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ESTABLISHING A BUSINESS ENTITY IN HUNGARY

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ESTABLISHING A BUSINESS ENTITY IN HUNGARY



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1 COMPANY FORMS

The following company forms are available in Hungary:

- (i) general partnership (Kkt.);
- (ii) limited partnerships (Bt.);
- (iii) limited liability company (Kft.);
- (iv) private company limited by shares (Zrt.).

Public company limited by shares (Nyrt.) is also an available company form, however, since 15 March 2014 it may not be established directly. The formation of a public company limited by shares can only be initiated by listing the shares of a private company limited by shares on the Budapest Stock Exchange, while also amending the form of the company.

While the liability of the members of partnerships for the debts of the company is, in general, unlimited, the other 3 company forms offer limited liability to the shareholders / quotaholders. As a consequence, in the business practice, the Kft. form and the Zrt. form are the most popular company forms and in the forthcoming sections we will compare these two company types.



	Limited liability company (Kft.)	Private company limited by shares (Zrt.)
Capital requirements	<ul style="list-style-type: none">▪ The minimum registered capital is HUF 3,000,000 (approx. EUR 7,500) both cash and in-kind contribution is allowed;▪ the contribution of each member may not be less than HUF 100,000 (there are arguments that deviation from this rule is allowed but this standpoint has not yet been tested)▪ the provision of cash contribution is not mandatory upon establishment, i.e. a limited liability company can be incorporated without the provision of any cash, however, certain rights (dividend payment, transfer of membership rights) cannot be exercised until the full payment of the contribution.	<ul style="list-style-type: none">▪ The minimum registered capital is HUF 5 Million (approx. EUR 12,500);▪ both cash and in-kind contribution is allowed;▪ no restriction on the nominal value of the shares.
Membership rights	<ul style="list-style-type: none">▪ Membership rights are represented by so-called “business quotas”;▪ business quota is a notional concept, it is not embodied in physical or electronic form, it is solely registered on the members’ list of the company;▪ In general, each quotaholder has one business quota. The size of the business quotas of the different members can, however, be different. Also, if there are different rights attached to certain types of business quotas, one member may have more than one business quota;▪ if not provided otherwise under the constitutional document, the extent of voting right, dividend right and other membership rights is linked to the capital contribution made by the▪ respective quotaholder.	<ul style="list-style-type: none">▪ Membership rights are represented by shares;▪ shares are considered as securities;▪ shares exist in physical (printed) or in dematerialised form. In the ultimate case shares are recorded on the securities account of the shareholder;▪ if not provided otherwise under the constitutional document, the extent of voting right, dividend right and other shareholder’s right is linked to the nominal value of the share.



	Limited liability company (Kft.)	Private company limited by shares (Zrt.)
Transfer of ownership rights	<ul style="list-style-type: none"> Quotas are freely transferable among the members of the company; various restrictions can be adopted regarding the transferability of the business quotas to third parties (pre-emption right, consent of the members' meeting, etc.); quotas may be transferred via a written contract between the seller and the purchaser. The purchase of the quota must be notified to the managing director of the company which must, upon such notification, register the new quotaholder in the members' list of the company. 	<ul style="list-style-type: none"> Shares are freely transferable; certain restrictions may be adopted on the transferability of the shares which restrictions are only valid if indicated on the share certificate itself; physical shares may be transferred by physical delivery, together with a written endorsement; dematerialised shares are transferred via a transfer between securities accounts.
Supreme body	<ul style="list-style-type: none"> The supreme body of the company is the members' meeting which is convened by the managing director; 	<ul style="list-style-type: none"> The supreme body of the company is the general meeting which is convened by the board of directors or the general director.
	<ul style="list-style-type: none"> the members' meeting / general meeting has a quorum if at least half of the eligible votes is represented; if the articles / statutes permit the members' meeting / general meeting may be held by electronic means of communication; decisions falling within the scope of the members' meeting / general meeting may also be made in a written form, without holding a meeting; generally, decisions are passed with a simple majority. In certain strategic decisions qualified (3/4) majority is required. 	
Executive officers	<ul style="list-style-type: none"> The executive officers of the company are its managing directors; managing directors are, generally, elected by the members' meeting; managing directors may act individually or form a body. 	<ul style="list-style-type: none"> The executive body of the company is its board of directors which consists of minimum three members; if the statutes so provide the company can elect a single executive officer (general director) instead of a board of directors.



	Limited liability company (Kft.)	Private company limited by shares (Zrt.)
Supervisory board	<ul style="list-style-type: none">▪ Election of a supervisory board is mandatory, if the number of full-time employees of the company exceeds 200 on annual average and the works council did not waive the employees' participation right in the supervisory board.	<ul style="list-style-type: none">▪ Election of a supervisory board is mandatory, if (i) requested by the shareholders controlling at least five per cent of the total votes; or (ii) the number of full-time employees of the company exceeds 200 on annual average and the works council did not waive the employees' participation right in the supervisory board.
Auditor	<ul style="list-style-type: none">▪ Appointment of an auditor is mandatory if (i) the company's yearly revenues exceed HUF 300 million or; (ii) the company employs more than 50 employees;▪ the auditor is elected by the supreme body.	



2 DOCUMENTATION OF THE COMPANY ESTABLISHMENT

In connection with the company establishment the following documents will need to be executed or provided:

- (i) Documents prepared by the attorney and to be signed by the founders / executive officers of companies:
 - Constitutive document (Articles of association / Statutes / Deed of foundation – depending on the respective company form);
 - Power of attorney given to the attorney representing the company in the court of registration procedure;
 - Declaration of acceptance of the executive officers / supervisory board members / auditor - the appointments will only become effective if the elected persons declare their acceptance;
 - Specimen signature of the persons signing on behalf of the company;
 - In case of a kft.: a members' list indicating the members / quotaholders of the company;
 - Appointment of a delivery agent If any executive officer or member / shareholder of a company does not have a Hungarian address / registered seat;
 - Other ancillary documents set forth by the laws.
- (ii) Documents to be provided by the founders:

- In case the founder is a foreign entity: the certificate of incorporation of the founder;
- Certificate on the valid use of registered seat / branch office of the company – a land registry extract or a statement of the lessor is sufficient;
- Verification of payment of the registered capital of the company – usually a bank certificate is sufficient;
- Tax identification number of the quotaholders / shareholders and the executive officers – if individuals are reluctant to provide their home tax number, a Hungarian tax number can be obtained.

3 THE ESTABLISHMENT PROCESS

A company is considered as formed if it is admitted to the register of companies. The date of incorporation of the company is considered to be the date when the registration takes place. The company may start its operations as a “pre-company” as of the date of the countersignature of its constitutive document and engage in business operations after having received its tax identification code.

The Registration Act draws a distinction between regular and simplified registration procedures. The simplified procedure is applicable if the company's constitutive document is based on a standard form prescribed by the laws. The use of standard forms provides less flexibility but leads to quicker registration.



It must be noted that the establishment of a limited liability company is free of any procedural duties (except for a minimal publication fee), while in case of the incorporation of a private company limited by

shares, a procedural fee of HUF 100,000 (approx. EUR 280) shall be paid.

Hereunder you will find a summary about the timeline of the process.

