MAGYAR ÜGYVÉDI KAMARA

Ungarische Rechtsanwaltskammer
Hungarian Bar Association

Alapítva 1938

Country report - 2023

Hungarian Bar Association

1. Economic News

The Hungarian economy, after contracting for four consecutive quarters, will likely experience a moderate fall in 2023 year on year. The European Commission predicted a 0.7 percent GDP fall, while Standard and Poor's forecast a fall of 2.5 percent. S&P did not change Hungary's sovereign debt rating and reaffirmed the country's BBB- rating. One of the main reasons S&P did not downgrade the economy was the significant improvement of balance indicators in 2023 (trade balance, balance of payments).

S&P's analysis highlighted three factors prevalent in 2023 which were taken into account in the assessment:

- Inflation has decreased significantly, dropping below 10 percent on a year-on-year basis after reaching a peak of 26.2 percent in January 2023;
- The exchange rate of the domestic currency has stabilized in recent months; and
- Due to lower energy prices, the balance of payments has significantly improved in recent months.

At the end of 2023 Fitch also affirmed Hungary at 'BBB' with a negative outlook. The negative elements Fitch emphasized in its assessment were high public debt relative to the country's peers, certain unorthodox fiscal and monetary policy steps, along with a worsening governance indicator in recent years. Fitch also underscored the positive effect of the structural indicator, investment-fueled economic growth, and solid net FDI inflows.

In November 2023, prices in Hungary grew by 7.9 percent compared to the same month in 2022. When comparing price levels to October, prices did not change; however, fuel prices declined by 3.9 percent. The question remains about how long the advantageous international environment regarding oil prices will remain. This uncertainty has two causes: the war in Ukraine has a huge effect on the development of crude oil prices in the global market and the Red Sea attacks have recently impacted global prices.

At the same time, the Hungarian government expects lower inflation for 2024. The Ministry of Finances anticipates inflation to be below 7 percent in December and below 5 and 6 percent for 2024. Despite significant progress in curbing inflation, Hungarian data are higher than the EU average, and as a result, key interest rates are also higher than in the Eurozone. While the key interest rate was 4.5 percent in the Eurozone, the key interest rate is currently 11.5 percent in Hungary.

The Hungarian Government remains active and supportive to attract foreign investment.

2. Political developments

Internationally, the Hungarian government continues to face a conflict with the EU over two matters:

i. concerns that the EU has over Hungary's adherence to the bloc's rule of law standards in spite of the legislative efforets of Hungary, and
ii. Hungarian concerns over EU funding for Ukraine, with the two matters intrinsecally linked.

In December, 2022, the EU froze €22bn in cohesion funds allocated to Hungary after deciding it was not complying with rules protecting human rights and the rule of law. Cohesion funds are designed to help less developed members of the 27-country bloc close the investment gap and improve their infrastructure. Hungary enacted judicial reforms in May 2023 in response to some of the demands from Brussels and, finally, in December, 2023, the European Commission unblocked €10bn of these funds on the grounds that these justice reforms satisfied some of the bloc's concerns.

EU officials said the concession was merit-based but the timing was helpful: in the build up to an EU leaders summit in Brussels on 14-15 December, 2023, Hungarian prime minister Viktor Orbán objected the bloc's plans to allocate €50bn to Ukraine over the next four years as well as a decision to start EU membership talks with Ukraine, as long as his country's funding is not unblocked in full.

Despite the release of a portion of the funds as described above, at the summit prime minister Viktor Orbán vetoed the financial support for Ukraine, although he did allow leaders to approve the start of EU accession talks with Ukraine by leaving the room during the vote.
He also stated that he would insist that the EU meets four conditions if leaders want to press ahead with Ukraine funding at a planned summit in February, 2024. Orbán suggested the funding package be modest in size, outside the common EU budget, stretching over one year rather than four, and designed to exempt Hungary from any new joint EU borrowing.

The rest of Hungary's allocated EU cohesion funds (around €21bn) will remain blocked until Hungary fully complies with provisions in the EU's charter of fundamental rights that are now part of the bloc's budget legislation. Brussels has said it will hold back payments also because of a Hungarian law that discriminates against people on the basis of their sexual orientation and gender identity, as well as provisions that pose "serious risks to academic freedom and the right to asylum".

Domestically, among the hottest political issues, the Parliament passed a bill in July, 2023 affecting the country's teachers, which cemented a new regime in public education that has elicited months of protests and strikes by teachers and their students. The law revokes teachers' status as public employees, increases allowable weekly working hours and allows for educators to be transferred to other schools that are experiencing teacher shortages. In spite of the conteplated increase, salaries for Hungarian teachers are among the lowest in the European Union. Critics of the law say it will lead to fewer new teachers entering the profession and exacerbate what they say is an already existing shortage of teachers in Hungarian schools. In the opinion of the Hungary's government the new law lays the groundwork for increased salaries, and has blamed the aforementioned dispute with the EU for its inability to substantially raise teachers' pay.

Furthermore, in December, 2023 the Parliament passed another heavily criticized package of laws to curb foreign influence. The laws, which will take effect on 1 February, 2024, criminalise foreign funding of election campaigns and establish a new Sovereignty Protection Office with broad investigative powers. The Council of Europe in November called on Hungary to abandon the bill, which "*poses a significant risk to human rights*", amid fears that the new authority could target rights groups, journalists, companies, churches, trade unions and municipalities, who would lack legal recourse against any investigation or procedure against them.

3. Legal Updates and New Legislation

3.1. *Incorporating the Whistleblowing Directive into Hungarian law*

On 25 May, 2023, the Hungarian Parliament adopted a new Act on complaints, notification of public interest and rules on whistleblowing (the "Whistleblowing Act"). Under the new law, anyone can continue to lodge complaints and public interest reports with state and local government bodies, and it also allows for the reporting of workplace abuses and irregularities, either anonymously or by name. The legislation requires companies to set up a mandatory whistleblowing system. A specific rule applies to private sector employers and public and municipal bodies in relation to the setting up of an abuse reporting system. In the private sector, companies with more than 250 employees (by 24 July 2023), and employers with between 50 and 249 employees (by 17 December 2023), are obliged to introduce the abuse reporting system. Private companies with fewer than 50 employees are not required to introduce the abuse reporting system. In the public sector, if the employer is a public authority, a local government or a budgetary body under the control or supervision of an authority body or a local government, or an organization or company owned or controlled by the state or local government, an abuse reporting system should be set up by 1 January, 2025. If the employer is a local government of a municipality with a population of less than 10,000 inhabitants or a public authority or an organization or company owned or controlled by the state or a local government with fewer than 50 employees, it is not required to set up a notification protection system.

Hungarian law firms and sole practitioner lawyers are not obliged to set up a whistleblowing system because the Hungarian Bar Association ("Bar") successfully lobbied, as a result of which the Act on Lawyers has been supplemented with rules pursuant to which the Bar operates a whistleblowing system and law firms and lawyers with less than 250 employees (which practically covers all law firms and lawyers in Hungary) can comply with the Whistleblowing Act in a way that they only need to inform their employees of the fact that they can make a report to the whistleblowing system of the Bar.

Those who wish to operate the system themselves can do so by notifying the Bar (they will have to take into account the requirements of the Bar drawn up under the Act on Lawyers to ensure that information falling under professional secrecy rules remain safe when contracting an external organisation).

The adopted regulation is undoubtedly a success for the Bar, as no additional administration or costs will be imposed on colleagues in connection with the operation of the system, professional secrets will be adequately protected, and, last but not least, this form of complaint handling against lawyers will remain essentially within the lawyers' "circle".

3.2. *Adoption of the Hungarian ESG law*

On 12 December, 2023, the Parliament adopted the ESG Act supporting sustainable financing and uniform corporate responsibility, which will enter into force on 1 January, 2024.

The purpose of the new law is to promote sustainable financing and uniform corporate social responsibility, taking into account environmental awareness and social aspects. As of 1 January, 2024, the scope of the law extends to large enterprises with their registered office in Hungary that are "*deemed to be in the public interest*" while, for large domestic enterprises, it will come into effect on 1 January, 2025 (a company is considered a large enterprise where 2 out of the following 3 criteria are satisfied:

- at least 250 employees,
- sales revenue in excess of HUF 20 billion,
- a balance sheet total in excess of HUF 10 billion).

Under the sustainability due diligence and ESG reporting requirements, companies covered by the legislation must assess their supply chain and assess certain human rights and environmental risks. This means that a certain responsibility must also be assumed in the operation of companies beyond the company's direct operational scope. An annual public report will be required within 6 months of the end of the year. The fulfillment of the data provision will be checked by the Supervisory Authority of Regulated Activities, and companies may be fined if they fail to prepare the ESG report.

3.3. *New Construction Act*

In December, 2023, Parliament adopted a new Construction Act, which will be introduced in stages, with some parts coming into force on 1 February, 2024 and the rest from 1 January, 2025. The most important modifications are the follows:

- a setting out of new principles to free the work of architects from the constraints of numbers and rules, and moving it towards quality and creativity;
- local architects and planning councils have been given greater powers to intervene to ensure that new buildings are of a scale, material, quality and appearance that is in keeping with the existing townscape;

- no additional land will be allowed to be developed in the countryside and a certificate for the preservation and enhancement of green areas will be introduced;
- the introduction of new tax incentives for the renovation and use of monuments; and
- the introduction of subsidies from the government to support the use of disused land and abandoned buildings.

3.4. *General rules on the entry and residence of third-country nationals*

The rules of the legislation on aliens, that is general rules on the entry and residence of third-country (non-EU) nationals, will enter into force on 1 January, 2024, and at the same time repealing the Act II of 2007 on the Entry and Residence of Third-Country Nationals. The Act stipulates that:

- a foreigner may work in Hungary only if the work is not undertaken by a Hungarian worker;
- it is also important to check first whether there is a Hungarian worker for each job. If there is one, he must be employed, if not, the guest worker can be employed;
- only as many guest workers can come to Hungary as there are vacancies; and
- guest workers can only stay in Hungary for a limited period, after which they must leave the country.

3.5. *A recent landmark decision: the European Court of Justice strikes down Hungary's restrictive legislation on foreign investments (C-106/22)*

The European Court of Justice overturned strict Hungarian legislation that restricted the freedom of establishment. The case involved Xella Magyarország Építőanyagipari Kft., a concrete construction product manufacturer, which sued the Ministry of Innovation and Technology for prohibiting its acquisition of Janes and Partners Ltd., a gravel, sand, and clay mine operator. The Hungarian government, in 2020, issued a decree requiring ministerial permission for foreign ownership in strategically important companies, deeming Janes and Partners as such. The European Court of Justice ruled that Hungary's screening mechanism represented a severe restriction to the freedom of establishment and was not justified by the objective of ensuring security of supply in the construction sector. The judgment addresses concerns raised by the European Commission about Hungary's influence on market structures in specific sectors, particularly in granting exemptions from merger control for transactions deemed of "*strategic national importance*".

4. Bar news

4.1 The composition of the HBA Delegation to the CCBE remains unchanged. They are 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.

4.2 There have been several personnel changes concerning important legal positions in Hungary. In 2022, bar elections were held at local bar association level and, in February, 2023, for the Hungarian Bar Association, which resulted in the appointment of a new HBA President, Dr. Dezső Havasi. Dr. András Szecskay was re-elected as Vice-President of the HBA responsible for international relations and he remains the Head of the HBA Delegation to the CCBE. At the level of the Budapest Bar Association, Dr. Gábor Tóth was re-elected as President of the BBA, and Dr. Péter S. Szabó, as Vice-President of the BA.

4.2 Also worth mentioning is the most recent elections to the Judicial Council, which is a body of judges who oversee the functioning of the Hungarian judicial system. On 8 January, 2024, the judges elected new members to replace 14 members whose terms of office expire by the 31st of January 2024.