



BALÁZS & KOVÁTSITS  
LEGAL PARTNERSHIP



Dear Readers,

It is my pleasure to inform you that in our present Newsletter we introduce some relevant topics from the expertise of our Legal Partnership in Real Estate Law and new regulations entering in force in June 2023 regarding waste management in Hungary.

Inter alia, you can read about the task in case of right of pre-emption, waste management reform entering in force in Hungary, and the regulation of earnest money.

In addition, we would also like to kindly inform you that on behalf of our Legal Partnership Dr. Tamás BALÁZS, Managing Partner and Éva SÁNDOR, Marketing Manager will participate in several international conferences in May and June.

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*
- *Task in Case of Right of Pre-emption*
- *Hungary Brings in New Legislation to Recycle Better*
- *Property Sale and Purchase in Hungary: Regulation of Earnest Money*



## TASK IN CASE OF RIGHT OF PRE-EMPTION

We can often meet the right of pre-emption not only in business, but also in private life. The right of pre-emption is a strong power by which it is possible to control the transfer of ownership in case of a sale and purchase transaction. Upon the decision of the beneficiary, the transaction can be hindered by him or its fulfilment can be approved by him. In case of hindering the transaction, the beneficiary is obliged to enter into the transaction and to participate in it as a party. The reason of the obstruction is irrelevant. Therefore, this right is a burden for its subject.

The right of pre-emption is established either by the agreement of the parties or by the law unilaterally and its subject can be any movable properties (including rights, securities etc.) or real estates. For example, the members of a limited liability company or a public/private limited company can institute the right of pre-emption for the business shares or the stocks by their mutual understanding in the instrument of constitution of the company. Another example, in case of a joint ownership (real estates, vehicles, any assets etc.), the right of pre-emption is prescribed by the law for the benefit of the owners. Similarly, there is a right of pre-emption by the law in favour of the State in case of export of some building materials or cereals.

In order to ensure the enforcement of the right of pre-emption, the law regulates the way of sale of the assets burdened by this right. If the owner of such asset has the intention to sell it and the purchaser is not the beneficiary of this right, the owner shall inform the beneficiary of the right about the fact that he would like to sell it to another party (potential purchaser).

The law regulates the time, the details and the consequences of the information, or the lack of it. The owner shall inform the beneficiary of the right prior to the acceptance of the purchase offer of the potential purchaser. The information shall include the full purchase offer (all details of it included the price, the payment and other conditions). Besides, the owner shall impose an appropriate deadline for the beneficiary of the right in order to decide the exercise of the right of the pre-emption or not.

If the beneficiary exercises this in a rightly way, the transaction will be concluded between him and the owner with the same conditions as they are mentioned in the purchase offer and the potential purchaser will fall out of the transaction. In case of lack of exercise of this right by the beneficiary, the transaction will enter into force between the owner and the potential purchaser according to the conditions of the purchase offer.

If the owner does not inform the beneficiary of the right about either the purchase offer or all details of it, the beneficiary is entitled to lodge an action for avoidance regarding the transaction between the owner and the purchaser. The lawsuit shall be initiated within 30 days after obtaining knowledge about the transaction by the beneficiary. After 3 years of conclusion of the transaction the lawsuit cannot be initiated. At the successful end of the lawsuit from point of view of the beneficiary, the court will establish that the transaction has been legally concluded between him as purchaser and the owner as seller, so the purchaser will fall out of the transaction and s/he is entitled to claim damages from the seller (the previous owner).

Dr. Károly BAGÓCSI  
Junior Partner, Attorney at law, LLM

## HUNGARY BRINGS IN NEW LEGISLATION TO RECYCLE BETTER

A wide range of businesses will be affected by the Hungarian waste management reform in force from 01 July. In order to meet EU recycling standards and to be in compliance with community legislation, the Extended Producer Responsibility system (EPR) is being introduced to the waste management system in Hungary.

In the EPR system, the producer (meaning the first distributor of the product in Hungary) is financially responsible for the product during its whole life cycle. This means that the producer will have to pay an extra fee after the products which fall within the scope of the EPR system and the waste management of the product will be financed from the above fee.

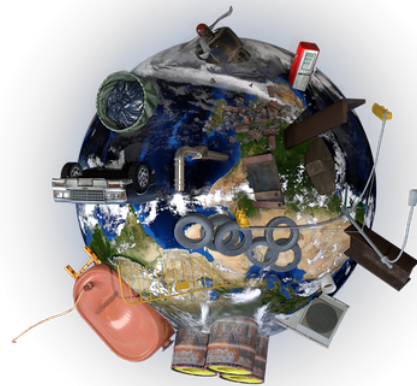
The products after which the EPR fee should be paid are the following circular products: packaging, disposable plastic products, electrical and electronic equipment, batteries, vehicles, tires, office and advertising carrier paper, cooking oil and fat, textile products and wooden furniture. It is important to note that some of the above circular products are also subject to the already existing environmental protection product fee, (e.g. batteries, electronic equipment, tires and packaging materials used for packaging). An important technicality is that in order to avoid the above double payment, the amount of the EPR fee can be deducted from the amount of the product fee (in case of products that are subject to both a product fee and an EPR fee). For example, the EPR fee for the packaging can be deducted from the product fee payable for the packaging material used to make the packaging.

From 01 July 2023, waste management will be carried out by the Hungarian company MOL (under a 35-year concession) and the above-mentioned EPR fee will have to be paid to MOL as well.

The next step in the waste management reform in Hungary will be the introduction of the obligatory Deposit Return Scheme (DRS) from 01 January 2024. This means that in bigger grocery shops the customers can insert their used beverage drink containers (e.g. glass, plastic and aluminium bottles) into reverse vending machines for a reward fee.

Should you need more information on the detailed regulations, the colleagues of our Legal Partnership are at your disposal to provide you with some more information.

Zita BALOGH  
Legal Assistant





## PROPERTY SALE AND PURCHASE IN HUNGARY: REGULATION OF EARNEST MONEY

In the practice of our Legal Partnership, preparing sale and purchase documents in several languages - not only in Hungarian but in English as well - is quite common. There are countless specific legal issues related to the property sale and purchase, of which the institution of earnest money is presented below.

A common problem in connection with earnest money is that it is often transferred before concluding the contract, precisely to express and ensure the will to subsequently conclude the contract. Accordingly, issues relating to the already transferred earnest money are difficult to regulate in the contract, the loss or repayment of the earnest money is often decided on the oral agreement between the parties, but these agreements cannot cover all possibilities.

To avoid the above situations, the Hungarian Civil Code lays down the basic rules for the application of earnest money. A transferred sum of money can be considered as an earnest money if it is paid as confirmation of the commitment, and this purpose is clearly stated in the contract.

If the contract is fulfilled, the debt is reduced by the amount of the earnest money. If the fulfilment of the contract fails for a reason for which neither of the parties is responsible or both parties are responsible, the earnest money is returned. The party responsible for the failure to fulfil shall forfeit earnest money and shall be obliged to reimburse the earnest money received twice. The loss or double refund of the earnest money shall not exempt the party from the consequences of the breach of contract. The amount of penalty and compensation shall be reduced by the amount of the earnest money.

Should you need more information on sale and purchase contracts in Hungary, the Colleagues of our Legal Partnership are at your disposal to provide you with some information.

Hanna SZABÓ and József SIMÓ  
Legal Assistants





**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](http://www.bakolegal.com) [office@bakolegal.hu](mailto:office@bakolegal.hu) [balazs@bakolegal.com](mailto:balazs@bakolegal.com)