



HUNGARIAN WATCH

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Hungarian Watch is a quarter yearly issued brochure. It contains comprehensive, up-to-date information about Hungary, focusing on breaking news in the fields of law, economics, business and other situations which could have a major impact on the course of Hungarian events.

Hungarian Watch is primarily prepared for those who are thinking about Hungary from an investment point of view. The investment perspective runs through this newsletter by leading the reader through the actual Hungarian business climate including current business and investment opportunities.

We hope that Hungarian Watch will keep you regularly informed on relevant Hungarian news, enabling you to know how and when to seize a business opportunity before it vanishes.

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Summary



[What will parliamentary election bring for the Hungarian market?](#)

[Carry on further/ Similar upcoming 4 years](#)

The Hungarian governing party Fidesz-KDNP won the parliamentary election, even securing a two-thirds majority. What will this election bring for the Hungarian macroeconomic environment? What kind of market movements could come to Hungarian industries? Last but not least, what kind of transactions can be forecasted for the next term?

The next term may bring some favorable investment incentives, substantial changes in the banking, energy and telecommunication industry, growth of manufacturing industries and increase of Eastern business deals. **Read more...**



[Challenging times in the Hungarian retail energy sector](#)

[E.ON and RWE may sell their investments in the Hungarian retail energy sector](#)

The Government is determined to continue its sharp price cut policy and to establish a non-profit retail energy sector. As a result of these measures, the Hungarian state is likely to acquire a greater stake in energy companies. The recent market events support that E.ON and RWE may completely exit the Hungarian retail energy sector. **Read more...**



[MOL extends its upstream portfolio by entering the UK Continental Shelf](#)

[MOL bought exploration & producing licenses from Wintershall](#)

MOL bought 14 offshore oil exploration & production licenses from Wintershall – a wholly owned subsidiary of German BASF Group – for approximately USD 375million. The offshore assets are located in the UK North Sea basin. The deal is of strategic importance as MOL has made its move onto the UK Continental Shelf. **Read more...**



[Budapest candidates Olympic Games in 2028](#)

[Potential boom in the Hungarian sports industry](#)

Organization of Olympic Games and other major sport events go together with great infrastructural projects and significant revenues from sponsorships and media rights. The Hungarian Ministry of State for Sport and Youth Affairs is positive that Hungary has a real chance to win the race to host the 2028 Summer Games if economic growth and existing budgetary discipline does not change. If the Government's commitment remains, significant investments may come in the Hungarian sports industry. **Read more...**

[Booming shared-service centre industry in Hungary](#)

[Two-thirds of the shared service centres in Hungary plan further investments](#)

The Hungarian shared service industry is one of the great success stories of the country. As the result of this fast growth, there are already more than 80 shared service centres and many of them serve on a global scale. Two-thirds of the shared service centres plan further expansion. In addition, the Hungarian Investment and Trade Agency is currently dealing with more than 30 investment projects related to the establishment of further shared service centres. Hungary has already become one of the European hubs of shared service centres. If this course continues, a further investment boom is expected. **Read more...**



[The New Civil Code entered into force](#)

[New rules of the game in Hungarian business life](#)

After more than 50 years the new Civil Code entered into force on the 15th of March of 2014. The new Civil Code has substantial modifications pertaining to the foundation and operation of companies, as well as rules of contract and enforcement of claims. The changes fundamentally affect the position of business players. Businesses should pay special attention to adapt to the new commercial environment. Contracts and corporate documents may need to be reviewed, and legal advice may need to be obtained. Hungarian law firms expect a significant increase in their legal work. **Read more...**



[Management liability under fire](#)

[Should executive officers take protective measures?](#)

The New Civil Code - entered into force on the 15th of March in 2014 - fundamentally changed the responsibility of the executive officers vis-a-vis third parties. Under the new rule, the executive officers may be held jointly and severally liable with the company, if the damage was caused by the executive officer in connection with his position. It is subject to debate how the courts will apply this rule. Still as according to the new rules, personal assets of executive officers will be at direct risk, executive officers shall consider taking protective instruments including obtaining a liability insurance and signing an indemnity agreement. **Read more...**



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What will parliamentary election bring for the Hungarian market?

Carry on further/ Similar upcoming 4 years

The Hungarian governing party Fidesz-KDNP won the parliamentary election, even securing a two-thirds majority. What will this election bring for the Hungarian macroeconomic environment? What kind of market movements could come to Hungarian industries? Last but not least, what kind of transactions can be forecasted for the next term?

The next term may bring some favorable investment incentives, substantial changes in the banking, energy and telecommunication industry, growth of manufacturing industries and increase of Eastern business deals.



The Hungarian governing party Fidesz-KDNP confidently won the election and again secured a two-thirds majority. Investors and market players clearly expected this result. In the stock markets the Forint did not shake at all. The strong support of the winning party has been reassuring for markets. As the government obtained strong legitimacy to carry

on, experts agree that the policy of the Hungarian government will be very similar to the past 4 years. Let's see what we shall expect in the upcoming four years.

Macroeconomic environment

Experts believe that the Hungarian government will continue its macroeconomic policy. The current low-interest rate policy will remain in order to favor commercial lending and inject more capital into the economy. The government will also make an effort to stay below the 3% of GDP reference value to avoid potential excessive deficit procedure.

Outlook for the main Hungarian industries

The outlook for the Hungarian industries is mixed, in some industries seismic movements may come, in other industries peaceful growth is forecasted.

Energy

The old/new government's top priority is to decrease energy prices by the establishment of non-profit retail energy sector and to expand Paks nuclear power plant.

Favourable investment climate

In respect to non-profit retail energy sector experts speculate that the ultimate goal is to establish a single state owned and nonprofit utility company that would regulate and set utility prices for households. Thus, potential exits of utility service providers may come. There are already guesses that E.ON and RWE may completely exit the Hungarian retail energy sector soon.

Expected exits of E.ON and RWE

The government set its goal to implement the expansion of Paks nuclear power plant. It has already been made public that this will be carried out by Rosatom and that the Hungarian government will borrow EUR 10 billion from the Russian government for the implementation of this project. However, it is not known yet which sub-contractors will be involved in this project.

EUR 10 billion project

Banking

The ultimate goal of the Hungarian government is to ensure larger domestic ownership in the Hungarian bank sector. During the election campaign, Prime Minister Viktor Orban declared *“the economy does not stand on its own feet until the ratio of local ownership does not reach 50 %”*. Extra tax on banks will remain and the government will probably implement its foreign currency relief scheme (i.e. releasing part of debt by fixing the exchange rate at a predetermined rate) which could generate further losses to banks. Under the current regulatory and market environment, some foreign owned banks may decide to sell their Hungarian subsidiaries/branches. Recently it has been speculated that the Hungarian bank OTP may purchase MKB from Bayern LB.

OTP may purchase MKB from Bayern LB

Telecommunications

In the past term the government wanted to acquire a more active role in the telecommunications industry as well. First a state mobile service provider tried to enter the Hungarian market. However, in the end, the Supreme Court annulled the decision of the resolution of the National Media and Communications Authority, so finally the state mobile service provider did not enter the market. Secondly there were also rumors in the past term that the state wanted to enter the telecommunications market by purchasing a stake in Vodafone. In the recent election, telecommunications market was not in the focus of the campaign. However, it cannot be excluded that in the next term the state will retry to enter into the market.

Market rumours suggest that the state wants to purchase a stake in Vodafone

Manufacturing industries

The Hungarian government will strongly support manufacturing industries in the second term as well. Prime Minister Orban in the election campaign declared that Hungary should follow serious reindustrialization and reach the level of Czech Republic and even Germany in this respect. The Hungarian government concluded a strategic partnership agreement with dozens of foreign owned manufacturing players such as AUDI, Mercedes, Servier, Siemens, and Microsoft.

Foreign relations

In foreign relations, the old/new Hungarian government places particular emphasis on “Eastern Opening” policy. In the previous term, the Hungarian government has made a concerted effort to build a close business relationship with China. The government wants Hungary to become the European hub for Chinese companies. Several large Chinese companies, such as Lenovo, Huawei and ZTE have already established

Regional hub for Chinese business deals

their Hungarian subsidiaries. The Bank of China also announced that it will set up its regional centre in Hungary. The biggest potential Chinese deal in the next term may be the modernization of the Budapest-Belgrade railway line with a Chinese contribution. Three party negotiations between the Serbian, Hungarian and Chinese governments are underway. *"We are practically talking about a TGV built by Chinese"* Prime Minister Viktor Orban explained.

We can conclude that it is expected that although the Hungarian government will continue its previous course, the next term may still bring significant developments. Among others it may bring some advantageous investment incentives, substantial changes in the banking, energy and telecommunication industry, growth of manufacturing industries and an increase of Eastern business deals.

Challenging times in the Hungarian retail energy sector

E.ON and RWE may sell their investments in the Hungarian retail energy sector

The Government is determined to continue its sharp price cut policy and to establish a non-profit retail energy sector. As a result of these measures, the Hungarian state is likely to acquire a greater stake in energy companies. The recent market events support that E.ON and RWE may completely exit the Hungarian retail energy sector.



In our previous editions, we reported that 2013 was a tough year for the Hungarian retail energy sector. The Hungarian Government enforced 20% price cut in respect of regulated prices for households in the field of electricity, gas and district heating sector. This was hardly sustainable for several utility service providers who had been already operating unprofitably for years despite their high turnover figures. The Government also introduced its plan to establish a non-profit retail energy sector. Most of the analysts believed that the aim of this plan was to return natural monopolies to the public sector.

As the result of these measures, in 2013 some energy service providers expressed their willingness to sell their unprofitable

Hungarian retail units to the Hungarian state. So far one major transaction has been closed in the retail sector: RWE sold its stake in Főgáz to the Hungarian giant state-owned energy company MVM.

Following massive cuts in regulated prices in 2013 the Government has been resolved to continue on this course in 2014. A new (third) round of utility price cuts has been introduced resulting in a total reduction of approximately 25% of energy costs to retail consumers. Utility service providers have so far recorded significant losses from the price cuts, as households saved a total of approximately EUR 800-900 million.

Moreover, the Government's plan to establish a non-profit energy sector also remained firm. The Government raised two potential alternatives: (i) to prohibit utility service providers to grant dividends to their shareholders or (ii) to establish a non-profit retail energy company which would squeeze out utility service providers from

Key players:
GDF SUEZ,
RWE,
E.ON,
EDF

Expected exits of
E.ON and RWE

the market with rock-bottom non-profit prices.

Under these unfavourable market conditions it has become evident that several utility service providers want to exit from the Hungarian retail energy sector. The recent market events clearly supports that new potential exits are under way.

MVM signed a letter of intent to buy E.ON's operations in the retail sector

As a dominant player in the Hungarian electricity and gas sector, the state owned giant MVM has started to expand into the retail sector. After buying the stake of RWE in Főgáz, the next target was E.ON. Namely MVM has recently signed a non-binding letter of intent to buy the German E.ON's Hungarian retail gas and electricity units and also the complete gas distribution unit. MVM declared that it would carry out due diligence on the companies and plans to close the transaction by the end of this year. The purchase price has not yet been decided. Still it is considered that this project would be noteworthy as E.ON has significant coverage of pipeline (i.e. MVM would gain control of 18,000 km of pipeline) and wide range of clientele (e.g. E.ON Energiaszolgáltató provides 2.5 million clients with electricity and 500 000 with gas).

RWE's withdrawal from the Hungarian market

ELMŰ and ÉMÁSZ – both owned by the German RWE – called the annual general meeting to pay dividend payment from the accumulated profit reserves to their shareholders earlier than usual. The Government argued that ELMŰ and ÉMÁSZ wanted to move the money out of the company and in the process jeopardized the safety of the energy supply. The Government asked the Hungarian Energy Office to examine this case. It remains to be seen whether the allegations of the Government are valid.

However, it is noted that the majority owner of ELMŰ and ÉMÁSZ, RWE, has significant losses in the region and gave up important energy units not just in Hungary, but in the entire Central European region as a whole. In addition, RWE was the first company which gave up its Hungarian retail units, its stakes in Főgáz and Tigáz. In this context, early dividend payments from the accumulated profit reserves may also imply that RWE has no real interests to stay in the Hungarian market. Taking all this into account, it cannot be excluded that the next potential purchase targets may be ELMŰ and ÉMÁSZ.

All in all, the recent market events clearly evidence that slowly but surely the Hungarian retail energy landscape will be significantly changed.

MOL extends its upstream portfolio by entering the UK Continental Shelf

MOL bought exploration & producing licenses from Wintershall

MOL bought 14 offshore oil exploration & production licenses from Wintershall – a wholly owned subsidiary of German BASF Group – for approximately USD 375million. The offshore assets are located in the UK North Sea basin. The deal is of strategic importance as MOL has made its move onto the UK Continental Shelf.



The largest Hungarian company, MOL has been a very successful player in the Central European region, mainly active in the downstream oil industry (refinery & trade). Now it seems that MOL also wants to enter into the global upstream oil industry (exploration & production). MOL has recently bought 14 licenses for offshore oil exploration & production

from Wintershall – a wholly-owned subsidiary of German BASF – for approximately USD 375 million. These offshore assets are located in the UK North Sea Basin. The new portfolio includes non-operated equity stakes in the Broom (29%), Catcher (20%), Cladhan (33.5%), Scolty and Crathes fields (50%).

MOL has clearly changed its strategy. Whereas the regional focus and the refinery privilege have been neglected, the global exploration & production has become the key focus. Experts believe that this strategic move is a right choice. Namely, on the global scale unexploited hydrocarbon fields may be still established and the exploration of such fields is considered to be very lucrative. Alexander Dodds, MOL Group Executive Vice President for E&P, adds *“the North Sea is a major proven hydrocarbon province linked to sizeable oil and gas markets in the UK and Northwest Europe”*.

The choice of MOL to enter the UK Continental Shelf is of strategic importance. The global exploration & production industry is a very-closed group dominated by Western players, mainly Anglo-Saxon. By this deal, MOL will have the opportunity to acquire niche market knowledge known by only a few specialist Western oil companies. More importantly, MOL will be able to integrate into this very exceptional industry.

MOL opened a safe chapter. The UK North Sea area provides a very liquid M&A market (i.e. 70+ disclosed M&A deals in the previous 3 years in excess of USD 10mn value), developed network of infrastructure (i.e. 10,000 km+ pipes accessing the major UK and Northwest European hubs) low political risks and a predictable and transpar-

Potential business partners:
TAQA,
Premier Oil,
EnQuest

MOL moves onto the UK Continental Shelf

MOL may expand into the UK

ent regulatory environment.

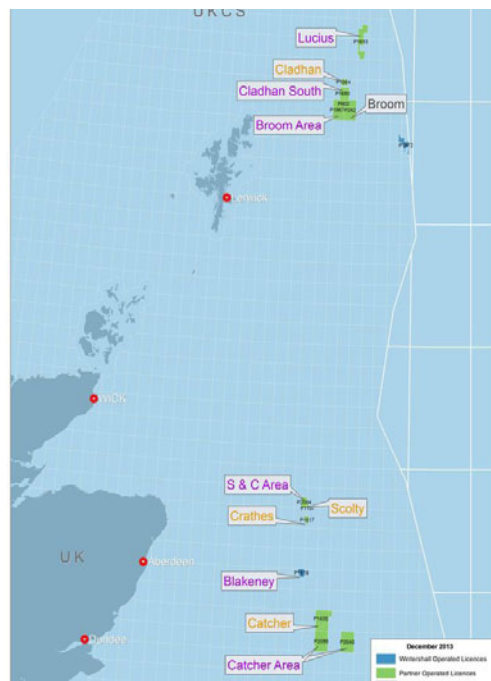
This deal represents a landmark event in MOL's upstream expansion plan. In this context, Alexander Dodds notes: *"We believe with this strategic move we are creating a momentum, which can be exploited to accelerate MOL's offshore E&P activities. We are serious about our upstream expansion and we will continue to grow"*.

Indeed, MOL has already started to expand. Namely, parallel with this deal MOL signed with Wintershall a strategic cooperation memorandum to develop partnership and jointly pursue E&P projects not just in the North Sea, but also in the Middle East region. Following this deal, MOL will also have the opportunity to participate in research concession tenders announced in the United Kingdom and to establish new business cooperation with other reputable operators in the upstream market such as TAQA, Premier Oil and EnQuest.

This deal is a milestone in MOL's history. MOL managed to enter the UK Continental Shelf where key players of the upstream industry are positioned. MOL acquired its first offshore asset. The new asset will certainly help MOL to establish a new strategic hub for its further expansions.

MOL to establish
close ties with TAQA,
Premier Oil and
EnQuest

The new offshore assets of MOL in the UK North Sea basin



(Source: Portfolio)

Budapest candidates Olympic Games in 2028

Potential boom in the Hungarian sports industry

Organization of Olympic Games and other major sport events go together with great infrastructural projects and significant revenues from sponsorships and media rights. The Hungarian Ministry of State for Sport and Youth Affairs is positive that Hungary has a real chance to win the race to host the 2028 Summer Games if economic growth and existing budgetary discipline does not change. If the Government's commitment remains, significant investments may come in the Hungarian sports industry.



Hungary has always been committed to Olympic Games. Over the years Hungary has won more than 480 Olympic medals. Hungary has applied to host the Summer Games six times in Olympics' history. It won the application for 1920 Summer Olympic Games, however due to political reasons the games were in the end

held in Antwerp. Hungary is the only country which has not yet held the Summer Games among the countries that founded International Olympic Committee.

In the last 10-15 years the idea to hold the Olympic Games in Hungary has strongly revived. In 2005, the Budapest Olympic Movement (BOM) was founded to synchronize the long term development plans and to prepare the applications for an Olympic bid. The Government also engaged Pricewaterhouse Coopers (PWC) to prepare the feasibility study in respect of holding Olympic Games in Hungary.

PWC in its 2010's study suggested that the total cost of investments generated by holding the Summer Games in Hungary would be more than USD 15.3 billion. The study identified more than 120 projects to be implemented in the field of infrastructural developments (such as transport, city rehabilitation, environmental protection, technology and security) and facilities (such as building of sport facilities, Olympic village and media village). Most of these projects would be structured in the Public-Private Partnership form.

The Hungarian Ministry of State for Sport and Youth Affairs is confident that Hungary has a real chance to win the bid to host the 2028 Summer Games if economic growth and existing budgetary discipline does not change. The head of BOM added that Budapest should submit an application even for the 2024 Games at the nearest possible opportunity (in 2015) despite the fact that it won't win that time around. The

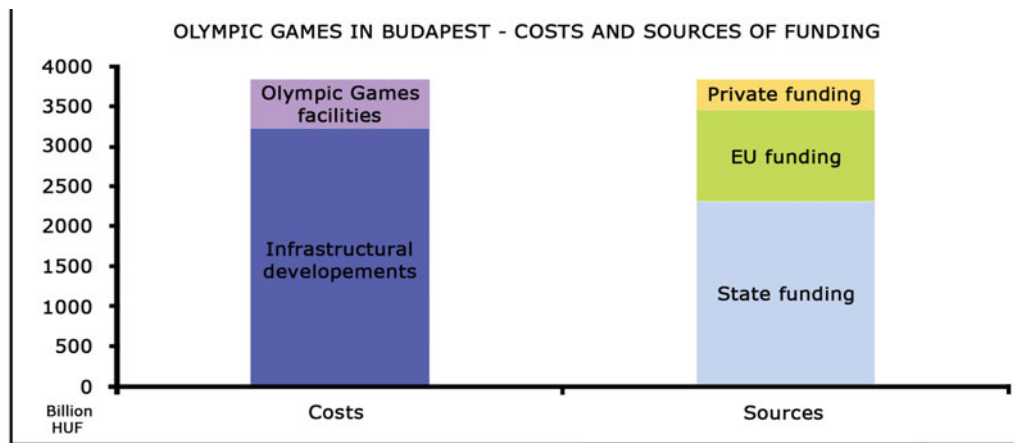
More than 120
potential investment
projects

Budapest can win
the race to host
the 2028 Summer
Games

application would bring a wealth of experience that would help to successfully bid for the 2028 Summer Games.

Time will tell whether Hungary will be successful in bidding for Summer Games. Nevertheless, it seems that the Government's commitment to sport will remain firm. In 2014 the Government plans to spend about EUR half billion for sport. In 2014 four European championships will be held in Hungary in Olympic sports (Figure-Skating and Ice Dancing, Waterpolo, Handball and Shooting). The Government also plans to build 3-4 UEFA-licensed stadiums within a few years, which would create possibility for organising European football championships. Last but not least, it is one of the biggest Hungarian sport diplomatic successes that Hungary obtained the right to organize the World Aquatic Championships in 2021.

Organization of Olympic Games and other major sporting events bring great infrastructural projects and significant revenues from sponsorships and media rights. It seems that Hungary will strongly support such events in the upcoming years. The Government may give a major investment boost to the Hungarian sports industry.



(Source: PWC Feasibility Study 2010)

Booming shared-service centre industry in Hungary

Two-thirds of the shared service centres in Hungary plan further investments

The Hungarian shared service industry is one of the great success stories of the country. As the result of this fast growth, there are already more than 80 shared service centres and many of them serve on a global scale. Two-thirds of the shared service centres plan further expansion. In addition, the Hungarian Investment and Trade Agency is currently dealing with more than 30 investment projects related to the establishment of further shared service centres. Hungary has already become one of the European hubs of shared service centres. If this course continues, a further investment boom is expected.

Key players:
IBM,
Lexmark,
Citigroup,
HP,
DHL,
Vodafone,
Nokia,
Exxon Mobil



The Hungarian shared service centre (SSC) industry definitely deserves great attention as it has become one of the most efficient industries in Hungary. From the end of the 1990s, as the result of a fast growth more than 80 SSCs have been established employing more than 30,000 workers so far. The vast majority of these SSCs operate as subsidiaries/branches of international companies and

Hungarian SSC industry is a great success story

pursue various support activities.

The development is evident. Today SSCs in Hungary handle not only simple and low-value added projects, such as debt handling or accounting services, but also more complex projects such IT, HR or financial reporting. In addition, international companies have established not only regional, but global SSCs in Hungary as well, many of them serve more than 20 countries.

Most of the international companies agree that the SSC industry is more favourable in Hungary than in other countries for numerous compelling reasons. Hungary is located in the heart of Europe, offers favourable IT, telecommunications, logistical infrastructure and is well recognized for its highly productive and well-educated work force. Moreover, labour and real estate costs are significantly lower than in the Western world.

Most of the SSCs think that they have made a good decision by choosing Hungary. More importantly, two-thirds of these SSCs are considering further expansions in Hungary. Last but not least, the Hungarian Government is also well aware of the pivotal importance of this industry. Namely, the external economic relations state secretary, Péter Szijártó announced that the Hungarian Investment and Trade Agency

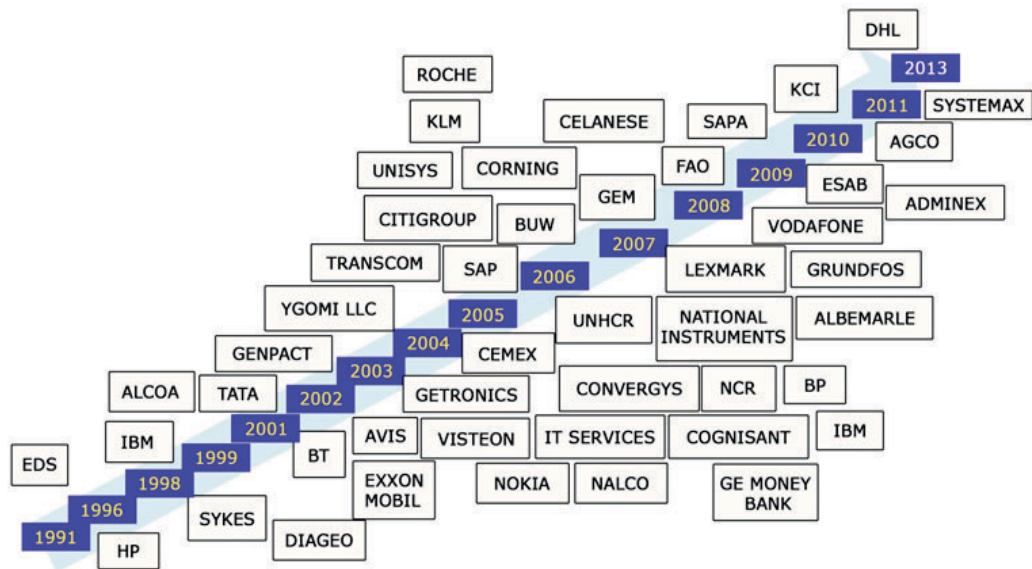
Two-thirds of the SSCs plan further expansions

More than 30
potential investment
projects

is currently dealing with more than 30 investment projects related to establishment of further SSCs.

It can be concluded that the Hungarian SSC industry is one of the great success stories which may have an important economic outlook. If this course continues, an additional investment boom is expected.

Development of the Hungarian shared service industry



(Source: Hungarian Investment and Trade Agency)

The New Civil Code entered into force

New rules of the game in Hungarian business life

After more than 50 years the new Civil Code entered into force on the 15th of March of 2014. The new Civil Code has substantial modifications pertaining to the foundation and operation of companies, as well as rules of contract and enforcement of claims. The changes fundamentally affect the position of business players. Businesses should pay special attention to adapt to the new commercial environment. Contracts and corporate documents may need to be reviewed, and legal advice may need to be obtained. Hungarian law firms expect a significant increase in their legal work.



The new Civil Code encompasses the whole civil law into one consolidated act. It includes areas of law, which were in the past governed by special acts (corporate law, family law). Many legal solutions well applied by market players and court practice have been integrated into the new Civil Code. Special emphasis has been given to being contemporary regarding commercial-mindedness and tailor-

made business solutions. The changes deeply affect the position of business players. Familiarization of the new concepts is the key to adaptating to the new commercial environment. Without being exhaustive, we have summarized below some of the most important changes that could impact the Hungarian business life.

Businesses shall adapt to the new commercial environment

Foundation/operation of companies

Freedom of operation – In contrast to the mandatory nature of the former corporate rules, under the new Civil Code members of companies in general may freely regulate the operation of the company and its internal structure. This will encourage companies to reconsider their corporate structure.

Foundation of the limited liability company – The minimum equity capital requirement of the LLC increased from HUF 500,000 to HUF 3,000,000 (approximately EUR 10,000). The LLC is required to increase the capital to the higher requirement level by 15 March 2016 at the latest. Until the increase has been made, the LLC is subject to the former Companies Act.

Discharge from liability for managing directors of LLC will be more flexible – Discharge from liability will be possible, even if it is not expressly included in the articles of association. Furthermore, it may be granted simultaneously not only with the adoption of the annual report for the previous business year, but also in interim times, which will be beneficial for a managing director leaving the LLC before the adoption

of the annual report.

Public limited companies will no be longer established directly – In other words, company owners who intend to collect capital from the stock market will have to first establish a private limited company, which then can be made public through an initial public offering.

Transitional rule – In general, companies will be required to bring their articles of association in line with the corporate rules of the new Civil Code simultaneously with the first change of articles of association after 15 March 2014. In other cases, the final deadline is 15 March 2015 in the case of partnerships and 15 March 2016 in the case of other company forms.

Rules of contract

The new Civil Code provides for new rules in contractual law in respect of all kind of contractual stages: from pre-contractual negotiation up to breach of contracts.

Pre-contractual negotiations – The new Civil Code expressly states that the general obligation of notification and cooperation of the parties shall apply to the pre-contractual negotiations as well. In the case of failure to conclude the contract, the party violating this obligation of notification and cooperation shall compensate the other party for damages arising from such conduct.

Pre-contract – The New Civil Code sets much stricter rules in terms of refusing the conclusion of the final contract. The party wanting to refuse the conclusion of the final contract shall at least prove that (i) due to new circumstances arising after the conclusion of the pre-contract performing the pre-contract under the same terms would be detrimental to the legitimate interest of the party, and (ii) the possibility of change in circumstances could not have been foreseen at the time of conclusion of the pre-contract, and (iii) the party did not cause the change of circumstances, and (iv) the change of circumstances cannot be regarded as a normal business risk.

Content of the contract – It is a controversial solution in the New Civil Code that business practices applied in long term business relationships shall become part of the agreement. If, for example, the practice of the parties is that there is a specific deadline for performance, the same deadline will apply to the contract, unless the parties regulated otherwise. In line with this, parties shall take special care when drafting contracts to take into account such long-term practices (and specifically deviate in the new contract, if that is the intention).

New contractual damage regime – The new damage regime is probably one of the most fundamental changes. Whereas previously the same liability applied to contractual and delictual (tort) liability, the new Civil Code applies a different set of rules. The new rule implies a much stricter liability regime in respect of contractual damages. Namely, a party may exempt himself from liability if he proves that (i) the damage has been caused by a circumstance not foreseeable by him (ii) that was out of his control, and (iii) it was not legally expectable from him to avoid such circumstance. In practice this means that in most of the cases it will become simply impossible for the party to exempt himself from liability.

Exclusion/limitation of liability – Commercial contracts tailored by Western patterns usually have exclusion/limitation of liability clauses. Such liability clauses collided with the stringent rule that the liability for breach of contract can be excluded/limited only if the disadvantage caused by this is adequately compensated by the other party. The new Civil Code abandons such a harsh requirement and states that exclusion/limitation of liability shall be prohibited only in case of intentional breach of contract or breach resulting in the loss of human life, body injury or harm to health. This means that application of exclusion/limitation of liability clauses may work smoothly in the future.

New types of contracts – One of the significant changes is that the new Civil Code regulates contractual types which have already been well applied by the market players such as leasing, factoring, franchising, trust and put option.

Transitional rule – The parties may agree to put the contract concluded before 15 March 2014 under the effect of the new Civil Code. When deciding whether to put such agreement under the umbrella of the new Civil Code, the parties shall take into account numerous aspects. For example the contractual damage regime is much more stringent, but the possibility of exclusion of liability is much more flexible under the new Civil Code.

Enforcement of claims

Paradigm shift – In respect of collaterals, the new Civil Code makes a radical shift. Fiduciary collaterals often used by banks as security, such as assignment or call option, have been declared null and void (except in certain transactions such as leasing or factoring). Instead, the new Civil Code created new rules on mortgages and pledges to better serve the interest of the market. For example, it established security trustee which will help to make smoother syndicated loan transactions. Or to use another example, it established a new registry which significantly extended the scope of collaterals which can be registered.

Extension of guarantee – In the future, guarantee may be provided not only by banks but by any company. This is an important novelty, as in practice, parties often want a recourse to the secondary liability of the parent company in case the subsidiary defaults.

Taking all this into account, the new Civil Code raises many challenges and complex questions for companies. Companies have to adapt to a completely new commercial environment. Contracts and corporate documents may need to be reviewed and legal advice may be needed. However, after the difficulties of the transition period, business will be able to operate within the framework of a more flexible and more business-oriented legal environment.

Increase of legal work is expected

Management liability under fire

Should executive officers take protective measures?

The New Civil Code - entered into force on the 15th of March in 2014 - fundamentally changed the responsibility of the executive officers vis-a-vis third parties. Under the new rule, the executive officers may be held jointly and severally liable with the company, if the damage was caused by the executive officer in connection with his position. It is subject to debate how the courts will apply this rule. Still as according to the new rules, personal assets of executive officers will be at direct risk, executive officers shall consider taking protective instruments including obtaining a liability insurance and signing an indemnity agreement.



Pursuant to previous rules a company shall be directly liable for damage caused to third parties by its executive officers when acting in its official capacity. Executive officers are held liable only in exceptional cases, in particular in case assuming that they breach their statutory obligation to act in the interest of creditors in case of a threatening insolvency situation. In other words, a third party suffering damage could turn only against the company and not the executive officer. In theory, the company could assert a recourse claim against its executive officers. However, in practice this has rarely happened, as everyday business decisions are discussed, and sometimes the decisions are even approved by the owners of the company.

The new Civil Code
came into force

The new Civil Code entered into force on the 15th of March in 2014, and significantly changed this situation. Under the new rule, the third party suffering damage as a result of an action/omission of the executive officer may claim damages directly from the executive officer. Many issues arising from this rule are still subject to debate

It is disputed whether the new rule will apply to any act/omission of the executive officer in his official capacity (including for example damages for breach of environmental or competition regulation) or only to very specific cases when the executive officer did not act neither on behalf of the company, nor in his private capacity (for example: in the case of breach of traffic laws in a company car).

It is also a subject of debate whether this new rule applies only in connection with tort or also with contractual damage. This is of utmost importance as the new Civil Code introduced a major legal difference between tort and contractual damage in relation to potential exemptions of liability.

In case of tort liability, the executive officer shall be not held liable if he proves that he acted with standard duty of care.

In case of contractual damages, the executive officer may only exempt himself if he can prove that the damage has been caused by a circumstance not foreseeable by him and beyond his control, and it was not legally expectable of him to avoid such a circumstance. In practice, this would mean that the executive officer would be able to exempt himself from contractual liability only in very exceptional cases.

What about protective measures?

Executive officers shall think about taking protective measures. In case of tort liability, the third party suffering damage is not known, so exclusion of liability of the executive officer in advance is not feasible. Instead, insurance liability is an option. It is expected that this type of insurance will increase in the market. On the other hand, in case of contractual damage, parties can exclude/limit the liability of the executive officer in advance.

In summary, the new rule raises many issues which are still subject to debate. Ultimately, the court shall give an answer to these questions. Right now it is hard to predict the impact of this rule. However, the fact remains that according to this rule the personal assets of executive officers will be at direct risk, so executive officers shall consider taking protective measures, including obtaining liability insurance and signing an indemnity agreement.

Hungarian lawyers
will need to draft
potential protective
measures

VJT & Partners is ranked as a Top-Tier Firm by EMEA Legal 500

The prestigious legal directory has placed VJT & Partners as a top-tier firm for Employment and highly recommends it in four other practice areas.



VJT & Partners has been recommended as a top-tier law firm for Employment for the fourth year running in the Legal 500 Europe, Middle East & Africa 2014. The guide comments: *"The 'very knowledgeable' and 'very responsive' team at VJT & Partners counts HP, Montivíz and ING Financial Advisory among its clients, and advises on employment contracts, policies, termination and mass dismissals. Zoltán Csernus and Dóra Bocskov-Szabó are recommended."*

Managing Partner János Tamás Varga is included in the list of elite "Leading lawyers" in this guide to outstanding lawyers.

Having climbed the rankings consistently in recent years, VJT & Partners' M&A and Dispute resolution practices are both recommended in the second tier, while the firm remained in the second tier for TMT and the fourth tier for Real estate and construction. The guide comments: *"VJT & Partners' three-partner corporate and M&A team, which includes the 'proactive' and 'reliable' János Tamás Varga, provides a service which is 'excellent in all respects'. Varga and the 'exceptionally detailed' Zoltán Csernus worked alongside a leading US law firm to advise ARC Group Worldwide on a cross-border acquisition."*

Four lawyers at VJT & Partners are recommended in The Legal 500 Europe, Middle East & Africa 2014 editorial:

- Corporate and M&A - János Tamás Varga and Zoltán Csernus
- Dispute resolution - János Tamás Varga, Zoltán Csernus, Gábor Hacsí and Dóra Bocskov-Szabó
- Employment - Zoltán Csernus and Dóra Bocskov-Szabó
- Real estate and construction - János Tamás Varga and Gábor Hacsí.

The Legal 500 series of legal directories provides an in-depth assessment of law firms based on intensive independent research of firms and their clients.

János Tamás Varga, Managing Partner of VJT & Partners, commented: *"Legal 500 is regarded as providing accurate analysis of law firm capabilities; as such, we are delighted to receive such high rankings in the guide which we take as an endorsement by our clients of our capabilities and practices."*

About Our Law Firm

VJT & Partners is a Hungarian commercial law firm advising international and domestic corporate clients and entrepreneurs. The firm was founded by Janos Tamas Varga, who has created a highly successful team based on values including inspiring leadership, striving for perfection, commitment, courage and harmony.

VJT & Partners is recognised as one of Hungary's leading commercial law firms and also as an excellent collaborative partner, working hand-in-hand with its clients. Clients value the firm's absolute commitment, leading to effective and enduring relationships. The firm combines the highest degree of professionalism, the efficient delivery of legal services with dynamism, flexibility, responsiveness and personal attention.

Lawyers in the firm have developed an in-depth understanding of both the legal and the commercial realities of business. The firm prides itself in giving direct, honest and practical advice, tailored to its clients' needs. The shared values of VJT & Partners are at the very core of the creativity and 'fresh thinking' approach of the firm.

As a member of the EU, but not the single currency, Hungary has a unique language and business culture and a complex legal system bringing particular challenges. All lawyers at VJT & Partners have extensive experience of working with international and domestic companies alike, to help navigate these challenges and to achieve their objectives in Hungary, and to ensure appropriate regulatory approvals.

The leading legal directories rank VJT & Partners highly across a range of practice areas.

VJT & Partners is a full-service law firm that satisfies the needs of clients across a broad range of industries and professions. The firm's legal services include commercial contracts, competition, corporate M&A, data protection, dispute resolution, finance, immigration, employment, intellectual property, outsourcing, private equity, real estate, regulatory, restructuring and insolvency, and technology.

Practice Areas

The firm is especially active and highly ranked in the following areas:

Corporate mergers and acquisitions

VJT & Partners believes that advising on M&A transactions is to provide more than just legal advice. Understanding the logic and dynamics of the industry sector in which the client and other participants operate is a prerequisite for success.

Technology

The firm regularly advises clients operating in the technology sector on a wide variety of legal matters, ranging from corporate law issues to drafting industry-specific agreements on software development and licensing, system supply, database transfer and hosting, as well as maintenance and support services.

Employment

Highly rated employment lawyers at VJT & Partners have a wealth of experience in all aspects of contentious and non-contentious employment matters. Fully appreciated for understanding their clients' business goals, lawyers design structures and procedures that are watertight and defensible in many court proceedings.

Dispute resolution

VJT & Partners is well aware that effective management and resolution of disputes are of critical importance from a corporate risk management point of view. The firm regularly provides legal advice on pre-litigation. When it comes to litigation, lawyers focus on the business needs of clients, providing practical and cost-effective advice.

Business Immigration

Business immigration to Hungary may in particular take place through investment in residency bonds ("Investor Residency Bond Program") or by establishing a business in Hungary ("Business Entrepreneur Residency Program"). VJT & Partners' immigration lawyers handle all aspects of business immigration cases, advising medium to high-net worth foreign individuals and multinational corporations.

How We Work

Lawyers at VJT & Partners are encouraged to develop, to enjoy their work and to become real 'Masters of Collaboration'. Clients comment on the firm's cooperation, communication and its absolute commitment to what they are trying to achieve.

In turn, we find that this leads to effective and enduring relationships. We combine the highest degree of professionalism and the efficient delivery of legal services with dynamism, flexibility, responsiveness and personal attention.

Our Values

The values that lie at the heart of our business ethos are the building blocks of our business. Nurturing the following values brings the 'hearts and minds' of VJT & Partners' lawyers together as one successful team. We would be happy to talk you through them, what they mean to us, to our business and our clients:

- Inspiring leadership
- Striving for perfection
- Commitment
- Courage
- Harmony

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