



## BALÁZS & KOVÁTSITS

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### **Short Introduction to Greenfield Investments in Hungary**

In Hungary, the large companies with a foreign parent well equipped with capital are tending to invest in greenfield investments. Despite its relative and apparent simplicity and transparency, it still holds a number of pitfalls, which may be worthwhile to become aware of even prior to the commencement of the investment project.

#### **Company foundation**

Prior to any activity in Hungary, the investor should consider the optimal form of company for pursuing his future activities in Hungary. The usually applied forms include the limited liability company and the company limited by shares. By founding a *limited liability company* (korlátolt felelősségű társaság - Kft) an independent legal entity comes into being whose founders are required only to put up the prime deposits stipulated in the Articles of Association, and to provide eventual subsidiary services that may be set forth therein. A limited liability company may be founded with a prime capital of at least HUF 3,000,000 which may be furnished either as cash or as non-cash contribution.

A company with its seat abroad may pursue its business in Hungary through a *branch* registered in Hungary. When this corporate form is chosen, there is no such sharp dividing line between the entities of the founder and the branch as in the case of the company forms described above; the founder will have unlimited joint and several liability for the debts of the branch.

#### **Acquisition of land**

The acquisition of land requires extraordinary circumspection from the investor. In principal, a legal entity may not acquire areas registered as arable land, orchard, vineyard or forest in Hungary; furthermore, he needs to take into consideration the plot building ratios and purposes

covered by legal regulation regarding construction and environment protection and in particular by the decrees of the municipality.

### **Archaeological exploration**

In the event of building a shopping centre, plant or other industrial or service facility in an undeveloped external area, the archaeological exploration of the area is practically inevitable. In such case, when the area, selected for the construction is not registered as an archaeological site, during the issue of the building permit the competent authority orders the archaeological excavation if it is necessary. If the gross value of the investment exceeds 500 million HUF, (large investment) a prior documentation on the archaeological excavation is required. In some cases, depending on the nature of the activity to be carried out, it may be necessary to carry out an environmental impact assessment which must be obtained in advance.

### **Building permit, contracts with architects and the general contractor**

Apart from a few exceptions of negligible significance, construction activity can be performed only in possession of a building permit. The investor is fully bound to comply with the provisions of the *building permit*; deviations from the building permit are not allowed. In view of the fact that the preparation of the technical designs, the compilation of the application for the building permit and implementation are exceedingly complex, they fit into a process whose elements interact with one another, in most of the cases it is recommended that a contractor be entrusted with their performance, who will have general single person liability for drawing up the plans, obtaining the permits and licenses and implementing them as appropriate. This issue becomes genuinely important when in the course of implementation carried out at a flat rate supplementary or additional works will have to be carried out owing to the requirements of the authorities. In the event of single person liability, the general contractor may not refer, for instance, to the fact that he erroneously calculated costs owing to an error of the architect, yet owing to the requirements of the building authority, a more expensive procedure or material has to be applied.

### **License to take in use, site and operational license**

A completed building can be taken into regular use with the *license to take in use* or if the parties agreed on land use rights, the builder will be able to have his right of ownership to the superstructure registered by the Land Registry with this license. It should be taken into account that taking a building in use does not in many cases mean simultaneous licensing of the

commencement of activities. In the case of industrial activities, services or warehousing, where on account of the materials used or generated or the equipment operated as a result of the work processes taking place, there is a health risk, risk of fire or explosion, or owing to the environmental impact of the above, air, water or soil or noise pollution may occur, a *site license* must be obtained. In the case of commercial activities, retailing, wholesaling and catering activities may only be pursued in outlets having *operational licenses*.

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BALÁZS & KOVÁTSITS Legal Partnership