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In Brief

The Hungarian economy kept growing at an increased pace throughout the first three quarters of 2018 (the fourth quarter's data was not yet available at the date of this report). GDP grew between 4.5 and 5% during this time period. The main driving sectors behind this upwards trend were the construction industry and the manufacturing and services sectors.

Overall growth was stimulated by the low interest rate environment (the Hungarian Central Bank's base interest rate has remained unchanged at 0.9 % since May, 2016), EU structural funds, wages growth and increased employment. The unemployment rate decreased to 3.6%, while the average wage increased by 10.8% compared to the third quarter of 2017. However, the Hungarian Central Bank's current directive on foreign exchange rates (the Hungarian Central Bank currently avoids intervening when the Hungarian currency depreciates) and the increasing average wage also had an impact on inflation. Prices increased by 2.8% throughout 2018, driven by the price increase of energy, fossil fuels, services, food products, tobacco and alcoholic beverages.

During the first three quarters of 2018 overall exports increased by 4.4%, while overall imports increased by 6.2%. This had a negative impact on the Hungarian balance of trade, narrowing the surplus, however the trade balance's overall level still remains highly positive.

Outside of economic matters, the stand-out political event of 2018 was the reelection of Hungarian Prime Minister Viktor Orbán, for a third consecutive term, after his right-wing Fidesz party won 48 percent of the vote, which was enough for a two-thirds majority in the parliament. It was a decisive win for Orbán. Fidesz' latest victory is seen as a product of several factors, including the weakening of the liberal democratic system, the government's strong propaganda machine, the success of an anti-migration platform and the fragmentation of the political opposition.

Fidesz has used its large renewed majority to push through a variety of new laws, which have proven to be controversial both domestically and in the wider European Union (see section one below).

Please find below comments pertaining to the most important political and legal events of 2018.

1. Political developments

In the summer, following Fidesz' reelection in April, the Hungarian parliament passed a package of laws known as the "Stop Soros" legislation which, amongst other things, imposes a tax of 25 per cent on any assistance given to migrants or propaganda activity about migration, and also provides for the imposition of potential prison terms of up to a year on those, including lawyers and civil society organisations, found guilty of trying to help illegal immigrants claim asylum or apply for residence. The "Stop Soros" title is derived from Mr Orbán's firm opposition to George Soros, the billionaire philanthropist, whom he alleges is behind a plan to foster illegal migration into Hungary. Mr Soros, whose Open Society Foundations moved its European headquarters to Berlin in August, says there is no such plan.

These laws resulted in the European commission initiating infringement procedures against Hungary, with the commission stating that the "Stop Soros" legislation is incompatible with the bloc's legal standards. The commission has also referred Hungary to the European Court of Justice over elements of the country's asylum laws.

The passing of the "Stop Soros" legislation has also resulted in the European parliament voting to trigger the EU's most serious disciplinary procedure against Hungary, the so-called article 7 procedure, which seeks to discipline member states seen as at risk of breaching the EU's basic democratic values. The parliament stated that Hungary's government poses a "systematic threat" to democracy and the rule of law. The vote is only the start of a long, drawn out process where the outcome is unclear. Under the article 7 procedure, the assent of four-fifths of EU member states is needed to issue the first formal warning. The next step requires unanimity, and a mutual defence pact between Hungary and Poland could scupper further action, diminishing the chances of the so-called "nuclear option" – the loss of voting rights.

In December, two new laws were passed by the Hungarian parliament that triggered large, coordinated public protests.

Firstly, a law was passed that raises the number of overtime hours companies can seek from employees from an annual 250 to 400 — the equivalent of an extra eight hours' work per week. Negotiations about overtime work will also be left to individuals and their employers, bypassing labour unions. Furthermore, the new law will also increase the amount of time that companies have to compensate employees for overtime work from one year to three years. It has been condemned by critics as being a "slavery law".

Secondly, legislation creating a new court system, to be operational by January 2020, was also passed. The new court system will be overseen by the Minister of Justice, and will remove the authority of Hungary's Supreme Court over administrative matters including elections, taxation, police and public institutions. By giving the Minister of Justice, a political appointee, so much power to appoint, promote and discipline judges, fears have been raised that there is great potential for the executive branch of Hungarian political power to be able to influence and interfere in rulings concerning protests, strikes, data privacy and construction, amongst others, which are issues that are no longer under the supervision of the Supreme Court.

Finally, at the end of November, following the passing of a law in April 2017 which requires foreign universities to have a campus in their home country (that was widely seen as targeting the Central European University (the "CEU"), the institution founded by George Soros), CEU announced that, as of next year, many of its operations would be moved from Budapest to Vienna. The university had sought to fulfil its obligations under the new law but

the government refused to sign an agreement ensuring the university's continued operation as an American institution. The US Department of State stated that the departure of the US-accredited programs from Hungary will be a loss for the CEU community, for the United States, and for Hungary. The university will retain its Hungarian accreditation, but this only accounts for less than one-fifth of its degrees.

2. UP and CD Holding Internationale v Hungary (ICSID Case No ARB/13/35)

In the UP and CD Holding Internationale v Hungary arbitration procedure (ICSID Case No ARB/13/35), the ICSID tribunal ruled against Hungary, which has been ordered to pay €23 million to French investors in the meal voucher market for expropriating their investment through changes to legislation on fringe benefits provided to employees.

The tribunal ruled that the reforms introduced by Hungary in 2011 amounted to indirect expropriation of the investment by French cooperative UP and its wholly owned subsidiary CP Holding Internationale, in breach of the France-Hungary bilateral investment treaty.

3. New legislation

A few elements of the recent legislative activity of the Hungarian Parliament will be considered below.

3.1. The entry into force of the new Code of Civil Procedure

In November 2016, the Hungarian parliament adopted a new Code of Civil Procedure. Its basic concepts include promoting the efficiency of litigation, strengthening alternative dispute resolution methods and introducing mandatory legal representation before the Regional Courts, as well as the strengthening of electronic communication. The legislator provided more than a year to prepare for the application of the new rules and the new code entered into force on 1 January, 2018.

3.2. The entry into force of the new Code of Criminal Procedure

The codification of the new Code of Criminal Procedure started in 2013. The new law builds on the traditions of Hungarian and European law, and does not bring about any change in the legal culture of criminal proceedings. However, the number of sections in the new code exceeds 870, which is much more than could be found in the previous one. The new code was created in light of constitutional principles, the requirements of a fair trial and the principles of criminal policy. It entered into force on 1 July, 2018.

3.3. The entry into force of the new Code of General Public Administration Procedures

The new Code of General Public Administration Procedures entered into force on 1 January, 2018. The main changes can be summarized as follows: it guarantees the right to a fair trial even more widely, changes the procedural deadlines and, in some cases, allows the use of evidence obtained in an irregular manner. Furthermore, it defines the concept of an administrative contract and clearly defines the circumstances in which an appeal may be submitted based on new facts.

3.4 New legislation on foreign investments

On 2 October, 2018 the parliament passed Act LVII of 2018 (the "Act") on control of foreign investments that compromise the security interests of Hungary - a piece of legislation that may well make transactions more time consuming. The Act mandates the Minister to review proposed acquisitions relating to certain sensitive sectors (the "Sensitive Sectors"). The Act is effective from 1 January, 2019, thus the ministerial procedure has to be added to the step-plans of transactions initiated in 2019.

Several EU Member States have taken steps to protect the EU from politically motivated, strategical foreign investments, which could harm the critical areas of the EU Member States (e.g. military or telecommunication sectors). As a result of Member States' pressure, the EU has proposed a framework for the screening - by the Member States and the Commission - of foreign direct investments in the Union on the grounds of security or public order. Whilst it is difficult to predict the EU legislation over the coming years, an increasing number of Member States are attempting to protect their key sectors from harmful foreign investments at a national level and Hungary is no different.

3.5. *Administrative Courts*

The Hungarian Parliament adopted Act CXXX of 2018 on administrative courts and the related transitional law (Act CXXXI of 2018) on 12 December 2018. Under these acts the Higher Administrative Court (*Közigazgatási Felsőbíróság*) and the administrative tribunals (*közigazgatási törvényszékek*) start operating from 1 January 2020. It also means that the current administrative and labour courts will cease to operate from 1 January, 2020.

Please see section one for a discussion of the concerns surrounding this new law, particularly with regards to a potential blurring of the separation of powers between the executive and judicial branches of the Hungarian constitution.

3.6 *Amendment to the Labour Act*

The new amendment to the Labour Act concerns the rules relating to working arrangements (terms of the working day and working week) and work schedules (working timeframes, accounting periods, weekly rest days) and regulations concerning overtime, registers and collective agreements.

Please see section one for a discussion of the concerns surrounding the amendment to this law, dubbed the "slavery law" by critics.

4. **Bar news**

4.1 Bar elections were held at the local bar associations, including the Budapest Bar Association (the "BBA") in October-November 2018. In Budapest, which is by far the largest bar association, more than six thousand lawyers registered with the BBA were entitled to vote and various of their colleagues were elected to the offices of president, vice-president and secretary-general, as well as to various other posts on committees covering the presidency, disciplinary proceedings and others. In Budapest, Dr. Gábor Tóth M. was elected as the new president and Dr. Balázs Gyalog as the new General Secretary of the BBA. The officers of the local bar associations are elected every four years. The local bar associations have elected 100 lawyers who will represent the local bar associations at the national bar level. The election of the President, Vice-Presidents, General Secretary and Board of the Hungarian Bar Association (the "HBA") will take place on 25 February, 2019.

4.2 The Hungarian Bar Association, in its capacity as a self-regulating body, has been extremely busy preparing and updating more than 20 internal bar regulations required by virtue of the implementation of the new Act on the Legal Profession discussed in Section 4 above. The preparatory work was conducted with the involvement of the representatives of the in-house counsels.

4.3 The HBA Delegation to the CCBE remains active, participating in both the day-to-day committee works and furthermore in the consultative activity and policy and decision-making at the Standing Committee and the Plenary Session level.