



Hungary



„The Hungarian Legal System”

2011

HSM

HAJDU & MENYHEI
ATTORNEYS AT LAW

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„Put it before them briefly so they will read it, clearly so they will appreciate it, picturesquely so they will remember it, and above all, accurately so they will be guided by its light.”

Joseph Pulitzer

Background

Hungary is an independent, democratic constitutional state. According to the revised Constitution that came into force on October 23, 1989, Hungary is a parliamentary republic.

The Hungarian legal system is based on the German-Austrian legal system, and has a statute-based civil and criminal law system. The main sources of law are:

- the constitution
- acts of parliament
- governmental and ministerial decrees
- EU law

The legal system of the Republic of Hungary accepts the universally recognized rules and regulations of international law, and shall harmonize the internal laws and statutes of the country with the obligations assumed under international law. Hungary is a signatory to a number of international conventions and bilateral treaties which provide for the recognition and enforcement of awards from other states.

The Constitution

The basic and supreme law of the Republic of Hungary is the Constitution. The Government bears the obligation of submitting to Parliament the Bills necessary for the enactment of the Constitution.

The Hungarian Constitution regulates two classical constitutional areas: state administration (national government, local government, and organizations for the protection of rights) and the listing of the basic rights of citizens.

The Parliament

The Hungarian Parliament is a legislative body whose range of law-making activity is extensive.

Every Hungarian citizen at the age of 18 and over has the right to vote, and is at the same time eligible to be a candidate for elective office.

In the Parliament legislative supervision is exercised during plenary sessions through questions and interpellations. In addition to the plenary sessions, the parliamentary committees also play a significant role in the supervision of the executive branch of government. There are also individual parliamentary control bodies, like the State Audit Office and the institution of the Ombudsman.

Within its competence, Parliament enacts the Constitution of the Republic of Hungary; frames laws; ratifies the international treaties that are of outstanding significance for the external relations of the Republic of Hungary; elects the President of the Republic, the members of the Constitutional Court, the ombudsman to deal with the observation of civil rights and the rights

of national and ethnic minorities, the President and Vice Presidents of the State Audit Office, the President of the Supreme Court and the Chief Prosecutor.

The President

The President of the Republic is Hungary's head of state, who is elected by Parliament by secret ballot for a term of five years. The President of the Republic may be re-elected for this office for no more than one additional term.

The traditional rights of the head of state, also set down in the Hungarian Constitution, have been defined in relation to legislative, executive, and judicial authority, according to a system of separation of powers. His sphere of authority as regards judicial power includes the appointment of judges and the granting of individual pardons.

The President of the Republic concludes international treaties and agreements on behalf of the Republic of Hungary. If the subject of the agreement belongs under the competence of the legislation, the prior agreement of Parliament is required for concluding the agreement.

The Constitutional Court

The Constitutional Court has existed as an institution in Hungary since 1989, established by Act I of the Constitution. Actually it has been functioning since January 1, 1990.

The Constitutional Court oversees the constitutionality of legal provisions. Any law or legal measure found unconstitutional is annulled by the Constitutional Court.

In the cases defined by the law, anyone may initiate proceedings at the Constitutional Court. The eleven members of the Constitutional Court are elected by Parliament. Two-thirds of the affirmative votes of the Members of Parliament are necessary for election to the Constitutional Court.

The law defines the main tasks of the Constitutional Court as follows: it interprets the Constitution; it provides normative standards and supervision over the constitutionality of laws; it reconciles the differences between international and domestic law; it renders decisions on constitutional challenges; it determines negligence in violations of constitutionality; it renders decisions on debates of authority; it establishes the public responsibilities of the head of state and other public officials; and it determines the spheres of authority of municipalities and local authorities, and interprets limitations on public referendums.

The Constitutional Court is the only forum in Hungary whose decisions are binding on everyone.

The Ombudsman

It is the duty of the Parliamentary Commissioner (Ombudsman) for Civil Rights and Ombudsman for the protection of national and minority rights to investigate any abuse of constitutional rights or that of nationality or ethnic minority rights that has come to their attention, and to initiate general or particular measures for redress.

In cases defined by law, anyone may propose that the Ombudsman take action.

The Ombudsmen for civil rights and for national and minority rights are elected, on the nomination of the President of the Republic, by Parliament. For the protection of certain constitutional rights, Parliament may elect separate Ombudsmen. Each Ombudsman reports on his activities and experiences annually to Parliament.

The Government

The Government consists of the Prime Minister and the government ministers. The Prime Minister is elected by a simple majority vote of the Members of Parliament. Parliament decides on the election of the Prime Minister and on acceptance of the Government program at the same time. The ministers are proposed by the Prime Minister, and appointed and relieved of their duties by the President of the Republic.

The Government can issue decrees and also conclude international agreements in the name of the Republic of Hungary.

The establishment of ministries falls within the competence of Parliament and law defines their status. Heading each ministry is a single responsible minister who is also a member of the cabinet.

The Government takes the necessary measures to ensure public law and order and public security, participates in the determination of foreign policy as well as concludes international agreements on behalf of the Government of the Republic of Hungary.

In its own sphere of functions the Government issues decrees and passes resolutions, which are signed by the Prime Minister. In the performance of their functions, the Prime Minister and the members of the Government may issue decrees. No decree and resolution of the Government may be contrary to the law and any decree of the Prime Minister and the members of the Government must not be contrary to any law or any Government decree and resolution.

Local Self-Government

The territory of the Republic of Hungary consists of administrative units including the capital and 19 counties. Local self-government means autonomous and democratic management of local affairs by the communities concerned and exercise of local public authority. The members of the representative body are elected for a term of four years.

The Hungarian Judicial System

Based on Act XX of 1949 on the Constitution of the Republic of Hungary and on Act LXVI of 1997 on the Organization and Administration of the Courts, in Hungary justice is administered in a four-level system by the Supreme Court, the regional courts of appeal, the county courts (including the Municipal Court of Budapest) and the local courts. First instance jurisdiction in most matters rests with the local courts, effecting the principle that the overwhelming part of the cases shall be settled at the local level, within the easiest reach of the parties. Appeals against the decisions of the local courts may be submitted to the county courts (and the Municipal Court), which thus function mainly as appellate courts, however, in

cases specified by law (e.g. in civil cases with a minimum value of HUF 10 million (approximately € 40.000) and criminal cases with a sentence up to life imprisonment) they have first instance jurisdiction. The territorial competence of the local and county courts is determined by and identical with the areas of public administration. The regional courts of appeal hear the appeals lodged against the decisions of the local and county courts. There are five courts of appeal throughout the country in Budapest, Szeged, Pécs, Debrecen and Győr. Taking over the task of examining appeals, the regional courts of appeal significantly contributed to the reduction of the backlog of cases before the Supreme Court and as a result the Supreme Court is now able to concentrate on its main function of ensuring the uniform application of law and examining applications for the review of final judgments as extraordinary remedy.

The areas of jurisdiction include criminal, civil and administrative law. Administrative judgments prevail within the framework of normal courts, which according to existing regulations must review the legality of administrative actions. Their jurisdiction is related to the application of the law; that is, judges do not make the law.

The Supreme Court of the Republic of Hungary sets guidelines based on principles for the judicial work of every court. The directives and decisions in questions of principle of the Supreme Court are binding on all courts of the country. They are accessible on the web in Hungarian.

The Court of Arbitration

The court of arbitration is an independent court, which authorization derives from the agreement concluded by the business parties if the jurisdiction of the arbitration court for the cases of debates is stipulated in the agreement. The scope of the stipulation of the arbitration court is very wide, especially if the case has an international relation.

The agreement of the Parties regarding the stipulation of the arbitration court must be put down in writing. The arbitration clause is included either in the original contract or drafted in a separate agreement.

If the Parties have concluded the agreement regarding the stipulation of the arbitration court, they cannot later change the scope of competence of the arbitration court to the scope of competence of the ordinary court. If they decide still so as described above, the ordinary court will dismiss the case.

The Arbitration Act describes three general conditions regarding the stipulation of the arbitration clause:

- firstly that one of the contracting parties must run an entertainment,
- secondly that the Parties must have disposal over the subject of the proceeding, and
- thirdly – as mentioned above - that the stipulation must put down in writing.

There are some sorts of litigation where the stipulation of the arbitration court is invalid. This kind of lawsuits can be found first of all in the legal field of family law and administrative law.

The number of the judges must be odd. The Parties can choose together the judges, so they have the chance to choose those judges, which are expert regarding the subject of the case. It is a commonly used method that one-one Party chooses one-one judge and the judges chosen by the Parties select the third judge.

The arbitration court procedure is similar to the ordinary court procedure, as there is an action, a counter-action, hearing of the witnesses and experts etc.

The effect of the judgment of the arbitration court is also the same as the effect of the judgment of the ordinary court, as the Parties are bound by the provisions implied therein.

However it is not possible to appeal against the judgment, only the annulment of the judgment can initiate before the ordinary court in certain cases.

As the proceeding of the arbitration court is not public, the business relations and business interests of the Parties remain untouched by the public.

The Hajdu & Menyhei Attorneys at Law

From our beginning in 1993 the founders' vision has been to build a law firm operating under the highest professional and ethical standards to achieve the proper legal solution for our clients.

We truly believe that confidentiality, precision and ethics shall join together as our attorneys serve both the needs of our clients and the purpose and ideals of the profession. Through that process we are able to draw on a constant stream of new ideas to solve the toughest legal issues our clients may face.

Since Hajdu & Menyhei Attorneys at Law was founded, we have created a collaborative group where talented colleagues specialized in various fields of law and speaking several languages work together. We act with integrity and trust in our dealing with colleagues and clients. The founders, Dr. Hajdu György and Dr. Menyhei Ákos, have always focused on recognizing and respect individual talents and promoting team culture based on the eternal values of Hajdu & Menyhei Attorneys at Law.

As a law firm with young lawyers there is nothing old-fashioned about our thinking, but the traditional values of our profession are always at the forefront of our practice. Our working style encourages creative and lateral thinking to protect our client's rights and interests by providing sound legal advice through skillful negotiation and when necessary through vigorous litigation.

Additionally Hajdu & Menyhei Attorneys at Law is a traditional Hungarian law firm, the attorneys have had represented clients ranging from major multinationals, venture capital starts-ups and privately held corporations to private individuals all over the world.

Should you have any further question regarding the above matter we would be delighted to provide you with further advice, please do not hesitate to contacts us!

Kind regards,

Hajdu & Menyhei Attorneys at Law

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