



BALÁZS & KOVÁTSITS
LEGAL PARTNERSHIP



Dear Readers,

It is my pleasure to inform you that this present Newsletter will be dealing with one of the hottest issues of nowadays, climate protection and energy conservation. As the president of the Hungarian Society of Construction Law, Dr. Tamás BALÁZS participated at the annual conference of the European Society of Construction Law in Delft, the Netherlands on 23-24 October 2019, and the main topic of the conference was *Legal implications of climate change: the case for circularity*, we dedicate this issue of our newsletter to the same topic. So in our present newsletter inter alia you can read some information you need for procedures in front of Authorities establishing solar energy companies and energy registration. Another topic we chose for this newsletter is the topic of start-ups and private law agreements between the members of the start-up, it is intriguing and up-to-date as we have more and more Hungarian and foreign clients interested in that topic.

Another noteworthy event of the past few days is that after 80 years of “hibernation” the Polish-Hungarian Chamber of Commerce has been reactivated and it was (re)established in Cracow on 21 November. Dr. Tamás BALÁZS Managing Partner was elected as the consultant of the chamber.

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

WHAT'S INSIDE THIS ISSUE:

- *Introduction*
- *Private Law Agreement between the Members/Shareholders of Companies*
- *Energy Audit Requirements in Hungary*
- *One of the Most Important Conditions of Implementation of a Solar Power Plant*
- *News: Some Possible Changes of Building Authorisation Procedure*

PRIVATE LAW AGREEMENT BETWEEN THE MEMBERS/SHAREHOLDERS OF COMPANIES

There is a growing demand among our clients to determine the most important tasks, rights and obligations between the members of the future company in connection with the establishment and functioning of their new company. It is especially advisable if the members are from different countries, thus different business culture. In Hungary there are very few who take this opportunity before the establishment of the mutual business organization, although the majority of the future debates could be avoided with the signing of such a private law agreement between the members.

In a private law agreement between the members, which as its name says is a private law agreement, the members establishing the mutual business organization are legally binding the most important financial, legal (share capital, size of shares, date of foundation etc.) elements of the establishment of the new company.

However, it is more important than the regulation of the foundation to deal with the most important issues of operating a business company to be established (e.g. the rules for the use of the financial result, the question of the subsequent involvement of new members, the establishment of the supplier circle etc.)

It is very important that the private law agreement between the members clearly stipulates sanctions in case of failure of the contractor to comply with the contract.

In our experience, joint ventures whose members have clearly established the rules of the operation of the company, the cooperation between the members, can operate in the long run. A private law agreement between the members may also be established and signed for existing companies.

Dr. Tamás BALÁZS
Managing Partner
Attorney at law



ENERGY AUDIT REQUIREMENTS IN HUNGARY

Maintaining energy efficiency and a sustainable growth is the greatest challenge for companies of the 21st century, particularly in the EU, as it is committed towards a greener future, a noticeable trend in EU-wide legislation. As a result, to ensure current EU and Hungarian energy efficiency requirements, all enterprise-level companies (i.e. companies with at least 250 employees and an annual net revenue of at least EUR 50 million, or a balance sheet value of at least EUR 43 million, not including partners and affiliated companies) are monitored by the Hungarian Energy and Public Utility Regulatory Authority (or MEKH after its Hungarian abbreviation) and are required to perform an energy audit every 4 years. Energy audits are also to be performed for buildings owned by the enterprise, or their tenants.

Enterprises that maintain an EN ISO 50001 compliant energy management system certified by an accrediting organization are, however, exempt from the 4 year energy audit obligation, provided that they must send valid certification to MEKH every 4 years; this also applies to affiliated companies if the certification applies to affiliated companies within the group.

It is important to note that energy audits may be performed only by individual energy auditors and/or energy auditor companies, previously registered and licensed by the MEKH.

The auditor's license is granted for indefinite time period, however, there are strict professional requirements – including a Master's degree in Engineering, as well as 5 to 8 years of field experience in applicable engineering positions.

Energy auditor companies may only perform energy audits if they have legal relation with at least one individual, already licensed energy auditor. In order to be licensed by MEKH as an energy auditor, a one-time registration fee and a regular fee for maintaining the license is to be paid, and a wide range of documentation proving that the professional requirements are met also needs to be provided and must comply with local Hungarian laws and regulations. It is worth mentioning that under the EU-wide right for free movement and use of goods and services, energy audits may be performed by foreign persons or companies, provided they can meet requirements.

We sincerely hope that the aforementioned practical experience that our Legal Partnership had accumulated on the subject through several years may serve as a useful starting point for our existing and future clients for their energy audit operations in Hungary.

Dr. Ádám MILLEI
Attorney at law





ONE OF THE MOST IMPORTANT CONDITIONS OF IMPLEMENTATION OF A SOLAR POWER PLANT

In the recent times, we have received several enquires in connection with the implementation of solar power plants in Hungary. It is therefore deemed useful to show one of the most important aspects of the process which shall be done before the commencement of the construction activity.

If we find the land which seems to be appropriate for executing the solar power plant, we have to check the technical conditions of it from point of view of connection to the public grid. Checking the technical appropriateness of the land is done by the regional grid operator based on the request of the developer.

In the request, the type of generator, its performance (kW) and the method of connection to the public grid shall be indicated (1, 2 or 3 live wires). The developer is obliged to enclose the following documents to the request: the title deed (property sheet) of the land, a general map about the place of implementation of the solar power plant, the approval of the land owner to the implementation of the solar power plant, the approval of the land owner to the submission of the request. After the submission of the request, the developer shall pay a fee for the process of the regional grid operator. The procedural fee is currently HUF gross HUF 178,004.

After receipt of the request and the procedural fee, the regional grid operator is obliged to check the technical conditions of the connection of the land to the public grid within 30 days. During the review of the request, the land is inspected by the experts of the regional grid operator in person.

The regional grid operator issues an information material on the technical conditions of the connection to the public grid. In the information material, the grid operator gives information on the possibility of connection to the public grid, the technical conditions of the connection, the place of the connection and the further necessary steps to conclude the contracts on connection to the public grid (feasibility studies, connection plan, building plans).

The construction of the necessary elements to connection to the public grid can be started only after the conclusion of the contract. Following the construction of the elements, the regional grid operator reviews the implementation of them.

Dr. Károly BAGÓCSI
Lawyer





NEWS: SOME POSSIBLE CHANGES OF BUILDING AUTHORISATION PROCEDURE

The system of board of housing is currently defined by the Government Decree of 2006 on the selection and the operating conditions of board of housing and construction supervision authority. However, there is a chance that there will be changes in the system of the board of housing in the near future.

Pursuant to the present operative legislation, the building procedure is a two-stage procedure, in which different authorities act at first and second instance. At first instance the scrivener of the district seat local government, the scrivener of the metropolitan district local government, and the metropolitan scrivener provide general building tasks as a board of housing. Today 256 first instance boards of housing are operating in Hungary. At second instance the Government Office of the Capital City Budapest and County provide the tasks of board of housing and construction supervision authority.

Regarding this system some changes may occur in the near future in such a way as to the legislature would transplant first instance authority power from the scrivener of district seat, the district metropolitan local government to the Government Office of the Capital City and County.

Anna Andrásy
Legal Trainee

Contact Person:
Dr. Tamás BALÁZS
Managing Partner
Attorney at law



BALÁZS & KOVÁTSITS

H-1055 Budapest, Honvéd u. 40. 3. em. Tel/Fax: +36 1 302 5697; +36 1 302 7938; +36 1 312 1103
www.bakolegal.com office@bakolegal.hu balazs@bakolegal.com