

BALÁZS & KOVÁTSITS
LEGAL PARTNERSHIP

NEWSLETTER

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FOUNDING MEMBER OF EAST LEGAL TEAM EEIG – AN INTERNATIONAL ASSOCIATION OF EASTERN EUROPEAN LAW FIRMS



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DEAR READERS,

Dear Readers,

It is my pleasure to inform you that this present Newsletter will be dealing with a lot of very interesting and up-to-date topics regarding the activities of our Legal Partnership and our expertise. Inter alia you can read about solar energy investments, domain disputes, the validation of warranty rights and expert verification.

Another noteworthy event in the life of our Legal Partnership is the International Construction Law conference held in Prague on 16 May 2019, where Dr. Tamás BALÁZS attorney at law, Managing Partner will be participating as a panellist. For further information please consult the website of the event:

<https://www.ccconsulting.cz/en/>

Also kindly note that Dr. Tamás BALÁZS Managing Partner and BALÁZS & KOVÁTSITS Legal Partnership have been shortlisted by Advisory Excellence in 2019 also and can be found in their international list of Construction Law and Real Estate Law experts.

Should you have any remarks, questions regarding the articles presented in our newsletter or the activity of our Legal Partnership, please do not hesitate to contact us.

Best regards,

Éva SÁNDOR
Marketing Manager



JUDICIAL EXPERTS IN CONSTRUCTION LAW LEGAL DISPUTES

One of the most important fields of law in the practice of our Legal Partnership is Construction Law. According to our experience, one of the most relevant questions in the legal disputes of Construction Law is legal proof, and forensic experts play a very important role in the proving procedure.

The expert is nominated by the judge from the list of forensic experts in the legal procedure. However, even before submitting the statement of claim there is a possibility to ask for the nomination of the forensic expert from the notary public who will also appoint him from the list of forensic experts. This kind of delegation is usually asked if for some reason the building contractor cannot continue the construction, finish it or another building contractor continues it, in these cases the notary public appoints a forensic expert to determine the responsibility of the building contractor or their defective performance.



The expert report of the forensic expert appointed by the notary public should be taken into consideration as if the forensic expert's appointed by the court. Of course, the parties can delegate private experts but primarily their expert report is taken into consideration as the certain party's declaration, so the power of proof of these private experts is weaker than the experts' appointed by courts and notary publics. However, the new Code of Civil procedure came into force on 01 January 2018 attributes more power to the so called private expert report, as long as during the preparation of the report, the party hiring the private expert and the expert kept the warranty rules which respect the interests of the other party. These rules ensure the right to inform the other party and also ensure the other party to make comments. With regard to the fact that very short time has passed since



the entry into force and there is no judicial practice regarding the private experts, but presumably the experts appointed by courts and notary publics will keep their primacy regarding their force of proof.

Dr. Tamás BALÁZS
Attorney at law
Managing Partner

with a name related to a popular product or service that is only rumored yet, and hope to ride the wake of the success of others – or maybe sell it off to the highest bidder.

In such case, your best strategy is to challenge the registration and initiate a domain dispute resolution process at the independent arbiters of Hungarian self-governing domain dispute forums (in case of .hu domains). The procedure is far faster – and less expensive - than a lawsuit before the ‘normal’ courts of justice, thanks to the arbiter’s intimate knowledge of domain disputes, although litigation at civil law courts is also possible, and may be preferable in case of associated damage claims, for the arbiters have no powers to award such monetary claims. In either case, the main goal is to order the violating party to cease and desist from the violation and not to use your domain without any legal ground or permission.



Domain disputes cases are highly specialized and it is best to consult with an expert as soon as possible - for in domain names disputes, the deadlines are also very short – there is only 8 days to challenge a registration of a new domain.



Although starting a domain dispute is still possible past these 8 days, the case has more limited scope, and has to be more solidly reasoned, according to the IP/IT and domain dispute experts of BALÁZS & KOVÁTSITS Legal Partnership, who have several years of experience in the successful litigation and arbitration of domain name disputes.

Dr. iur. Ádám Millei
Attorney at law

IMPORTANT ASPECTS IN CASE OF PURCHASING A REAL ESTATE

In recent times, numerous foreigners require the legal assistance of our Legal Partnership in case of purchasing a real estate. With regard to this fact, according to our standpoint, it is timely to highlight some relevant aspects of purchasing a real estate.



Nowadays, when the square metre prices of the real estates constantly increase, purchasing a real estate seems to be an economically well-defined investment decision. Beside the current and future purchase price, the buyers also have to take into consideration the status of the real estate. From the point of view of the Parties, it is absolutely important that the

status of the real estate is mentioned in detail (also the eventual defects) in the Sale and Purchase Agreement. In this case, the Parties are fully aware of the quality level of the real estate and they can calculate it into the purchase price.

The status of the real estate in detail in the Sale and Purchase Agreement is highly important from the point of view of the obligation of the seller for the eventual defects of the real estate. According to Hungarian law, the seller is liable for the defects of the real estates if the quality of the real estates does not meet the quality conditions prescribed in the law or the Sale and Purchase Agreement at the transfer of possession of the real estate.

The status of the real estate at the transfer of possession is absolutely relevant if the Parties agree that a buyer will purchase a renovated real estate and a construction implementation activity has to be executed based on the Sale and Purchase Agreement before the transfer of possession. In this case, the Agreement also has to include the works to be executed, the quality and quantity of the elements to be built-in, the method of the technical handing over procedure and the status of the real estate before and after the renovation.





Besides, the status of the real estate is moreover important if the real estate to be purchased is used. In this case, the buyer is also entitled to claim remedies for breach of warranty for material defects, although, the threshold of acceptability of these claims is higher than in case of a new or renovated real estate. The buyer cannot claim remedies for such defects that are occurred by the natural use or

ageing of the real estate or by the technical equipments or building materials of the real estate that were generally accepted at the time of the building.

With regard to the above mentioned facts, according to the experience of our Legal Partnership, it is absolutely important that the status of the real estate is mentioned in detail in the Sale and Purchase Agreement. If the Parties are negligent to regulate the status of the real estate in the Agreement, it can result in a very difficult situation in connection with proving the status of the real estate at the transfer of possession in case of eventual legal dispute.



Dr. Károly BAGÓCSI
Lawyer

RENEWABLE ENERGY INVESTMENTS IN HUNGARY

Solar energy investments in Hungary

The Hungarian energy market has had a renaissance since the past few years, due to the new support systems and technological solutions as well. There are numerous questions indicated to our Legal Partnership related to these investments. Thanks to the new regulation, solar cell investments have become a hit product, given that the former so called KÁT system (Obligatory Takeover System) could provide the investors with a secure income for a long period of time. However, according to the practice of such investments, these investments have an extremely high complexity and any project can fail in case of lack of proper legal support.



These investments generally require bank financing and use of other financial solutions due to the relatively high investment costs. Thanks to the popularity of such an investment as the solar projects, banks in Hungary have prepared their own practices and packages dedicated to the investors. Nevertheless, banks - as much as everywhere in the world - at first examine the security of their money's return, before all related licenses and permissions required by HEPURA

(Hungarian Energy and Public Utility Regulatory Authority, hereinafter referred to "Authority") are available.

For the purpose of obtaining such licenses and permissions (like KÁT permission,



investment permission, environmental permission and so on), it is necessary to submit very well prepared legal documents to the Authority. It has to be emphasized if any document contains a condition that threatens the investment, according to our experience in Hungary, banks will not finance the projects; so preliminary preparedness (in legal meaning as well) is inevitable.

According to our experience, these projects also require investment sites which should be carefully selected. There are many aspects for which legal expertise is required, including the preparation of legal documents like subtraction documents for cultivation of the land, or agreements like the share purchase agreement or lease agreement of the site.



As a result of our significant experience related to several energy investments and projects in Hungary, our Legal Partnership is able to provide their clients with complete and extended legal services related to renewable energy projects included solar investments to their clients for the entire investment period.

Dr. Krisztián KERÉK
Lawyer



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