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Alapítva 1938

Country report - 2016

Hungarian Bar Association

In Brief

After initial strong economic growth in 2016, the Hungarian economy lost steam and decelerated in Q3. GDP growth was dragged down by a sharp contraction in fixed investment and a slowdown in private consumption. Despite this, the deceleration is set to be temporary as private consumption, the main engine of growth in 2016, is expected to remain resilient. Furthermore, other positive economic highlights of the previous 12 months include the unemployment rate dropping to a multi-year low in October and consumer confidence rising to a ten-year high in December.

The later economic developments in 2016, combined with the government's decision in late December to cut taxes and increase wages in order to encourage growth, should result in an increase in disposable income and investment.

Hungary's economic outlook for 2017 is promising. Loose monetary conditions, the stimulus plan announced by the government and higher overseas demand for Hungarian goods should boost economic growth this year and next.

Outside of economic matters, the European migrant crisis remained amongst the biggest stories in Hungary last year. Following its decision to close its borders to migrants in 2015, the nation's Prime Minister, Viktor Orbán, and the governing Fidesz party presided over a referendum in October 2016 which failed to convince a majority of the population to vote to close the door to refugees and reject the EU's refugee-sharing quota, rendering the result invalid.

In another notable story, the state of press freedom in Hungary came under renewed scrutiny after the country's main leftwing opposition newspaper was closed. This was done for ostensibly commercial reasons, but some journalists dismissed this by pointing out that the closure came days after the paper disclosed corruption allegations against a minister in the Fidesz party and a scandal embroiling the governor of the national bank.

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 2016.

1. Political situation

On October 2, the Hungarian government held a referendum on whether to accept any future European Union (EU) quota systems for resettling migrants among member states. In 2015, the European Commission established a scheme attempting to relocate 120,000 migrants currently located in Greece and Italy across Europe. The relocation quota is calculated according to a mandatory redistribution system based on a country's wealth and ability to absorb newcomers. The question voters were asked was: 'Do you want the EU, even without the approval of the Hungarian parliament, to be able to prescribe the mandatory resettlement of non-Hungarian citizens in Hungary?' The centre-right government of Prime Minister Viktor Orbán has taken measures to control the number of migrants entering the country. This has included closing off the country's borders with Serbia and Croatia, erecting fences and, most recently, deciding to hold the referendum.

Ninety-eight percent of those who participated in the referendum voted to reject the EU's proposals to relocate migrants across Europe. Despite this overwhelming majority, the validity of the result was questioned, given that the turnout did not exceed the 50.0% threshold required by the Hungarian constitution in order to validate a referendum result. Following the result, Viktor Orbán declared the outcome as valid and stated that the referendum was politically and legally binding. The inconclusive result has not appeared to have damaged the popularity of Mr. Orbán or the Fidesz party.

Elsewhere, some of the government's policies and law making agenda also attracted headlines. The controversial decision to close the majority of shops and businesses on Sundays was reversed due to the amount of criticism that the measure attracted. Furthermore, the Hungarian parliament amended the constitution and a number of laws concerning the response to terrorist threats. The constitution now contains a regulation on the state of terrorist threat, which allows the army to be used in the country for anti-terrorist operations. Among the measures the government can introduce are: a curfew, restrictions on the movement of vehicles, a ban on mass events, reinforced border protection, and stricter control of Internet and postal communication. Some of these measures caused large media debate. The Counter-terrorism Intelligence and Criminal Analysis Centre (TIBEK) has also been established. The new agency will be tasked with collecting and analysing data on public security threats.

As mentioned above, despite what could be described as a mixed year for Mr. Orbán and Fidesz from a political point of view, the party still enjoys a strong lead in opinion polls in the run up to the next round of elections in 2018.

2. New legislation

A few elements of the legislative activity carried out by the Hungarian parliament in 2016 will be considered below.

2.1 Tax law changes (corporate tax rate reduction)

The Ministry of National Economy introduced significant amendments to the tax system at the end of 2016. Among several other significant changes the most publicized ones were aimed at stimulating domestic business activities through tax cuts. These include the abolishment of the second bracket of the corporate income tax, resulting in a flat tax rate of 9%, which is one of the lowest on the continent. This change is paired with the extension of the small taxpayers' itemized lump sum tax (KATA) scheme, which helps to lower the administration and tax burden of taxpayers involved in irregular or low volume business activities. The rules of the small business tax (KIVA) scheme are also softened and the tax rate is lowered from 16% to 14%. In order to lower the tax burden on employment, the healthcare contributions payable by employers after employees were lowered from 27% to 22% as well.

2.2. Amendments to the new Civil Code

The new Civil Code took effect in 2014, putting its new structure and provisions to practical test. The experience gathered up until recently led to the first amendments to the code in 2016. Among others, these changes include the amendment of the rules on associations, and the clarification of the controversial provisions on the liability of executive officers. However, most of the changes concerned the financial sector. These include making available fiduciary collateral arrangements in b-2-b relationships, reforms on the rules of securities, new rules on the enforcement of liens and the reintroduction of the independent lien familiar from the previous civil code.

2.3. The introduction of mandatory electronic filing in lawsuits for legal persons

From July 1, 2016, based on the provisions of Act III. of 1952 on Civil Procedure all parties acting through a legal representative, business associations with a domestic registered seat and administrative bodies, are obliged to use the new electronic filing system for communicating with courts in civil procedure cases initiated following the above date. This new system leads to the digitalization of the majority of litigation cases as a first major step towards abolishing burdensome paper based communication. The filing is performed through a centrally-developed software created for electronic filing which uses electronic signature technologies to verify the identity of the submitter.

2.4 The adoption of the new Code of Civil Procedure

The Hungarian Parliament adopted the new Code of Civil Procedure (**CCP**) on November 22, 2016; however, it will only enter into force on January 1, 2018.

After being in force for more than six decades the current CCP and the civil procedure system were ready for fundamental changes due to the challenges of the 21st century and changes to Hungarian regulation, for instance the new Civil Code, which entered into force on March 15, 2014. The new CCP aims to ensure faster and more efficient procedures.

One of the main changes is the new system of procedure divided into two phases, where the parties are obliged to provide all necessary and relevant information in the phase of the preparation for the litigation in question (in Hungarian: *perfelvételi szak*), so that the court hearing the case will be better able to adopt a decision in the hearings phase (in Hungarian: *érdemi tárgyalási szakasz*).

Another major change is that the procedures reviewing decisions in administrative matters do not fall under the scope of the new CCP; however, the new act to be applied to such proceedings has not been adopted yet.

2.5. Changes to public procurement procedures

The new Act on Public Procurement (**PPA**) has been adopted due to the changes to EU regulation on public procurement, and entered into force on November 1, 2015. The latest amendment of the PPA, which affects the still emerging legal field of public procurement, entered into force on January 1, 2018.

A major amendment, among others, is that an economic operator falls under exclusion from public procurements for 90 days if the Public Procurement Dispute Board (**PPDB**) or a court reviewing the procedure of the PPDB adopts a final decision establishing that the economic operator has seriously breached the PPA during the performance of the contract concluded as a result of the public procurement procedure. However, the PPA does not define the breaches to be considered as serious.

2.6 Major amendments to the Competition Act

Due to the obligation to implement the provision of the 2014/104/EU Directive, the Competition Act has been amended. The amendments entered into force on January 15, 2017. In addition to the incorporation of the Directive's provisions, the main changes affect merger control, and aim to increase the effectiveness and cooperation between clients and the Hungarian Competition Authority by introducing the notification system instead of permission, by increasing the threshold limits and by decreasing the administrative fees and the deadlines.

2.7 Hungary adopts a new Administrative Procedures Act

By adopting Act CL of 2016, the Hungarian parliament adopted a new Administrative Procedures Act. This general procedural code regulates mostly administrative proceedings. Therefore, it plays a very significant role in the life of a practicing lawyer. This new act came as a surprise to some, since the current administrative procedural code only came into force in 2004.

The reasons cited by the Ministry of Justice for adopting a brand new code was that the current administrative procedural code had been amended so many times in the last 10 years that it had become less coherent, and its general structure became outdated in the digital era. Also, the new Administrative Procedures Act is part of a general overhaul of Hungarian public administration, by which the government wants

to significantly decrease bureaucracy. The new Administrative Procedures Act was published in December 2016 and will come into force in January 2018.

2.8. Foreign investment protection

Edenred v Hungary: ICSID tribunal rules against Hungary (ICSID Case No. ARB/13/21); CJEU rules against Hungarian voucher schemes (C-179/14)

Recently, Hungary lost two significant cases in front of international forums, which were both related to the current Hungarian system of food and recreation vouchers.

Since the 90's, employers in Hungary were allowed to provide food and recreation vouchers to their employees with beneficial taxation. The suppliers of these vouchers were mainly multinational companies, for example the local subsidiary of the French Edenred group.

In 2011, the government turned the market of these vouchers upside down by introducing the "Erzsébet voucher" and the "SZÉP leisure card". The introduction of the Erzsébet voucher and the SZÉP-card was accompanied by a significant change in the taxation of vouchers, which imposed significantly lower tax rates on the Erzsébet voucher and the SZÉP-card compared to vouchers supplied by other companies on the market. According to the government, the reason for this change was to make the Erzsébet voucher the market leading voucher, which would have enabled the government to spend the profit achieved through the vouchers on social purposes, for example on providing holidays to underprivileged children.

This change technically drove the other voucher suppliers out of the market in Hungary. Understandably, they went to fight the new legislation in multiple forums. Some companies initiated ICSID arbitration, on the grounds that the new voucher system violated the bilateral investment treaties between Hungary and the state of their parent company. The first decision in these cases was the decision in the case of Edenred (ICSID Case No. ARB/13/21). The ICSID tribunal ruled that Hungary violated the bilateral investment treaty between France and Hungary and ordered the Hungarian government to pay damages to Edenred.

The new voucher system was also examined by the European Commission. The Commission found that the new voucher system infringes upon the freedom of establishment laid down by the Treaty on the Functioning of the European Union. Since Hungary disputed this, the Commission challenged the voucher system in front of the European Court of Justice. The ECJ agreed with the Commission and ruled that the voucher system infringes upon the freedom of establishment, since it imposes unnecessary restrictions on foreign companies who want to operate on the Hungarian voucher market (case no. C-179/14).

3. Overview of the equal rights situation in Hungary

In recent years, many international organizations and NGO's (eg. the European Union, Freedom House, Transparency International) criticized the Hungarian

government for violating human and democratic rights and for switching to a more and more authoritarian style of government. On some occasions, these criticisms were heard and the government revoked the problematic measures, but certain areas remain where human and democratic rights do not prevail unreservedly. According to some reports corruption is also on the rise, and the state seems reluctant to address this issue.

A recent example of the “imperfect” human rights track record of the current Hungarian government is its response to the refugee crisis in 2015. Unlike Western-European states, Hungary responded to the influx of refugees by building a wall on its southern borders and by imposing extremely strict terms on refugees for entering the country. Also, the government made it a criminal offence to cross the border wall. These measures were widely criticized for violating international human rights treaties.

More recently, a Hungarian court found it an act of terrorism that a Syrian man threw stones towards Hungarian police officers at the border and sentenced him for 10 years in jail. This judgement also caused uproar both domestically and internationally because, while throwing stones at police officers should certainly not be legal, it would hardly have qualified as an act of terrorism if any other person would have done it.

4. Bar association news

4.1 Bar elections remain upheld

The Budapest Bar held the elections of its officers on February 21, 2014. 44 % of the members of the Budapest Bar cast their votes and Dr. László Réti was voted in as the President of the Budapest Bar again. However, the result of the election was challenged by a group of members before the Metropolitan Court, on the basis that the proper election processes were not followed. According to the first instance decision of the Metropolitan Court, only minor procedural violations occurred that did not effect the result of the elections. The second instance decision of the Metropolitan Court of Appeal upheld the decision of the first instance court with a modified reasoning. In February 2016, the Supreme Court set aside the final and binding decision of the Metropolitan Court of Appeal and rejected the claim challenging the result of the election. Based on the decision of the Supreme Court, the elected officials of the Budapest Bar could continue their work.

4.2 Expected New Act on the Legal Profession

The Hungarian Bar Association is working hard to assist the Ministry of Justice in the preparation of a new Act which will regulate the Legal Profession. The new Act, among other things, aims at including in-house legal counsels (legal advisors) in the organization of the bar association, introducing a mandatory continuing legal training and education and revising disciplinary procedures.