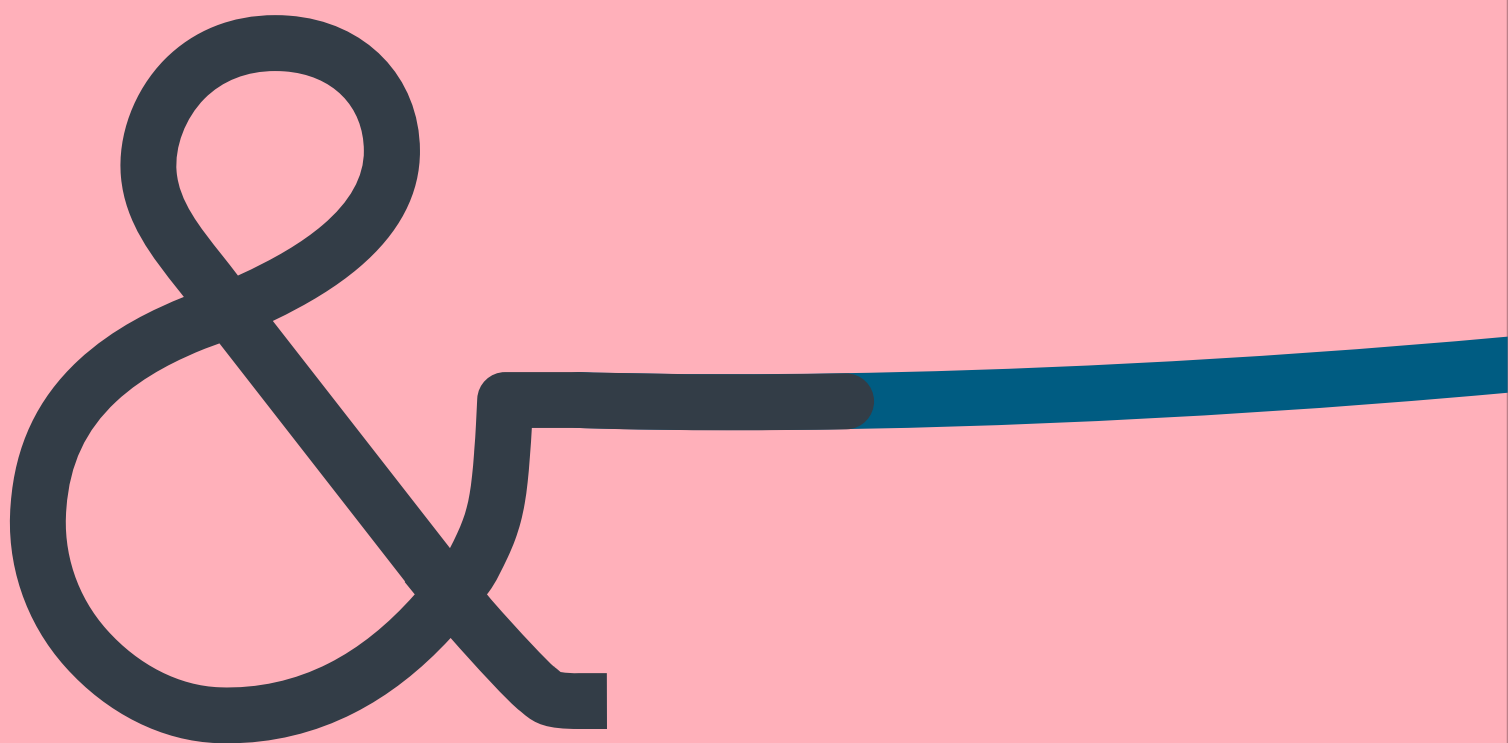


Bird & Bird

Setting up a business in Hungary

2022



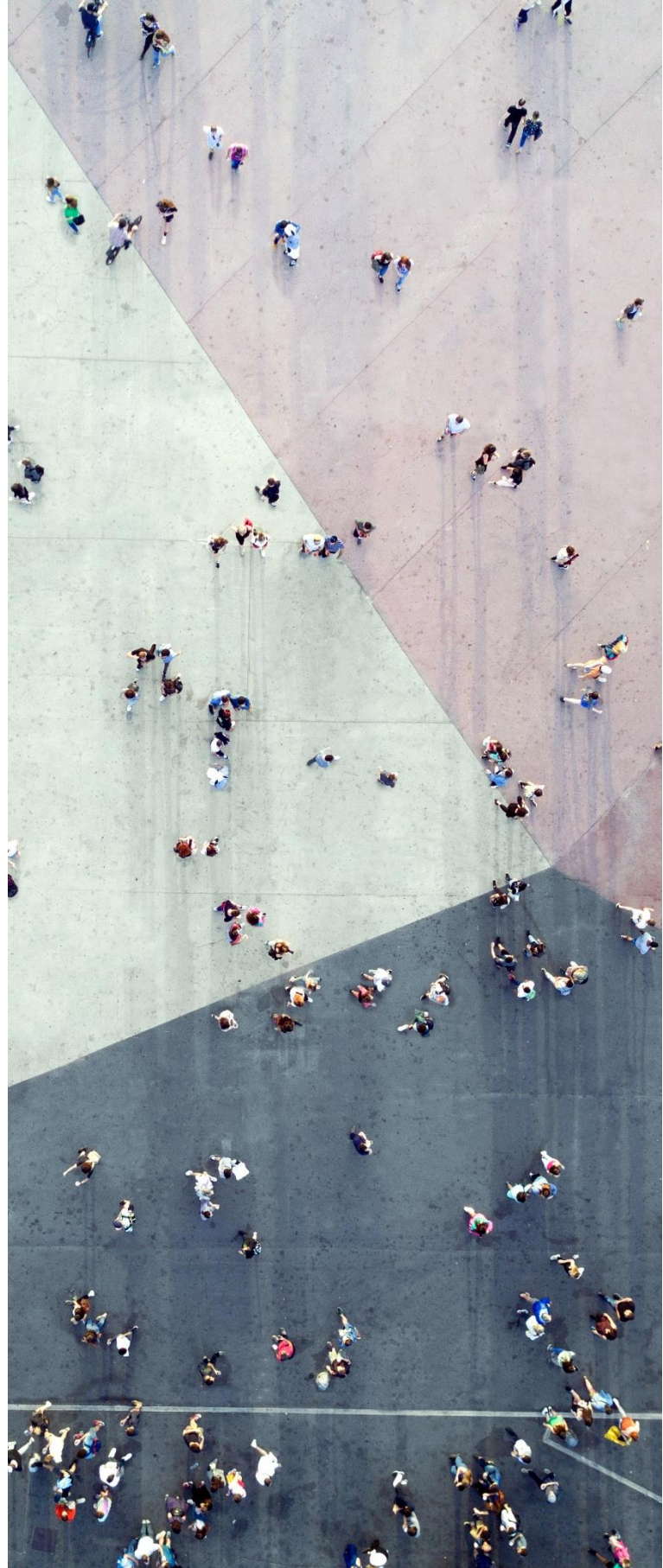


Bird & Bird's Budapest office maintains a strong and historic presence in the region, supported by its vast network and cross-departmental expertise.

Legal 500 EMEA 2022, Hungary

Setting up a business in Hungary

Hungary became a full member of the European Union on 1st May 2004. Its membership has had a positive impact on the Hungarian economy and provided several competitive advantages for foreign companies setting up a permanent presence in the country. Due to this and several other factors, foreign ownership of and investment in Hungarian firms is widespread. Foreign capital is attracted by skilled and relatively inexpensive labour, tax incentives, modern infrastructure, and a good telecommunications system. Bank accounts may be held in major foreign currencies and there are no specific laws governing inward investment (save some special sectors, for instance agriculture).





“Bird & Bird deeply understands the needs of the client,” a client highlights, additionally admiring the firm's "strategic thinking."

Chambers Europe 2022, Hungary

Choice of legal entity

An overseas company can carry on business in Hungary either by incorporating a Hungarian registered subsidiary company or by establishing a Hungarian branch office or commercial representation of a foreign company.

Subsidiary	Branch
<p>Recommended company formations: limited liability company or company limited by shares (private or public). Both a limited liability company (in Hungarian: "Korlátolt Felelősségű Társaság") or a private company limited by shares (in Hungarian: "Zártkörűen Működő Részvénytársaság") are limited liability companies and both of such companies can be established by one single founder. The two company forms are very similar in terms of privacy, internal organizational structure, and operation.</p> <p>The most significant difference, in addition to different capital requirements, is that the registered capital of a limited liability company is divided into quotas, while the registered capital of a private company limited by shares is divided into shares. Essentially, the difference between shares and quotas is that shares are materialized either physically (printed shares) or via a securities account (dematerialized shares) whereas quotas are not. In other words, unlike in the case of shares, no certificate is issued of a quota.</p> <p>A quota is recorded in the member's list managed by the managing director of a limited liability company. One quota holder may hold several quotas, which can represent various quota holder's rights and can also be created, for instance, as a non-voting quota or a quota to which various preference rights can be attached.</p> <p>A shareholder of a private company limited by shares can hold multiple shares of different types (e.g., non-voting shares, various preference shares, etc.). Because shares, either printed or dematerialized, must be created at the Hungarian Central Clearing House and Depository (in Hungarian: "KELER"), the formation process of a private company limited by shares takes a little bit longer than that of a limited liability company.</p>	<p>Options: branch office or commercial representation.</p>
Limited liability at subsidiary level.	Parent company retains direct liability.
Separate legal entity to contract.	Parent accounts show Hungarian revenue.

Subsidiary	Branch
<p>Time of registration: one working day or 1-3 weeks (depending on the type of articles of association, counting from the issuance of the tax number), unless a supplementary filing is requested by the court. Operation may be commenced after establishment, before registration by the court.</p> <p>Before a newly established company can be registered, a preliminary tax registration procedure, which takes up to one working day must also be completed. If the tax authority does not deliver its resolution in one working day, the registration procedure may be suspended. The registration of the company is rejected in the event the tax authority rejects the issuance of the tax number.</p>	<p>Time of registration: 1-3 weeks unless a supplementary filing is requested by the court. Operation may be commenced after establishment, before registration by the court.</p> <p>Before a newly established company can be registered, a preliminary tax registration procedure, which takes up to one working day must also be completed. If the tax authority does not deliver its resolution in one working day, the registration procedure may be suspended. The registration of the company is rejected in the event the tax authority rejects the issuance of the tax number.</p>
<p>Approximate official fee of registration: for a private company limited by shares is approx. €260 (not including attorney's fee). In this case, there is also an approx. EUR 13 procedural charge.</p> <p>The registration fee is lower if the company chooses to use the standard articles of association attached to the Regulation of the Ministry of Justice as part of its company registration procedure. In this case, the registration fee for a private company limited by shares is approx. EUR 130.</p> <p>In case of a limited liability company, the registration procedure is free of charge (not including attorney's fee).</p>	<p>Official fee of registration is approx. EUR 130 (not including attorney's fee).</p>
<p>Unless specific sector regulation provides otherwise (e.g., establishing a bank or a security company) the minimum amount of registered capital is:</p> <ul style="list-style-type: none"> • HUF 3 million (approx. EUR 7,800) in the case of a limited liability company, • HUF 5 million (approx. EUR 13,000) in the case of a private company limited by shares, and • HUF 20 million (approx. EUR 52,000) in the case of a public company limited by shares. 	<p>There is no requirement for a minimum amount of registered capital, but for a branch office the assets provided by the parent company for operation of the Hungarian establishment should be indicated in the accounts and in the company register.</p>

Subsidiary	Branch
<p>Directors of a limited liability company or a private company limited by shares do not need to be Hungarian nationals.</p> <p>A limited liability company is managed by one or more managing directors who, as a rule, do not form a body or a board and act individually and independently from one another. However, it is possible to confer joint representation (and signing) rights to the managing directors, which means that one managing director needs at least another in order to act on behalf of the company.</p> <p>Also, a managing director of a limited liability company can either be a private individual or a legal entity.</p> <p>As for a private company limited by shares, as a rule, it is managed by a Board of Directors consisting of at least 3 private individuals (no legal entities can be appointed as board members). Such board members may hold either individual or joint representation (and signing) rights. However, given the fact that the board members act as a body, their decision-making process is more complex and more formalized than that of managing directors. The Hungarian Civil Code also provides for the possibility to appoint one general manager or chief executive officer at a company limited by shares instead of establishing a Board of Directors.</p>	<p>No need for Hungarian directors.</p>
Meetings do not need to be held in Hungary.	No need for meetings.
Hungarian company accounts to be filed and may need to be audited (exceptions may apply).	Parent company accounts may need to be filed.
Higher annual filing and accounting costs.	Lower operational costs.
Corporate income tax rate is: 9% - on a positive tax base.	A branch office is obliged to pay corporate tax on the basis of its business activities conducted in Hungary.
Tax payable may be reduced by various tax incentives.	Can benefit from double tax treaties.
Trading losses can be off set against the profits for the accounting period.	
Value added tax (VAT) is largely neutral for businesses that make VATable supplies.	
National insurance contributions paid on employee salaries.	



“Bird & Bird have a global reach, can navigate the issues and implications of a course of action in overseas jurisdictions, and help us drive towards strategic aims in complex areas.”

Chambers Global, 2022

Setting up a business in Hungary

Employment

The new Hungarian Labour Code came into force on 1 July 2012. It is, as the previous Labour Code was, broadly similar to employment legislation in other countries.

The terms of employment are established by a written employment agreement and may be terminated either by mutual consent of the parties, or unilaterally, if the statutory conditions are met. The normal daily working time is 8 hours; weekly working time is a maximum of 48 hours, with a 2-day rest period. Employees, except in some special cases, may not be obliged to work on public holidays. Each employee is entitled to a regular vacation every calendar year. The basic duration of the vacation is 20 days, but the number of the vacation days is increased according to the age of the employee and other life factors (number of children etc.).

As of 1 January 2022, the minimum gross monthly wage is HUF 200,000 (approx. €520) and the guaranteed minimum gross monthly wage in positions requiring at least secondary education/qualification is HUF 260,000. (approx. EUR 675)

An employment agreement may not contradict the Labour Code or any collective agreement in force, unless it contains provision being favourable to the employee. An employment agreement can provide more benefits for the employee than those required by the Labour Code or a collective agreement.

The Labour Code also provides a basis for organized labour negotiations with trade unions or other representatives of employees (for instance works councils).

Social security contributions are mandatory for Hungarian employees.

Commercial Contracts

Hungary is a civil law country, and commercial law in Hungary is well developed. EU legislation applies in Hungary and regulates consumer protection, sales agents, distance selling, government procurement, direct marketing, etc. Hungarian law restricts certain consumer contracts terms, including limits on liability.

Hungarian law, harmonized by EU competition law, prohibits anti-competitive behaviour where there is an appreciable effect on trade in Hungary and/or between EU Member States.

Foreign companies should be aware of any industry specific laws that apply to their businesses. Often, these laws are based on EU legislation and are relatively consistent across the EU.

Foreign investors are free to remit profits and investment capital to their home country in the event of partial or complete termination of their enterprise.

The Act on Providing Services ensures that in case of establishment, EU and EEA based service providers may provide services pursuant to the same conditions as national service providers, as well as that they must be treated in the same manner as national service providers. The provision of cross-border services by EU and EEA based service providers cannot be restricted in Hungary.

Foreign financial institutions may operate branches and conduct cross-border financial services in Hungary, in keeping with OECD commitments.

Share Ownership in Hungary is considerably more concentrated than in the U.S. It is common for one or two shareholders to have a controlling stake, even in large corporations.

Real Estate

Most companies setting up their business in Hungary will lease their premises rather than buy them. Lease conditions are highly flexible. During the rental period the tenant has exclusive use of the property.

Properties in Hungary are registered in the land register, which is open to the public, and anyone can purchase an official copy of information in the register.

Companies which own properties in Hungary are generally allowed unrestricted use of their property and may sell it, utilise it (e.g., rent it) or take out loans secured on it (e.g., to mortgage it) or sell rights associated to it.

A business venture may acquire ownership and other real estate rights, excluding rights over agricultural land and protected natural areas. EU and EEA based individuals and entities, and entities which enjoy equal treatment based on an international treaty, can acquire title of ownership to Hungarian non-agricultural real estate under the same conditions as Hungarian nationals. Other foreign individuals or entities may acquire Hungarian real estate provided they obtain a permit granted by the local director of the regional public administration office. Foreign companies cannot acquire ownership title or any other right to a Hungarian agricultural land and protected natural areas. The same restriction applies to agricultural land acquisitions by Hungarian subsidiaries of foreign investors.

Setting up a business in Hungary

Data Protection/Privacy

The EU General Data Protection Regulation (GDPR) is directly applicable in Hungary. Additionally, the Hungarian Privacy Act (Info Act) remains in force, but its scope is limited to data processing activities which are not within the scope of the GDPR. As far as activities covered by the GDPR are concerned, only certain provisions of the Info Act are applicable. These provisions are listed in Article 2 of the Info Act. Moreover, several sectorial data protection provisions are governing this area in Hungary. These include rules particularly on processing personal data in connection with employment, personal data relating to an individual's health condition, processing data for whistleblowing purposes and the retention period of CCTV recordings.

In addition to the rules of the GDPR detailed specific national legal provisions apply to the processing of health data, data processed in an HR context, and data processed in the telecommunication sector. The Hungarian National Authority for Data Protection and Freedom of Information (NAIH) was appointed as the GDPR supervisory authority in Hungary. The NAIH is entitled to impose the sanctions in accordance with the GDPR, including the two tiers of administrative fines: some entities are subject to administrative fines of up to EUR 10,000,000 or, in the case of undertakings, 2% of global turnover, whichever is the higher. Others are subject to administrative fines of up to EUR 20,000,000 or, in the case of undertakings, 4% of global turnover, whichever is the higher.

The NAIH's highest data protection fine so far (HUF 250.000.000 approx. EUR 640,000), affected "Budapest Bank Zrt.", one of the eight major banks in Hungary to be merged into MKB Bank, which continues to operate under that name.

Please click [here](#) to access Bird & Bird's GDPR tracker which contains information on the implementation of the GDPR in various Members States, including Hungary.

Intellectual Property

Since Hungary is a member of the European Union, the European *acquis Communautaire* is part of Hungarian law. Hungary also acceded to the European Patent Convention and has amended the Hungarian Patent Act accordingly. It is a party to the WTO TRIPS agreement and most other major international IPR agreements, including the most recent WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty. Due to its EU membership Hungary implemented the EU Information Society Directive and the EU Enforcement Directive. The United States and Hungary also signed a Comprehensive Bilateral Intellectual Property Rights (IPR) Agreement in 1993 that addresses copyright, trademarks, and patent protection.

Designs and artistic creations are protected by copyright but can also be protected through design registration in Hungary or as a Community Design (RCD).

Inventions may be protected by applying for a Hungarian national patent or a European Patent at the European Patent Office (EPO), although the patents granted are national and are therefore enforceable nationally.

Company and brand names may be registered as trademarks. This can be done on a Europe-wide basis through the European Union trademark scheme (EUTM), or by applying for a national trademark. The amendment to the Hungarian Act on Protection of Trademarks and Geographical Indications (Trademark Act) effective as of 1 January 2019 set out new rules to comply with the Trademark Directive (EU) 2015/2436 (Directive). Most importantly, the need to represent a mark graphically is removed, new grounds for refusal based on traditional terms for wine, traditional specialities and plant variety denominations are inserted and the renewal procedure before the Hungarian Intellectual Property Office (HIPO) is modified.

Trademark protection may also be obtained through an international trademark application governed by the Madrid Agreement and/or the Madrid Protocol on the international registration of trademarks.

In 2008, the government established a National Board Against Counterfeiting, led by the HIPO and the Ministry of Justice, with participation from other government agencies, various chambers, industry associations and NGOs.

The Act on Protection of Trade Secrets (Trade Secret Act) is applicable as of 8 August 2018. The new Trade Secret Act contains the general provisions on trade secrets including the definition of trade secret, the right to trade secret, the exceptions, the violation of the right to trade secret and sanctions. Furthermore, it contains the special rules of the civil proceedings on unlawful acquisition, use and disclosure of trade secret.

Lastly, the Trade Secret Act modifies several other acts which refer to trade secret. Please click [here](#) to access Bird & Bird's Trade Secrets Directive tracker which contains information on the implementation of the Trade Secrets Directive in various Member States, including Hungary.

Business Model Design

Alongside legal challenges, whatever the nature of your international ambitions the planning process requires some key questions to be addressed:

- Is internationalisation a feasible option, and are you ready for it?
- What is your internationalisation strategy, and how will you prioritise which markets to target?
- What business model will be most effective for driving profitable growth?
- Will you require business partners, and how do you plan to find them?
- What will your penetration strategy be for your selected markets?
- How will you build the infrastructure and operating model required to support your move into the new markets?
- How will you execute the plan and implement the business model?

Wherever your starting point, our consultancy arm Baseline can help you answer this question and create a fit-for-purpose roadmap to guide your business through its internationalisation journey.

Contact us

If you would like further information on setting up business in Hungary, please e-mail our Set up Desk at new.company@twobirds.com and we will contact you within 24 hours.

This summary gives general information only as of June 2022 and is not intended to give a comprehensive analysis. It should not be used as a substitute for legal or other professional advice, which should be obtained in specific circumstances.



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