree provides, that the acquisition must be licensed to all foreign natural persons, who plan to settle in Hungary as independent entrepreneurs, if it is directly related to the activity they want to settle for.

Special restrictions may be applicable to certain types of contracts, which concern the foreign contracts as well as Hungarians. The parties of a contract containing foreign element are free to choose the law applicable for the contract, there are however certain restrictions, especially if consumers or employees are concerned.

## 8. PRICE CONTROLS

Act LXXXVII of 1990 on Price Control is the framework law of regulating price policy in Hungary. The act contains certain products and services, for instance pharmaceuticals and public utilities that are regulated by price limit, price quotation or price margin. In accordance with EU legislation, so called common organizations of specific agricultural product markets have rights to interfere in certain agricultural product markets.

## 9. PRODUCT REGISTRATION

In general, trading a product does not need to be registered if it complies with the relevant legal regulation and standards, however, there are some goods such as drugs, hazardous materials, weapons, cosmetics, etc., that must be registered in case of their trade. In the field of consumer protection mostly the Commercial Quality Monitoring Institute, which belongs to the TÜV SÜD Group since 2005 (TÜV SÜD KERMI Kft.) is the institution that, upon assignment, monitors certain goods before the market release.

## 10. REDUCTIONS OR RETURN ON CAPITAL

In case of a Limited liability company (Kft.) the initial capital shall be at least HUF 3,000,000 and reducing the capital to below this minimum amount is not valid except conditional reduction. The initial capital shall be a minimum of HUF 5 million in the case of Private Company limited by shares. The same rules apply for reducing the capital, thus the capital cannot be reduced to below HUF 5 million without increasing the capital at the same time. In the new Civil Code there are special rules governing the acts of the members of a company in order to protect the company's capital. Also, the new Civil Code regulates the rules of acquiring return on capital for capital and creditor protection purposes. All shareholders have the right to a dividend proportional to their shares from the taxed profit of the company if the shareholder performed all of its assets contribution to the company.

## 11. SALE OF GOODS

The terms of sale of goods are based on the consent of the parties or otherwise on the rules of the Civil Code. Consent of the parties is however not sufficient to pass on the title to the goods, the goods should also be handed over. Generally, the parties are free to choose the conditions of their contract; however, special provisions exist in case of special products. For instance, the sale of radioactive materials, tobacco products or alcoholic beverages and medicinal products is restricted or subject to special regulation.

## 12. TRADE ASSOCIATIONS

The Hungarian Trade Association consists of more than 300 members. Membership is not obligatory and therefore mandatory trade practices only exist for members. The Association was founded in 1990, at the beginning of fundamental changes in Hungarian society and economy, undertaking the representation and protection of the interests of commercial companies. Its task is to pay attention to the changes of law and economic processes, and create arguments in questions that are harmful to commercial interests, standing for the interests of commercial enterprises at various forums. The Association also assists the members' business activities, especially with information. For more details see [www.oksz.hu](http://www.oksz.hu).

## 1. INTRODUCTION

The present Hungarian tax system has been evolving since 1988, based on the traditions of the German-speaking countries. There is no tax code in Hungary, the rules of the different taxes can be found in independent tax laws and the tax system is generally regulated by Act XCII of 2003 on Tax Administration. The various types of taxes can be divided into two groups: direct and indirect taxes. The Hungarian state revenues are structured on basis of three basic taxes, namely, personal income tax, corporate tax and VAT.

## 2. DIRECT TAXES

### 2.1 PERSONAL INCOME TAX REGULATED BY ACT CXVII OF 1995 („PERSONAL INCOME TAXACT”)

#### > *Taxpayers*

Both resident and non-resident individuals are qualified as taxpayers, however, resident taxpayers have all-inclusive tax liability: their whole income (both from Hungary and abroad) is subject to personal income tax. Non-resident taxpayers have limited tax liability: in Hungary only income (i) originating in Hungary as the place of gainful activity or (ii) that is taxable in Hungary by virtue of international agreement or reciprocity is taxed.

A private person is qualified as resident taxpayer in the following cases:

- ▶ any citizen of Hungary (with the exception of dual citizens without a permanent or habitual residence in Hungary);
- ▶ any natural person who exercises - in accordance with the Act on Admission and Residence of Persons with the Right of Free Movement and Residence - his/her right of free movement and the right of residence for a period of over three months within the territory of Hungary in the calendar year in question for at least 183 days, including the day of entry and the day of exit;
- ▶ who falls under the scope of the Act on the Admission and Residence of Third-Country Nationals and has permanent resident status, or is a stateless person; furthermore
- ▶ any natural person
  - whose only permanent residence is in Hungary;
  - whose center of vital interests is in Hungary if there is no permanent residence in Hungary or if Hungary is not the only country where they have permanent residence; center of vital interests is located in the country to which the private individual is primarily tied by bonds of family and business relations;
  - whose residence is in the domestic territory if there is no permanent residence in Hungary or if Hungary is not the only country where they have permanent residence, and if their center of vital interests is unknown.

Every private person other than resident private persons qualifies as non-resident taxpayer and who falls under the scope of the Act on the Admission and Residence of Third-Country Nationals and has a permanent resident status, but in any 12-month period stays less than 183 days including the day of entry and the day of exit within the territory of Hungary.

The income basically originates in Hungary for example if

- ▶ it is paid by a resident employer or principal (independent from the place of activity);
- ▶ the place of activity is in Hungary (independent from the employer or principal);
- ▶ it sources from resident assets.

#### > *Types of income*

Taxpayer's income must be computed in two different ways: there are incomes that must be consolidated (e.g.: salary, income of intellectual activity, interest or dividend from controlled foreign enterprise etc.). The other kind of income (e.g. income from transferring property, interest, etc.) is taxed independently.

> *Calculating the tax to be paid*

The consolidated income is the base of the single 16 per cent tax rate.

The tax to be paid can be reduced by different tax allowances (e.g. allowances on certain specific activities, personal and family allowances).

The tax rate of the independently taxed incomes is also 16 per cent, unless otherwise provided by Act.

> *Methods for tax assessment*

Taxpayer has four possibilities to choose from: (i) self-assessment, (ii) so called “tax declaration”, a simplified form of self-assessment, (iii) simplified tax return assisted by the tax authority (iv) tax return filed without assistance from the tax authority (v) the employer’s tax assessment. In the first case taxpayer must assess his income and calculate the tax, then he must fill in a tax report form (which can be downloaded from the website [www.nav.gov.hu](http://www.nav.gov.hu)) and pay the tax until May 20 of the following year. Should the taxpayer have received all of his income from his employer in the previous year, and he is not excluded on any other basis provided by the Personal Income Tax Act, he can file a tax declaration with the tax authority, and disclosing all data needed by the authority to assess his tax. Similarly, if the taxpayer receives income only from specified sources and discloses the relevant information to his employer, he may be eligible to request his employer to assess his tax and file the appropriate form in his stead. The assessment by the tax authority is a further “assisted” method of tax assessment available for taxpayers who draw income only from specified sources.

Prepayments of the supposed tax are also required. Every month an amount must be paid to the tax authority, which can be calculated in the following way:

Monthly tax prepayment = [Yearly tax of the (monthly income\*12)] / 12

> *Independently taxed incomes*

- ▶ Certain allocations
- ▶ Income of private entrepreneurs
- ▶ Income from transfer of assets
- ▶ Income from capital investments (among others)

> *Interest income*

The act provides for the different types of interest incomes, e.g. interest shall mean (i) yield earned on savings deposits, (ii) the yield of debt securities which are offered and traded publicly or (iii) the yield from publicly offered investment notes. The tax rate is 16 per cent.

> *Dividend income*

All revenues of private individuals received as dividends shall be considered income. Tax rate on the dividend is 16 per cent.

> *Capital Gains Income*

Income from capital gains realized shall mean the proceeds received upon the transfer of securities less the purchase price of the securities and any incidental costs associated with the acquisition of the securities. The rate of tax on capital gains income is 16 per cent.

## 2.2 CORPORATE TAX REGULATED BY ACT LXXXI OF 1996 ON CORPORATE TAX AND DIVIDEND TAX („CORPORATE TAXACT”)

> *Taxpayers*

Taxpayers are treated differently depending on whether they are resident or non-resident taxpayers (a taxpayer is qualified as resident if it is created under Hungarian law).

Taxable resident persons are the following:

- ▶ business associations (including nonprofit business associations, regulated real estate investment companies under registration, regulated real estate investment companies and regulated real estate investment project companies), professional associations and European public limited-liability companies (including European holding companies), and European cooperative societies,
- ▶ cooperatives,
- ▶ state-controlled companies, trusts, other state-controlled economic organizations, companies of certain legal entities, and subsidiaries,
- ▶ law offices, bailiff's offices, patent agencies, notary's offices, forest management associations,
- ▶ Employee Stock Ownership Plan trusts (hereinafter referred to as 'ESOP'),
- ▶ water management associations,
- ▶ foundations, public foundations, associations, public corporations (including any organizational units of such organizations vested with legal personality in the statutes or deed of foundation), religious organizations, housing cooperatives, and voluntary mutual insurance funds,
- ▶ institutions of higher learning (including the institutions they have established), and student hostels.
- ▶ European groupings of territorial co-operation.
- ▶ Private business corporation (Initiated by Act CXV of 2009)
- ▶ European Research Infrastructure Consortium

The taxable resident persons have unlimited tax liability, which means that their worldwide income (both from Hungary and abroad) is subject to taxation.

Taxable non-resident persons are the foreign entities with foreign domicile if (i) they carry out business operations at their place of business established in Hungary or (ii) earn income by selling their shares in a company that owns real property lying in Hungary. The non-resident taxpayers have only limited tax liability: it applies only to the income that originates in Hungary as the place of gainful activity or is taxable in Hungary by virtue of international agreements or reciprocity. (NB: Hungary has concluded income tax treaties with more than 50 countries.)

> *Taxable income*

The tax base of the resident companies is based on the accounting profits, which is modified by certain items according to the Corporate Tax Act. The tax bases of some special companies are treated differently; these companies are the nonprofit organizations and nonprofit companies, the school cooperative, the Employee Stock Ownership Plan, the nonresident entrepreneur and the regulated real estate investment (pre)company.

As of July 1, 2007 there is a minimum tax base for all taxpayers which is 2 per cent of all the revenues of the taxpayer reduced and increased with items regulated by law. With this provision, the legislator created the term "expected profit."

There are three exceptions: the taxpayer does not have to pay tax on the "expected profit" (a) during the tax year when functioning as a pre-company and the following tax year, or during the first tax year if a separate financial statement is not required for the period when functioning as a pre-company; or (b) it is one of a limited number of special entities (e.g. foundation, religious organization, social cooperative, public-benefit organization; or (c) after having sustained any natural disaster during the current or the previous tax year, and the value of the resulting damage - or the aggregate value of multiple events, if applicable - represents at least 15 per cent of the taxpayer's annualized revenues for the previous tax year (for the taxpayers established by way of transformation, of the revenues - combined or split as appropriate for the type of transformation - of the predecessor).

> *Tax rate*

The corporate tax shall be 10 per cent of the positive tax base up to HUF 500 million and 19 per cent for the part above HUF 500 million.

> *Tax exemptions*

The following companies are exempted from corporate tax:

- ▶ foundations, public foundations, associations - with the exception of national interest representation organizations - and public corporations not qualifying as nonprofit companies, as well as housing cooperatives, if the revenues realized from their business operations, recorded pursuant to the regulations of specific other

- ▶ legislation applicable to their activity and the provisions of Schedule No. 6 of the Corporate Tax Act, are not more than HUF 10 million, and do not exceed 10 per cent of total revenues realized in the tax year,
  - ▶ voluntary mutual insurance funds, provided that the revenues of such funds generated from auxiliary business operations do not exceed 20 per cent of total revenues,
  - ▶ water management associations for the portion of the tax base defined by law that, as a part of all revenue, represents revenue realized from activities conducted as public duties;
  - ▶ public benefit nonprofit business associations, and social cooperatives for the portion of the tax base defined by law that, as a part of all revenue, represents revenue realized from preferential activities.
- > *Tax allowances*

The main tax allowances as of January 1, 2015 are the following:

- ▶ tax allowances for small and medium size enterprises: if these companies buy equipment for installment payment, 40-60 per cent of the interest (maximum HUF 6 million) can be deducted from the calculated tax; 40 per cent in case of contracts concluded between December 31, 2000 and December 31, 2013, 60 per cent in case of contracts concluded after December 31, 2013.
  - ▶ tax allowances for developments: the tax allowance is established by the taxpayer, if the costs that can be deducted exceed 100 million euros, this tax allowance can be applied only if the government gives a special permit for it, its rate is defined by the European Union;
  - ▶ tax allowance for film production and performing art organizations: the taxpayer is entitled to tax allowance up to the amount determined in a certificate issued by the Hungarian National Film Foundation or by the competent authority;
  - ▶ tax allowance on sponsorship of popular team sports: may be claimed in possession of a sponsorship certificate on the promotion of a popular team sport, up to the amount indicated in the sponsorship certificate made out to his name from the tax due for the tax year when the aid (support) was provided, and the following three tax years, irrespective of the fact that such allowance shall not increase the taxpayer's pretax profit when determining his tax base.
- > *Administration*

Taxpayers are obliged to fulfill their obligations by self-assessment. Taxpayers must file a tax report by May 31 of the following year. Tax report has a special form declared by the National Tax and Customs Administration, which can be downloaded from the website [www.nav.gov.hu](http://www.nav.gov.hu).

Prepayments of the supposed tax are also required. It is calculated based on the tax paid in the previous year. It must be paid monthly or quarterly, until the 20th day of the next month depending on whether the tax paid in the previous year is higher or lower than HUF 5 million. There are several exceptions and the rules of prepayments shall not be applied when the firm is being wound up, when giving the tax report because the registration procedure is being finished, or in case of the Employee Stock Ownership Plan trusts, public corporations, water management associations, foundations, public foundations, associations, nonprofit companies, religious organizations, housing cooperatives and voluntary mutual insurance funds.

### 2.3 SIMPLIFIED ENTREPRENEUR TAX (SET)

SET is governed by Act XLIII of 2002; this type of income tax can be used if the entrepreneur fulfills special requirements (form of the enterprise, activity of the enterprise etc.). In terms of entrepreneurs fulfilling the requirements of the SET Act, the SET applies instead of Personal Income Tax/Corporate Tax, VAT and some rules of the Accounting Act.

- > *Taxpayers*

There are 3 conditions that must be met:

- ▶ To operate in any of the following business forms:
  - private enterprise;
  - private business corporation
  - general partnership;
  - limited partnership;
  - limited liability company;

- cooperative and housing cooperative;
  - forest management association;
  - bailiff's office;
  - law office, law firm, notary's office;
  - patent agent office.
- ▶ To fulfill various conditions (for example):
    - permanent and unchanged operation;
    - no new member has acquired a share that yields control of more than 50 per cent of the voting rights
    - no public debt and default penalty;
    - special requirement in connection with the VAT;
    - actual operation: in the calendar year before the actual tax year, and in the tax year before this calendar year revenue must have been reached. Also in the second tax year before the actual tax year the annual revenue cannot have exceeded HUF 30 million, and in the tax year before the actual tax year the estimated annual revenue cannot have exceeded HUF 30 million;
    - conditions connected to business activity: inland bank account, no activity that falls under the Excise Tax Act, no Community Tax Number, cannot be indirect representative regulated under the custom rules;
    - was not subject to a dissolution procedure or liquidation procedure by court order;
    - share barriers.
  - ▶ Being subject to this tax depends on the taxable person's choice, so choosing taxability must be reported to the tax authority.
  - > *Taxable income*

All income acquired by the taxpayer in the tax year, which is modified by certain items according to several acts.

- > *Tax rates*

The tax rate is 37 per cent of the positive tax base.

- > *Other rights and obligations*

The taxpayer, who is not subject to SET can notify the tax authority until December 20, that he wants to become subject of the tax in the next year, and satisfies all conditions. There is an annual self-assessment, which must be done by February 25, or May 31 of the following year, depending on the type of taxpayer. For the first three quarters of the year, until the 12th day of the following month after each quarter tax prepayment must be paid. By December 20, the level of aggregated prepayments should reach the anticipated yearly tax amount. There is an obligation related to in connection with giving bills and invoices.

## 2.4 ITEMIZED TAX OF SMALL TAX BUSINESSES ('ITST')

ITST is a new alternative income tax for micro and small businesses with no more than HUF 6 million taxable income per year. It was introduced in Act CXLVII of 2012 with the aim of creating a simple tax for entrepreneurs conducting their business personally. In terms of entrepreneurs fulfilling the requirements of the Act, the ITST applies instead of Personal Income Tax/Corporate Tax, VAT (optional) and some rules of the Accounting Act.

- > *Taxpayers*

There are 3 conditions that must be met:

- ▶ To operate in any of the following business forms:
  - private enterprise;
  - private business corporation
  - general partnership with only private individual members;
  - limited partnership with only private individual members;
- ▶ The business must not receive any income from:
  - letting out real estate.

Being subject to this tax depends on the taxable person's choice, so choosing taxability must be reported to the tax authority.

> *Tax rates*

The tax rate is an itemized HUF 50 thousand/month up to HUF 6 million taxable income/year and 40 per cent of the income above this limit.

## 2.5 SMALL BUSINESS TAX ('SBT')

SBT is a new alternative income tax for small businesses with no more than HUF 500 million taxable income per year. It was introduced by Act CXLVII of 2012. In terms of entrepreneurs fulfilling the requirements of the Act, the SBT applies instead of Corporate Tax and Social security tax.

> *Taxpayers*

There are 3 conditions that must be met:

- ▶ To operate in any of the following business forms:
    - private business corporation
    - general partnership;
    - limited partnership;
    - limited liability company;
    - private limited-liability company;
    - cooperative and housing cooperative;
    - forest management association;
    - bailiff's office;
    - law office, law firm, notary's office;
    - patent agent office
    - foreign entrepreneur
    - foreign persons with head offices in Hungary
  - ▶ To fulfill all of these conditions:
    - the average number of employees is not expected to exceed 25 persons during the previous tax year
    - the revenue estimated for the previous tax year is not expected to exceed HUF 500 million
    - the tax authority did not withdraw or suspend the person's tax number during the preceding two calendar years
    - accounting date for the financial year is 31 December
    - the balance sheet total shown in the financial report prepared the previous tax year is not expected to exceed HUF 500 million
  - ▶ Being subject to this tax depends on the taxable person's choice, so choosing taxability must be reported to the tax authority.
- > *Taxable income*

The taxable income is based on the accounting profits, which is modified by certain items according to the Act.

> *Tax rates*

The tax rate is 16 per cent.

## 2.6 EXTRA TAXES OF CERTAIN ACTIVITIES ('POST-CRISIS TAXES')

Subject of the taxes: Activities subject to the extra taxes are banking transactions, insurance, telecommunication services, and the ownership of public supply mains (water, sewage, gas, and heat pipes, electricity and telecommunication cables).

Taxpayers: Each tax must be paid up by persons pursuing the activities subject to the extra tax.

Tax base and tax rate:

- > Banking transaction tax: the tax rate is 0,3 per cent of the transaction amount with a cap of HUF 6.000/transaction;
- > Insurance tax: the tax rate is 10 per cent of the total gross insurance fee (15 per cent for Casco insurances)
- > Telecommunication tax: the tax rate is HUF 2/minute for voice calls and HUF 2/message for text messages
- > Public supply mains tax: the tax rate is HUF 125/meter for public supply pipes and cables

**2.7 EXTRA TAX OF FINANCIAL ENTERPRISES AND CREDIT INSTITUTIONS**

Extra tax of financial enterprises and credit institutions was intended to be applied last time for the financial year 2013. However, these shall remain subject to tax payment obligation also for the financial year 2016. The tax base is the untaxed profit; the tax rate is 30 per cent for credit institutions, and 0,15-6,5 per cent for financial enterprises.

**2.8 SOCIAL SECURITY TAX**

Social security tax was newly introduced at the end of 2011. The tax replaced social security contributions; the main difference is that social security tax does not trigger right to social security attendances or subsidies. Social security tax must be paid by persons who allocate income (salary, etc.) to private individuals (mainly employers) as well as by private entrepreneurs; and all types of incomes are subjected to it that are also subject to personal income tax. The tax rate is 27 per cent.

**2.9 ADVERTISEMENT TAX**

Advertisement tax was introduced in August 2014. The tax shall be paid if such an advertisement is disseminated. Usually the disseminator is liable for taxation and pays the tax according to the amount of the income from advertisements. In those cases when the disseminator is not intended to pay the tax, the person who ordered the advertisement is liable for taxation and shall pay 5 per cent of the tax base. The tax rate is 0 per cent of the tax base up to HUF 100 million and 5,3 per cent above HUF 100 million.

**2.10 OTHER DIRECT TAXES**

Motor vehicle tax: Shall be paid after the cars with valid Hungarian number-plate and after the non-Hungarian trucks that run in Hungary.

Local taxes: Within the framework of the Local Tax Act, local governments can freely decide which kind of local taxes and how high rates they apply; the various types of the local taxes are the following:

- > tax on buildings;
- > land tax;
- > communal tax for private persons;
- > communal tax for entrepreneurs;
- > tourism tax;
- > local business tax.

Environmental taxes: For reducing the environmental pollution, certain products and activities are object to special environmental taxes; these taxes are the following:

- > environmental product charge;
- > environmental load charge.

Other special taxes and similar obligations:

- > separate tax of private individuals in certain public positions
- > mining allowance
- > cultural contribution
- > water inventory management contribution
- > agricultural contributions
- > tourist contribution

### 3. INDIRECT TAXES

#### 3.1 VALUE ADDED TAX REGULATED BY ACT CXXVII OF 2007 („VATACT“)

##### > *General*

VAT is a general consumption tax. As an indirect tax, VAT is included in the sale price of products or services: the price paid by the customer contains the actual value of the product plus VAT. If the customer is not an end user (he utilizes the product or the service for selling his products or providing his services), he can reduce the VAT to be paid with the VAT he paid for the purchased goods and services. Actually VAT – as apparent from the name – is only paid after the value added by the manufacturer to the value of the product, in every marketing stage.

##### > *Taxable transactions*

A transaction is taxable, if it is concluded in the territory of Hungary and it is concluded by a taxable person: (i) a natural person or (ii) a legal person or (iii) an organization which is not a legal person but is a legal entity that pursues economic activity regardless of the activity's place, target and result and the transaction is (i) purchasing products or providing services in Hungary by a taxable person or (ii) importing products (not only by taxable persons), or (iii) the intra-Community acquisition of goods.

##### > *Place of the performance*

In case of purchasing products, the place of the performance is

- ▶ where the product is at the time of the beginning of the transportation or of the dispatching (if it is abroad, and the receiver is an importer, the place of the performance is Hungary),
- ▶ the place of the set-up,
- ▶ the place where the product can be found at the time of the obligation,
- ▶ the place of dispatch or the destination of delivery in case of purchase of the product from the European Community.

In case of providing services, the place of the performance is

- ▶ the seat or business establishment of the provider (if it is in abroad, the service is not subject of VAT),
- ▶ in case of services concerning immovable: the place of the immovable,
- ▶ in case of carrying passengers or goods the route that was actually taken,
- ▶ in special cases at the place where the service is provided,
- ▶ in special cases at the seat of the customer
- ▶ in case of carrying goods within the European Community the place of departure.

##### > *Calculating the tax*

The tax base is the consideration paid for the product or for the service. The tax rates are different depending on the type of the product or the service; the possible tax rates are the following:

- ▶ 27%: main rule,
- ▶ 18% for products listed in Annex III/A of VAT Act (e.g. milk, meal products).
- ▶ 5%: for products listed in Annex III of the VAT Act (e.g. medicines, books etc.).

Since VAT is only paid after the value added, the paid VAT can be deducted from the received VAT if the product or service is used for manufacturing other products or providing other services (with some exemptions listed in section 124 of VAT Act).

Some persons and activities are exempted from the tax. The conditions of the subjective tax exemption are: (i) national seat or domicile and (ii) the income of the previous year is under HUF 6 million. The types of the objective tax exemptions are listed in the 6th chapter of VAT Act.

> Administration

The taxable persons must (i) report their existence to the tax authority for registration, (ii) issue an invoice (or a document equivalent with the invoice according to the VAT Act) after the received consideration, (iii) have a detailed book-keeping with the received invoices and the copies of the issued invoices, (iv) fill in a tax report monthly/quarterly/yearly depending on the amount of the VAT and (v) pay the VAT.

### 3.2 EXCISE TAX

Subject of the tax

Excise products listed in the act: petroleum, alcoholic products, beer, wine, champagne, intermediate alcoholic products, tobacco products.

Excise tax warehouse Special warehouse, where the excise product can be produced, or the imported excise product can be stored tax-free. A valid excise tax warehouse license given by the custom authority is needed to operate such a warehouse.

Taxpayers Inland producer of excise products, who holds a valid excise tax warehouse license, and persons importing excise products.

Tax suspension: The tax shall not be paid upon importing or producing excise products, if the product is stored in an excise tax warehouse. The suspension lasts until the obligation of paying the tax comes into force (typically the product is being put on the market), or until the taxable person is released from the obligation (for example the product is being exported). There are also several tax free uses of excise products.

Tax base and tax rate: The tax base depends upon the product in question. The tax rate is itemized, and also depends on the product. The method of calculating the tax base and the tax rate is detailed in the Excise Tax Act.

### 3.3 PRODUCT TAX FOR PUBLIC HEALTH

Subject of the tax: Products with customs tariff number as listed in the Health Product Tax Act which are pre-packaged and the sugar-, salt-, or caffeine content of which is higher than that determined by the Product Tax Act.

Taxpayers: Tax payers are natural persons or organizations introducing the product into the Hungarian market at the first time.

Tax base and tax rate: Tax base is itemized and depends upon the amount of the product expressed in kilograms or liters. Tax rate is itemized as well and is determined in terms of each product-type.

## 4. STAMP DUTIES

The two main types of duties are: property acquisition duties and procedural duties.

### 5. PROPERTY ACQUISITION DUTIES

Acquisition of property for free

> Inheritance duty

Subjects of the duty are: heritage, testamentary gift, forced share, donatio mortis causa.

> Duty of gifts

Subjects of the duty are: any property, including real property, free founding of valuable rights and interests, or assigning such right or exercise of such right.

> Tax base and tax rate for both inheritance duty and duty of gifts

The tax base is the net value of the property, which is described by the Duties Act. The general rate of the duty on inheritance and gifts is 18 per cent. In case of acquisition of residential property or rights related to residential property the rate of duty is 9 per cent. There are also several items modifying the tax base. Tax allowances are also available. Duties Act provides duty exemption for direct line relatives.

### *Acquisition of property for consideration*

As a main rule this tax applies only to the acquisition of immovables, while there is a list of certain movables in the Duties Act that are also subject to the tax. The tax base is the market value of the property, including all charges. There are several exceptions. Special rules apply for residential property, acquiring property for the purpose of real estate marketing, property acquisition of credit institutions, acquisition of motor vehicles.

## 6. PROCEDURAL DUTIES

Administrative proceedings: There are general and special duties. General duties apply as to a certain percentage of the amount/value of the subject-matter of the proceedings, while special duties are connected to special proceedings, such as issuing driving licenses, passports, etc.

Court proceedings: Different duties apply for civil court proceedings and for criminal court proceedings.

Tax rates: There are itemized and percentage tax rates.

## 7. OTHER INDIRECT TAXES

Registration tax: Shall be paid after cars and certain other vehicles when registered and introduced into the Hungarian market as well as by operators of fleet vehicles in case of lease. The amount of registration tax depends upon the age, environmental classification of the car and the size of its engine.

Game tax: Shall be paid by organizers of gambling, lottery, bets, casinos and similar games of chance, on the basis of the amount of the prize that can be won by participants.

Energy tax: Shall be paid, among others, by energy traders in case of selling energy, by users purchasing energy directly from abroad and by producers producing for own purposes, on the basis of the amount of the electricity, natural gas or coal sold/purchased/produced.

Accident tax: Shall be paid by persons subject to mandatory vehicle liability insurance. The tax base is the insurance fee payable on a yearly basis.

## 1. IMMIGRATION REQUIREMENTS / FORMALITIES

Third-country nationals may enter the territory of Hungary and stay for up to three months within a period of six months from the time of first entry under the conditions set out in Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (hereinafter referred to as "Schengen Borders Code").

Foreign nationals may enter and stay in Hungary **for a period of longer than three months if:**

- ▶ they are in possession of a valid travel document;
- ▶ they are in possession of:
  - a visa for a validity period of longer than three months,
  - a residence permit,
  - an immigration permit,
  - a permanent residence permit,
  - an interim permanent residence permit,
  - a national permanent residence permit, or
  - an EC permanent residence permit;
- ▶ they are in possession of the necessary permits for return or continued travel;
- ▶ they justify the purpose of entry and stay;
- ▶ they have accommodations or a place of residence in the territory of Hungary;
- ▶ they have sufficient means of subsistence and financial resources to cover their accommodation costs for the duration of the intended stay and for the return to their country of origin or transit to a third country;
- ▶ they have full healthcare insurance or sufficient financial resources for healthcare services;
- ▶ they are not subject to expulsion or exclusion, they are not considered a threat to public policy, public security or public health, or to the national security of Hungary.
- ▶ they are not persons for whom an alert has been issued in the SIS for the purposes of refusing entry.

Act II of 2007 on the Entry and Right to Reside of Third-Country Nationals provides certain exceptions.

## 2. PERMITS GRANTING ENTRY AND RESIDENCE

### 2.1 VISAS

Visas for a validity period within a 180 days period not exceeding 90 days are as follows:

- ▶ Visas shall be issued according to Visa Code (810/2009 EC)
- ▶ In cases defined by Act II of 2007 visa shall be granted upon the prior consent of the central visa authority.
- ▶ Visa can be granted by diplomatic and consular representations of a Schengen State in the name of Hungary

Visas for a validity period of longer than 90 days within 180 days period are as follows:

- ▶ "Visa for entitlement to receive a residence permit", for single entry into the territory of Hungary for the purpose of collecting the residence permit and for stay for a period not to exceed thirty days
- ▶ "Seasonal employment visa", for single or multiple entry and for employment for a period of longer than 90 days within 180 days period and maximum six months;
- ▶ "National visa", for multiple entries and for stays in the territory of Hungary for a period of longer than 90 days within 180 days period under international agreement.

The validity period for a visa for a validity period of longer than 90 days within 180 days period shall be maximum one year for the "Visa for entitlement to receive a residence permit" and the "Seasonal employment visa", while a maximum five years for the "National visa".

Visa applications shall be submitted personally at the Hungarian foreign representation competent according to the permanent or customary residence of the foreign national. Documents justifying the purpose of entry and stay shall be attached to the application.

## 2.2 RESIDENCE PERMIT

Third-country nationals holding a valid residence visa or a valid national visa shall be authorized to remain in the territory of Hungary after the period of residence authorized in the visa in possession of a residence permit expires.

A residence permit is an authorization to reside in the territory of Hungary for a limited duration of at least three months and not more than two years. A residence permit may be extended for two additional years.

Applications for the issue or renewal of residence permits shall be submitted no later than 15 days prior to the expiration of the authorized period of stay. When applying for a residence permit the applicant shall – at the time of submitting the application – have (i) a valid passport, (ii) a document to substantiate his purpose of entry and stay, (iii) sufficient financial means for living in Hungary, (iv) registered accommodation in Hungary, (v) the conditions for continued travel or for the return trip.

## 2.3 INTERIM PERMANENT SETTLEMENT PERMIT

The third-country nationals holding an EC residence permit certifying long-term residence status granted by any Member State of the European Union under Council Directive 2003/109/EC of November 25, 2003 on the status of third-country nationals who are long-term residents shall be issued an interim permanent settlement permit if seeking admission into the territory of Hungary for the purpose of gainful employment, with the exception of seasonal employment; for the pursuit of studies or for the purpose of vocational training; or for other justified reasons.

## 2.4 NATIONAL PERMANENT SETTLEMENT PERMIT

National permanent settlement permits may be issued to third-country nationals holding a residence permit or an interim permanent settlement permit for establishing residence in the territory of Hungary, if (i) having lawfully resided in the territory of Hungary continuously for at least **the three years before** the application was submitted; (ii) a **family** member of dependent direct relatives in the ascending line - other than the spouse - of a third-country national with immigrant or permanent resident status or who has been granted asylum, and living in the same household for at least the year before the application was submitted; (iii) the spouse of a third-country national with immigrant or permanent resident status or who **has** been granted asylum, **provided** that the marriage was contracted at least two years before the application was submitted; (iv) the applicant was formerly a Hungarian citizen whose citizenship was **terminated** or whose ascendant is or was a Hungarian citizen; (v) the applicant holds a residence permit issued in consideration of national economic interests at least six months before the application was submitted; (vi) the applicant holds a residence permit granted at least six months before the application was submitted and there is a national economic interest in his settlement. (vii): the minor child of a third-country national with immigrant or permanent resident status or who **has** been granted asylum

## 2.5 SPECIAL RULES REGARDING EUROPEAN ECONOMIC AREA NATIONALS

Foreign nationals holding an authorization for entry or stay issued by the competent authority of any Member State of the European Economic Area shall not be required to obtain further authorization to enter, travel through or stay in Hungary.

European Economic Area nationals shall be admitted without a visa, with a valid passport or valid identity card, and may stay in Hungary for 90 days without any other permit. European Economic Area nationals shall not be subject to visa requirement if wishing to stay over 90 days; they have the right to settle certified by their residence permit.

European Economic Area national students holding a valid certification of the educational institution, and having sufficient financial circumstances and health insurance have the right to settle.

There are special rules for foreign European Economic Area nationals if the reason of the settlement is connected to employment purposes.

The right to settle for European Economic Area nationals can only be restricted if so stated in the Accession Treaty, or if the residence endangers the national safety or public safety, or if any illness that can endanger public health was detected before the first issuance of the residence permit, or if the residence permit was issued for a third country national on the grounds of family unification, and within 6 months of the issuance the family is not living together any more, provided that the unification was created only for the purpose of the settlement.

Special rules apply for the civil members and their family members falling under the Convention between the NATO Member States about the legal status of the military forces (London, June 19, 1951).

## 1. COST OF LIVING AND IMMIGRATION

Since the average wages are also significantly lower than those in other EU countries, the cost of living is higher from the point of view of a Hungarian citizen. Foreigners from non-EU countries can find this cost higher than in their own countries.

## 2. DRIVING LICENSES

A foreign person may drive for one year with his/her driving license acquired in his/her country, if the license satisfies the formal conditions set forth in the relevant Hungarian laws. Driving licenses acquired in an EU country are accepted in Hungary though in case of those without validity date, those have to be changed to a Hungarian driving license after 2 years of residency. If the driving license was issued in a non-EU country it shall be changed to a Hungarian one after one year of Hungarian residency. The Hungarian authorities change the driving license of the foreign investor upon his/her request.

In case the foreign person does not have a driving license, after having spent 6 months in Hungary, he/she may obtain a Hungarian driving license. For obtaining such license, the person must pass a complex exam. During this examination the skills of driving, the knowledge of the Driving Code and a fundamental technical knowledge concerning the vehicle are examined. The complete charges of obtaining the driving license (including practice, exams, administration fees) may amount to EUR 450-560.

## 3. EDUCATION

The foreign investors' children may enroll the same schools as Hungarians, provided that the children speak a minimum level of Hungarian language. If not, many foreign-speaking schools are available in Budapest area. In Hungary there are schools maintained by the state, (local governments), churches and private persons.

In public schools and usually in church schools, too, the enrollment is free, the private schools may ask for enrollment fees.

## 4. HOUSING

A foreign person may rent houses, flats, rooms or other type of accommodation available in Hungary. The rental fees vary depending on the number of rooms, neighbourhood, etc. The monthly rental fee of a two-roomed flat with kitchen, bathroom in the III. district (calm, elegant suburb) of Budapest amounts to approximately EUR 380.

A foreign person may acquire property in Hungary in case of obtaining the required permits. Under the general rule non-resident individuals and foreign undertakings may not acquire arable land and protected natural areas in Hungary. Other types of acquisition of real estate are subject to a licensing procedure carried out by the competent authorities.

An EU citizen does not have to have housing before entering the country, but shall have sufficient financial resources to cover the full cost of his/her journey and staying. Such proof of the existence of such resources may be a document certifying that the investor already has accommodation in Hungary. A non-EU citizen who wishes to stay longer than three months may enter the country if he/she has accommodation and sufficient financial resources.

## 5. IMPORTING PERSONAL POSSESSIONS

The EU custom rules also apply in this area. The relevant EU regulation is the 1186/2009/EC Regulation (November 16, 2009) setting up a Community system of relief from custom duty.

## 6. MEDICAL CARE

There is a national health care system in Hungary, including health services and pensions. Foreign investors may conclude an agreement with the Hungarian authorities in order to participate in the health insurance services. Such agreement may be concluded by the employer for the benefit of the foreign employee.

## 7. TAX LIABILITY

The tax liability of the foreign persons depends on the double tax conventions concluded by the investor's country and Hungary. Usually if the employee spends more than 183 days in Hungary, the salary paid to him/her by the employer for the work done in Hungary is subject to personal income tax in Hungary.

## 8. WORK CONTRACTS

For obtaining an extended stay visa by the employee the employee's valid work contract is needed.  
(See the conditions of employment for EU and Non-EU citizens on pages 34-41)

