



BALÁZS & KOVÁTSITS
LEGAL PARTNERSHIP



Dear Readers,

It is my pleasure to inform you that in our present Newsletter we will highlight some of the hottest issues our Legal Partnership has been dealing with nowadays. One of the most relevant recent articles of ours is about the new rules in connection with the warranty card in Hungary. In our present newsletter you can also read about real estate funds, some forthcoming changes in real estate registration, and energy efficiency certification. In our Guest Page we invited Dr. Judit TORMA, Managing Director and owner of NESSUM, one of our cooperating partner firms to summarize some information about public procurement in Hungary.

Finally, let me call your kind attention to the fact that our Legal Partnership has been very active participating and lecturing at various online conferences, inter alia Dr. Tamás BALÁZS Managing Partner gave a lecture on 25 March 2021 on the webinar *How to Do Business in Poland?* organized by the *Budapest Chamber of Commerce and Industry and the Chamber of Commerce and Industry of Pest County and the town of Érd* on **Legal Information Before Entering the Polish Market**. Dr. Tamás BALÁZS will also be giving a lecture in Spanish on legal information before entering the Hungarian market on 15 June 2021 organized by the *Budapest Chamber of Commerce and Industry* for Colombian businessmen.

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

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NEW RULES ON WARRANTY CARD IN HUNGARY

By Government Decree 270/2020 (VI.12.), Hungarian Government amended Decree 151/2003 (IX.22.) on mandatory warranty for certain durable consumer goods with effect from 01 January 2021. Also at the beginning of this year, a decree of the Minister for Innovation and Technology 18/2020. (VI.12) (Ministry for Innovation and Technology) entered into force which modifies the decree 19/2014. (IV.29.) (Ministry for National Economy) laying down rules of procedure for the handling of warranty and guarantee claims in respect of goods sold under a contract between a consumer and an enterprise.

One of the most important conceptual innovations of the new regulation is that it makes the duration of the mandatory warranty dependent on the selling price for the products listed in the annex to the Government Decree. Thus, the mandatory warranty period is one year for a product that reaches a sale price of HUF 10,000 but does not exceed HUF 100,000, two years for a sale price between HUF 100,000 and HUF 250,000, and three years above a sale price of HUF 250,000.

Another important change is that under the new regulations, in the event of a repair of a consumer product, the warranty period is extended from the date of delivery for repair to the time during which the consumer could not use the consumer product as intended due to the defect.

One of the most significant innovations of the new regulation is the possibility to issue the warranty card electronically. Under the new regulation, the warranty card can be delivered to the consumer electronically in two different ways. On the one hand, the enterprise either issues an invoice to the consumer electronically and includes on this electronic invoice all the warranty information that s/he must include on the paper invoice. Or alternatively, the enterprise does not hand over the warranty card by direct electronic means, but makes it available to the consumer in the form of a download access address. In such a case, however, the company may not terminate the downloadability of the warranty card until the end of the warranty period, it must ensure the possibility of downloading at all times. The company is obliged to hand over the warranty card electronically no later than the day following the handover or the putting into service of the product. In the event of a dispute, the burden of proving that the warranty card has been duly delivered to the consumer electronically lies with the enterprise.

Dr. Tamás BALÁZS
Managing Partner
Attorney at law



LEGISLATIVE CHANGES IN HUNGARIAN REAL ESTATE LAWS

The system of land register and central administration of title deeds has a long history in Hungary, going back to the 18 century, and has been working as an effective system in the past several hundred years. The land register system underwent expansions and modernisations several times ever since, with the last major overhaul occurring in the 1990s, when it has been digitalized into a then state-of-the-art electronic database. Since then, major advancements have been made in the information technology and the real estate market has changed as well – transactions are faster paced and larger in volume, with greater complexity, to no small extent due to foreign real estate investments in the booming Hungarian real estate market - thus the land registry is due for a complete overhaul.

To keep up with the modern requirements, the Hungarian land register shall soon undergo another major legal and technological overhaul, promising faster and more secure, fully digitalized transactions. As part of this overhaul, the current governing law, Act CXLI on the Hungarian Land Register shall be entirely superseded and is to be replaced on 01 February 2023 by a new Act on the Hungarian land register, the draft of which is already under debate by the Hungarian Parliament.

The new draft, T/15969 on the land register has set ambitious goals to improve competitiveness with the current standard of international land registers. It shall be directly accessible by all public administration bodies, courts, and other authorities, and shall be fully synchronized with their own databases. In addition, a new, modern digital database shall be developed and replace the current, somewhat archaic digital solutions inherited from the 90s, and shall be able to swiftly handle and register all relevant rights and legal facts related to any real estate, ensuring greater security of transfers of ownership. The new land register shall be publicly accessible and searchable by all stakeholders, provided they possess the required level of digital clearance. More importantly, the new land register shall enjoy absolute primacy over all other sources and databases whether a right or title for a given real estate legally exists or not – gone will be the days where such rights were to be found in several fractured databases or obscure deeds, sometimes much to the surprise of the unsuspecting owner!



Every right, title or legally relevant fact of the real estate must be and shall be registered in the new land register – otherwise, from the legal point of view, it shall not exist at all. From the procedural point of view, digitalized and digitally signed documents shall replace the current system of submitting numerous copies of paper-based title deeds and countersigned contracts, resulting in faster and more secure real estate transactions, with much shorter procedural deadlines due to semi-automated administrative procedures. Due to the complexity, risks and high value of real estate transactions, there will be no change in that the title deeds, sales and purchase contracts and other similar legal instruments effecting rights and titles of a real estate are to be drafted by a licenced attorney (or less commonly, a notary public, typically in the case of registering mortgages) to be legally binding, and legal representation by a licenced attorney is still a binding requirement in the process. Real estate transactions thus continue to involve the aid and expertise of attorneys.

We have trust that this short summary on the latest, most important legislative events in the field of Hungarian real estate laws shall help our existing and future Clients to orient themselves in the continuously evolving legal environment of Hungarian real estate market, and that they shall continue to place their trust in the expertise of BALÁZS & KOVÁTSITS Legal Partnership in the field of real estate transactions and investments.

Dr. Ádám MILLEI
Attorney at law





ESTABLISHMENT OF A REAL ESTATE INVESTMENT FUND

If an investor has a marketable real estate investment idea which has large equity requirements and holds out promises of profit better than the available average on the financial market, it can be worth to create a real estate investment fund in order to collect money from other investors in the capital market.

Who can create a real estate fund? According to Hungarian law, an investment manager having a permit concerning management of investment funds issued by the Hungarian National Bank, is entitled to establish a real estate fund. An investment manager can be a public or private limited company and a Hungarian Branch office of a foreign company having a registered seat in the European Economic Area. Under Hungarian law, the investment manager shall have a minimum capital which has to be at least EUR 300,000. Besides, if the total value of the investment funds managed by the investment manager is more than EUR 250,000,000, additional amount of own capital is required for the investment manager. Furthermore, the investment manager has to meet the financial, personal and material requirements prescribed in Hungarian law and it shall have special documents, policies and transparent ownership structure.

How? A real estate investment fund can be established only if it collects enough money from the investors. The minimum amount of the capital of a public real estate investment fund is HUF 1,000,000,000 and the minimum capital is HUF 500,000,000 in case of a private real estate fund. After gathering the start-up capital successfully from the investors, the Hungarian National Bank registers the real estate investment fund if it has the documents necessary to operation of the investment fund. The real estate investment fund is only created by the registration of the Hungarian National Bank as a supervisory authority.

What are the most important conditions? It is absolutely necessary that the real estate investment fund has an auditor, a real estate appraiser and a distributor - if the investment manager does not market the shares of the investment fund -, and a depository who is responsible for recording and managing the cash flow of the investment fund.



Managing Rules and Regulations The Managing Rules and Regulation is the “Constitution” of the investment fund and it includes the most important data and provisions of the operation of the investment fund. The content of the Managing Rules and Regulations is prescribed by the law (investment policy, risks, characteristics of the share of the investment fund, appraisal of the assets of the investment fund, information on the profits, process for modification of operation of the investment fund, fees and costs etc.).

Investment policy The purpose of the real estate investment fund shall be expressively determined in the Managing Rules and Regulations. The most common investment policy is acquisition or implementation of a real estate with large value and to derive benefit from it by utilization or operation (warehouses, shopping malls, commercial, industrial or logistic parks etc.)

If we aroused your kind interest in connection with the establishment of a real estate fund, please do not hesitate to contact us.

Dr. Károly BAGÓCSI
Attorney at law





ENERGY EFFICIENCY CERTIFICATION

For near-zero energy buildings, there is a six-month grace period in the sense that buildings will only have to comply with near-zero energy requirements if they are put into use after 30 June 2021 instead of 01 January 2021 and shorten the list of buildings and parts of buildings for which an energy performance certificate is required.

But what exactly are near-zero-energy buildings? A near-zero-energy building is a building that meets the technical requirements set out in the Energy Efficiency Decree. To obtain near-zero energy status, a building must meet certain requirements, such as the heat transfer coefficient of doors and windows, the heat loss coefficient, over all energy coefficient values and the minimum ratio of renewable energy used. It is important to point out with regard to the requirement regarding renewable energy that at least 25% of the energy requirements of a near-zero-energy building must be provided by renewable energy that is generated in the building or on the lot, or is a composite part of electricity that is generated locally or taken from the national grid, where the 25% ratio relates to the scaled value of the composite energy coefficient.

The above mentioned six-month grace period means that new residential buildings for which planning permission was granted after 31 December 2015 will only have to comply with the requirements for zero or nearly zero-energy buildings if they are put into use after 30 June 2021. With the granting of six-month extension, the Modification Decree aims to remedy a problem that was created by a provision that imposed stricter rules on energy sources in a modification of the Energy Efficiency Decree jeopardising the occupancy permit of many buildings.

According to a new regulation, in addition to agricultural buildings and parts of buildings, no energy performance certificate will be required for "logistical and industrial buildings and parts of buildings" if they are not used for residential purposes and the air temperature inside them does not exceed 12°C during the operation of the heating system, or if they are heated for less than four months and cooled for less than two months.

Anna ANDRÁSSY
Legal Trainee



GUEST PAGE: Public procurement within the EU

What is public procurement? Public procurement refers to the process by which public authorities, such as government departments or local authorities, purchase work, goods or services from companies. From stationaries to radar equipment or even paintings, from simple office cleaning to specialized restoration works, there are multiple variations for the subjects of such tender calls.

Why is public procurement important for small size enterprises? Every year, over 250 000 public authorities in the EU spend around 14% of GDP (around €2 trillion per year) on the purchase of services, works (i.e. building) and supplies. In many sectors such as energy, transport, waste management, social protection and the provision of health or education services, public authorities are the principal buyers. Even small size enterprises can use this opportunity to boost jobs, growth and investment.

Harmonized rules all over Europe To create a level playing field for businesses across Europe, EU law sets out minimum harmonised public procurement rules. These rules are laid down in common directives. The most recent procurement Directives (2014 Directives), which cover predominantly procedural issues, are the following:

- Public Sector Directive 2014/24/EU replacing Directive 2004/18/EC2
- Utilities Directive 2014/25/EU replacing 2004/17/EC3
- Concessions Directive 2014/23/EU4, which creates a new regulated regime for the award of works and services concession contracts.

These directives must be transposed into national legislation (the deadline for the transposition of these three directives by Member States into their domestic law was 18 April 2016). This grants that above a certain value public procurements must be the same in Hungary than in Poland.

However, for tenders of lower value, national rules apply. That is why we still experience differences between the national public procurement processes. Nevertheless, these national rules also have to respect the general principles of EU law.

Dr. Judit TORMA
senior procurement expert, CEO
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