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## Country report - 2015

### Hungarian Bar Association

#### In Brief

After initial strong economic growth in 2015, Hungary's economy slowed down in the third quarter of the year, expanding at the slowest pace since Q2 2013. Growth has lost steam since hitting a multi-year high in Q2 2014 and business confidence fell to a six-month low in November 2015, suggesting that the economy would remain on a soft footing in the fourth quarter.

Averting a notable slowdown in 2016 - after EU development funding diminishes - remains a key obstacle for policy makers. At the end of November, the government proposed a drastic reduction to the country's banking tax, which is the highest in Europe, and other additional measures to incentivize greater lending. The move is in line with Prime Minister Viktor Orbán's promise to create a more investor-friendly climate in the country and should boost corporate lending if enacted.

Continued positive gains in the labor market throughout 2015 should also support growth well into 2016, however it remains unclear if the government can prevent a significant moderation in investment going forward.

Outside of economic matters, the European migrant crisis was the biggest story in Hungary last year, as the country became a major focus for the international community due to it becoming the main entry point into the EU of thousands of refugees travelling from Greece. After deciding that the country could not cope with the sheer number of migrants, and after becoming disillusioned due to a perceived lack of assistance from other EU countries, the Government decided, with the help of a large-scale border fence building program, to seal Hungary's borders with Serbia and Croatia in order to stem the influx.

Apart from the short summary offered above, please find below a few comments pertaining to the most important political and legislative events of the year 2015.

## **1. Political situation**

Following a strong election win in the spring of 2014, the popularity of the Fidesz government was on the wane in the first half of this year, mainly due to a popular perception that corruption was rife amongst the government and that the ruling elite tended to win most of the lucrative public procurement bidding processes initiated by the government. There was also several scandals involving prominent Fidesz politicians and people close to the party. This dissatisfaction culminated in the government losing its all important two-thirds majority in the Hungarian parliament, which meant that it would be harder for them going forward to make constitutional changes or to enact or modify laws which are of constitutional importance.

Some of the government's policies and law making agenda also attracted controversy. The decision to close the majority of shops and businesses on Sundays came into effect in March 2015 (please see below at 2.7 for further details) and, although it was enacted ostensibly to promote the ability of families to spend more time together, it has been criticised for being responsible for a drop in consumer spending and could result in redundancies. The government's decision to pursue the new nuclear power station project at Paks with Russian financial involvement and expertise has also caused large controversy recently. Opponents of the project claim that it will make Hungary dependent on Russian nuclear technology for the following decades and that the money would have been better spent on improving renewable energy sources.

Despite the above, the advent of the migrant crisis saw an extremely strong rebound in the popularity of Fidesz, as Party-President Viktor Orban was cast as the saviour of both Hungary and the EU in some quarters, with his strong anti-migrant rhetoric, decisive action (the closing of Hungary's borders) and statesman-like behaviour on the topic striking a chord with sections of Hungarian and European society concerned by the large influx of migrants.

## **2. New legislation**

There was an increase in legislative activity on the part of the lawmaker in 2015, when compared with the relatively quiet 2014. A few elements of this legislative activity will be considered below.

### **2.1 New Civil Procedural Code**

The New Civil Code of Hungary, effective since March 15, 2014, has brought about the necessity for a significant update to the Civil Procedure Code as well. A committee has been set up to prepare a draft for a New Civil Procedure Code and the deadline for the preparation of such a draft is by the end of 2016. It is anticipated that the New Code on Civil Procedure might be adopted some time in 2017. The aim of the Hungarian Government is to create a new, modern and effective Act that meets international requirements.



## 2.2 The New Public Procurement Act

The new Act on Public Procurement entered into force on November 1, 2015. Its enactment became necessary because the EU regulation relating to public procurement and procedures changed in 2014. The main changes affect the regulation of business secrets, the grounds for the exclusion of bids and the verification thereof.

The aim of the new Act is to support the participation of small and medium-sized enterprises in public procurement procedures by limiting the reference requirements of the contracting authorities. It also simplifies administration and decreases the cost of the submission of the bid through the European Single Procurement Document. The new Act is stricter on business secrets in that bidders can qualify fewer pieces of information as business secrets and have to submit their declaration in relation to the grounds for the qualification of certain documents as business secrets. Finally, the Act also makes it possible for the successful bidder to divide or merge with another legal person during the performance of the tender contract and for the whole business group of the bidder to be transferred to a legal successor.

## 2.3 Electronic ID Cards

Due to legislation passed in 2015, from January 1, 2016 a new electronic identity card ("e-card") replaced the current plastic ID cards. The new e-card, which will also be issued as a plastic card (i.e. not a virtual card), aims to simplify civil administration and to merge the main identification cards carried by Hungarian citizens, such as the ID card, address card, social security card and tax card. The chip of the e-cards - at the option of the card-holder - may contain the fingerprints, a person's identification details separated into secure, separate data groups (i.e. address, tax number etc.), and, as per the request of the individual citizen, their electronic signature, tax and social security numbers too. The compression of rather sensitive personal data on one singular e-card may raise data protection concerns.

## 2.4 Personal Bankruptcy

As the economic crisis has made it very hard for many people to pay their debts (especially foreign currency bank loans), there are lots of non-performing debtors in Hungary these days. In order to help these people, the government has recently introduced several measures. One of these was the introduction of personal bankruptcy into Hungarian law. A non-performing debtor can now apply for personal bankruptcy and, if the personal bankruptcy procedure is successful, then at the end of the procedure part of the person's debt will be forgiven by law.

Some claim that the newly introduced bankruptcy procedure is overly complicated and so will not be a real option for debtors. This is supported by the fact that, so far, only a few people have applied for personal bankruptcy. However, since the Act only came into force in October 2015, it is too early to draw conclusions.

## 2.5 Paks

The Hungarian power system has been relying heavily on nuclear energy in recent decades. As the nuclear power plant in Paks is approaching the end of its life-cycle, the government decided to replace it with a new nuclear power plant (as mentioned above). This project is going to be one of the biggest ones ever carried out in Hungary, thus the government is trying to facilitate it by introducing many new laws with the goal of expediting the project. Act VII of 2015 is one of these laws, which introduces new regulations relating to nuclear energy and applies some special rules and exemptions for the project.

## 2.6 The Modification of the Advertising Act

On 11 June 2014, in an expedited procedure, the Hungarian Parliament passed the bill on advertising tax that for the first time introduced a specific tax on advertising. A wave of criticism by professional organizations the European Commission followed the introduction of the act. Due to concerns expressed by the European Commission about the tax's potential distortive effect on competition and about whether the advertisement tax was in line with the state aid regulations of the EU, the Parliament passed an amendment to the act in 2015.

The most significant element in the amendment was the new tax rate. The progressive tax rate was replaced by a single general tax rate of 5.3% on a tax base exceeding HUF 100 million. According to the amendment, the rules on the secondary tax liability and the conditions for exemption did not change substantially, while the tax rate was reduced to 5% from 20% for the secondary tax liability.

## 2.7 The Closure of Businesses on Sundays

Act CII of 2014, on the prohibition of work on Sundays in the retail sector, came into effect on March 15, 2015. Pursuant to the act, commercial establishments may open for business on retail days between 04:30 and 22:00 hours, and may not open for business on Sundays and public holidays.

The act introduces exceptions from this mandatory opening period for small businesses with a sales area of not more than 200 square meters if they are operated exclusively by the owner of the establishment in question during such a mandatory closure period. Other exemptions include e.g.: establishments that sell exclusively baked goods and dairy products, pharmacies, markets, gas stations etc.

