



HUNGARIAN WATCH

Winter 2018



Masters of Collaboration

Hungarian Watch Winter 2018

Editor: Endre Várady and András Lovretity

Publisher: János Tamás Varga, VJT & Partners Law Firm

1126 Budapest

Kernstok Károly tér 8.

Hungary

T: +36 1 501 9900

F: +36 1 501 9901

E: office@vjt-partners.com

Hungarian Watch is a quarterly 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 brochure by leading the reader through the 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 GDPR bring in Hungary?](#)

[The new milestone in Hungarian privacy world](#)

On one hand there is the Hungarian National Data Protection Authority (DPA), one of the strictest data protection supervisors in the EU. On the other hand, there are Hungarian small and medium enterprises whose privacy awareness is still in its infancy. What will happen in the country by introducing GDPR can only be guessed. [Read more...](#)



[How to buy a private plane in Hungary](#)

[A guide for beginners to understand the logic of the process](#)

When it comes to wealth and luxury, owning a private airplane is always an attraction. This is an object that, due to its price and maintenance costs, is out of reach for many even if we chose pre-owned over brand new. But once the necessary financial resources are ready and the desired aircraft is found, how to complete the deal? [Read more...](#)



[Hungarian Competition Authority starts 2018 actively](#)

[Dawn raid at two Hungarian telecom companies](#)

The Hungarian Competition Authority (HCA) started 2018 with a dawn raid in two of the leading telecommunication companies. HCA announced this to the public itself and gave a clear indication that it takes competition seriously and is ready to protect customers in 2018 too. [Read more...](#)

What will GDPR bring in Hungary?

The new milestone in Hungarian privacy world

On one hand there is the Hungarian National Data Protection Authority (DPA), one of the strictest data protection supervisors in the EU. On the other hand, there are Hungarian small and medium enterprises whose privacy awareness is still in its infancy. What will happen in the country by introducing GDPR can only be guessed.



The strict Hungarian privacy watchdog

First of all, let's see the current situation. Based on the practice of the Hungarian DPA so far, it is often said in privacy circles that the Hungarian DPA is one of the strictest privacy watchdogs in the EU. "Data minimisation" and "purpose limitation" are especially difficult to be complied with.

The DPA has a very strict approach on the data minimisation requirement. For example, the firm collects phone numbers for the purpose of sending newsletters via e-mail. This looks innocent for a layman. However the Hungarian DPA would certainly ask the firm why the phone number is needed, when it is possible to send newsletters by only storing the names and e-mail addresses of users.

We have a similar issue with purpose limitation. The DPA considers that the purpose must be narrowed so that the user could interpret it only one way. This could be problematic for firms as they usually set broad, ambiguous terms such as "customer management" (covering completely different purposes from complaint handling to after services) or "marketing", which may be particularly problematic as firms equally include sending newsletters, profile-making and analysis of customer data by third parties in the latter.

In the eyes of the DPA all of these purposes should be named separately, as they require – in many cases – a different scope of data to be processed, not to mention that these sub-purposes may easily have different "lifespans" (meaning a purpose may be reached in a shorter or longer term) – and only a granular approach could match these different durations. This approach presents a great burden for firms as they are unable to see through their own processes, not to mention looking at the processing through the lens of the DPA.

High expectations, low data protection awareness

In spite of the strictness of the DPA, the data protection awareness is still very low. The misconception that "I got the consent from the user, so I could do anything with

the data” is still a rather dominant view. There are even cases where financial institutions calculated the fines into their cost plan in advance, as fines of couple of million HUF were not significant for them.

about 70% of
Hungarian SMEs
have not heard
about GDPR

The situation is particularly critical in case of the Hungarian small and medium-sized enterprises (SMEs), as their privacy awareness is still in its infancy. There are nearly 670,000 small and medium-sized enterprises in Hungary, and according to surveys about 70% of them have not even heard about GDPR.

SMEs so far have been in a rather privileged position. When they were caught by the DPA, first they only got a warning and fine was imposed only for the second breach. This rule will no longer apply once the GDPR becomes effective. This means that SMEs could equally face the enormous penalties of the GDPR once it comes into effect.

It is game on, what is next after the GDPR?

It is already a cliché that GDPR will bring a completely new way of thinking. However this statement is certainly true for Hungary. Businesses will need to understand that just like they need an accountant to record each financial detail to demonstrate compliance with accounting/tax rules, they will need a data protection lawyer to manage similar administrative burden. GDPR will bring a new form of digital accounting.

the clock of high
GDPR fines kicking
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down

Businesses in Hungary have still not realised that they need this form of “digital accounting” on a permanent basis. But as the clock of high GDPR fines kicking in is rapidly counting down, companies finally started to ask the questions “what is GDPR” and “what is data protection”? They are usually unpleasantly surprised with the long “to do” list. In particular, SMEs lack the know-how, the financial, human and technical resources to prepare for the GDPR. They feel that they are in the dire need of GDPR guidance.

The Hungarian DPA started serious preparations for the GDPR. It is already public information that they will double their staff by engaging 40 new people.

All in all, it will be essential for Hungarian businesses to set data protection as their top priority. On the other hand, since the Hungarian DPA is well-aware of the excessive financial (among others) burden the new European regulation means especially for SMEs, it should find the most efficient solution to teach businesses the core elements of the GDPR.

How to buy a private plane in Hungary

A guide for beginners to understand the logic of the process

When it comes to wealth and luxury, owning a private airplane is always an attraction. This is an object that, due to its price and maintenance costs, is out of reach for many even if we chose pre-owned over brand new. But once the necessary financial resources are ready and the desired aircraft is found, how to complete the deal? Due to the heavy regulatory environment it is not possible to describe in a concise way everything that needs to be checked when buying a private aircraft. However, if one thinks of the process of buying a plane secondhand on the Hungarian market, just like buying a used car, it is easier to understand the process and not to miss anything fundamental.



Suppose you identified the right type of aircraft yourself and are already in contact with the owner. How to proceed?

Before you engage in costly technical inspections it is worth checking the plane's basic papers first, to see if everything is in order regarding the plane's ownership. Just like cars, planes are registered and they have a registration number working as a "licence plate"

(starting with "HA" if registered in Hungary). If you ask for the plane's registration certificate from the seller and also check the publicly available register with the National Transportation Authority, you can immediately see if the plane is registered, if your seller is really the owner or if the plane is really free of any hinderance to the sale. The register also reveals if the plane is certified to fly ("airworthy"); without this certificate you will not be allowed to take off. Once all this fundamental information is verified, it is time to take a closer look to this object of desire.

Just like pre-owned cars, used planes are usually sold "as is", meaning that you are given the opportunity to check its condition and after the plane is purchased, there is very limited possibility of return or recompensing. So, when selecting the plane to buy, you should invest the time to have the plane's condition inspected by an expert. This is akin to a buyer and a seller taking a car to a garage to be inspected by someone who makes a living doing so. Another similarity to the concept of buying an automobile, which a diligent buyer should not miss, is to take the plane for a test flight.

Certain documents must always be kept on board without which flying is not permitted by the authorities. So, a technical inspection must include a review of these documents: certificate of airworthiness, operation manual, maintenance book and documents proving the number and duration of flights, radio permit, noise certificate (depending on the engine) are all part of this heavy documentation. The same stands for mandatory equipment.

check the public registers

take technical inspection seriously

check mandatory documentation and equipment, take care of maintenance

Flying is an even greater responsibility than driving so, not surprisingly, liability insurance is necessary. Besides mandatory insurance, aircraft owners need to secure that their plane is regularly and well maintained. Unless you are qualified for this, a professional service provider (“air operator”) will need to be contracted for the task to insure the plane’s airworthiness.

sign contract,
report acquisition to
authority

Once all boxes on the long checklist are checked off, it is time to get down to business with the seller. Just like buying a car, in fact like buying anything of a bigger value, you need to agree on the purchase price and other key terms and you need to sign a sale and purchase agreement for the plane. In order to secure that you really become owner and to avoid the possibility of future disputes with the seller on who is responsible to do what, and when, plus exactly what is being purchased, a straightforward contract is essential.

Finally - just as when you buy a used car, it is your responsibility to report to the authorities that ownership has changed hands. There is no difference with private planes, as you have 30 days to let the the National Transportation Authority know that you are now the owner.

Lower number of deals, higher purchase price and special expertise required, distinguishes buying a used private plane from buying a used car but at their core the two transaction processes are based on the same principles. If you have never gone through the trade of an aircraft before, it may be helpful to approach it in the same way as a car purchase, to better understand the things to think of. This of course will not save the costs of experts for you (flying is costly) but you will be at least prepared.

About the author: VJT & Partners leading lawyer András Lovretity, who spent more than eight years advising Budapest Airport on various projects and business matters, is an expert in legal matters concerning the aviation industry.

Hungarian Competition Authority starts 2018 actively

Dawn raid at two Hungarian telecom companies

The Hungarian Competition Authority (HCA) started 2018 with a dawn raid at two of the leading telecommunication companies. HCA announced this to the public itself and gave a clear indication that it takes competition seriously and is ready to protect customers in 2018 too.



In the morning of 24 January 2018, the HCA raided the Budapest headquarters of Magyar Telekom and Telenor, two big Hungarian telecommunication companies. The HCA suspects that the two service providers coordinated their behaviours in relation to 2014 tenders published by the National Media and Communications Authority concerning broad-brand frequencies. It is suspected that Magyar Telekom and Telenor might have wanted to share the market and to coordinate their bids in these tenders. If this was true, it would mean serious violation of competition regulations - a cartel. The HCA itself stresses that their dawn raid does not mean that these companies are guilty. Whether this was really the case, will be concluded at the end of a lengthy procedure that takes at least several months, potentially years.

A dawn raid (the official term is “on-site inspection without advance notice”) can be a shock for companies who are not familiar with this investigative authority action. Companies who panic may not only oversee the possibilities of defending their rights but may also end up with extra millions of HUF in fines alone for hindering the investigation. So, it is good to know how to react in the first place.

Dawn raid is by definition something unannounced, a visit one is not expecting. It is an extraordinary “technique” that is reserved for investigating the most serious competition law cases such as cartels and abuse of dominant position, where evidence is otherwise difficult to find. Because this is an extreme measure, a dawn raid requires court approval.

What happens in practice, is that the HCA investigators appear at the company’s doorstep in the morning and collect all information available that might support their case. Usually a dawn raid is a coordinated action and all companies suspected to be involved in the same anti-competition case are raided at the same time.

Although the investigators have a wide variety of means to collect information, this does not mean they can do whatever they want – they have their process to follow and restrictions to observe, even if not many. It might not be a surprise for regular criminal movie seers that investigators must first identify themselves, tell what they are there for, show the court’s approval and the decision on doing the dawn raid. These papers

extraordinary action
in serious cases

the authority can
look into anything?

are sometimes difficult to understand and legal support might come handy to prevent excessive measures by the investigators.

When raiding, the investigators can look in lockers and desks, search computers, other electronic devices and servers. Under certain circumstances they can enter private premises and vehicles may also be searched. They are usually most interested in documents, e-mails, calendars and pocketbooks. Investigators may question employees. However, client-attorney privilege is sacred even during dawn raids. Advice from external lawyers (but not from in-house counsel!) and company memos referring external lawyer's advice cannot be used as evidence.

Dawn raids are unexpected and can be overwhelming – it is difficult to stay calm and to act professionally, which can mean a lot in these cases. If employees are trained for this, it is ideal but cannot be of course expected from most companies. What you can do, is know whom to call for professional help and make that call immediately to receive guidance.

About the author: VJT & Partners competition law practice leader Andrea Belényi spent almost 10 years with the HCA working on all kinds of competition cases including cartels and has more than 7 years' experience advising market players on their competition law matters.

About VJT & Partners

The Firm

VJT & Partners is a Hungarian commercial law firm advising international and domestic corporate clients and entrepreneurs. The firm was founded by János Tamás 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 aviation, 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.

We advise clients on international and Hungarian M&A transactions including acquisitions, disposals, mergers and demergers, from deal inception through due diligence and negotiations to post completion. The expertise of our multi-disciplinary team in the areas of corporate, commercial, competition, real estate, employment and regulatory enables us to provide excellent service.

Employment

The 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.

We regularly advise employers on general employment matters including drafting employment agreements, internal policies, termination agreements, termination notices and complex mass dismissal structures as well as employee incentive schemes. We have particular expertise in managing work permit and business immigration applications as well as advising on the different employment and labour related issues which arise with commercial transactions such as outsourcing.

Our team has successfully represented employers and executive employees in all types of court proceedings in Hungary. In particular, we represent clients in disputes concerning issues which include unlawful termination, overtime payment and bonus claims.

Technology

Understanding our clients' underlying technical and technological ideas and objectives, while providing clear, concise and practical advice lies at the heart of our work. The phenomenon of convergence and the rapid proliferation of innovative services inspire our Information, Communications & Technology (ICT) team to continue to build unique expertise in a wide range of technology matters.

Our lawyers have particularly strong track record in commercial IT arrangements such as software licensing, call centre and hosting services as well as hardware procurement, online and e-commerce matters such as setting up web-shops. We also regularly advise on sector-specific regulatory issues concerning communications services such as licensing, interconnection and carrier-pre selection.

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

Office:

1126 Budapest
Kernstok Károly tér 8.
Hungary

Contact:

Tel: +36 1 501 9900
Fax: +36 1 501 9901
E-mail: office@vjt-partners.com
Web: www.vjt-partners.com