



HUNGARIAN WATCH

Autumn 2017



Masters of Collaboration

Hungarian Watch Autumn 2017

Editor: Endre Várady

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 quarter yearly 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 actual 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.

Hungarian Watch has been prepared for the use of clients, partners and staff of VJT & Partners.

Copyright © 2017 VJT & Partners

All rights reserved. No part of this brochure shall be reproduced or transmitted by any means—electronic, mechanical, photocopying, recording, or otherwise—without written permission from the publisher, except for the inclusion of brief quotations in a review.

Every effort has been made to make this brochure as complete and as accurate as possible, but no warranty of fitness is implied. The information is provided on an as-is basis. The authors and the publisher have neither liability nor responsibility to any person or entity with respect to any loss or damages arising from the information contained in this brochure.

Table of Contents

Summary	4
Railway Market	5
The long-awaited Budapest–Belgrade railway upgrade tender published	5
Venture Capital	8
Euroventures: The driving force of money?	8
Automotive Industry	10
Be careful! Autonomous cars are coming!	10
M&A	11
How to avoid a cartel when doing an M&A deal	11
VJT & Partners	13
About VJT & Partners	13
The Firm	13
Practice Areas	14
How We Work	15
Our Values	15

Summary



[The long-awaited Budapest–Belgrade railway upgrade tender published](#)

[The new Silk Road finally leads to Hungary](#)

The long-awaited call for tender for the Budapest–Belgrade railway construction has finally been published. The scope of the Hungarian tender is to upgrade the 166 km railway line stretching from Budapest to the Serbian border in line with Trans-European Transport Network specifications. The total cost of the investment is expected to be close to EUR 2 billion. It may attract key players of the construction and railway sector. The first round of the tender will be closed on 19 January 2018. Be ready and seize this exceptional investment opportunity. [Read more...](#)



[Euroventures: The driving force of money?](#)

[Euroventures launches its 5th fund](#)

One of the leading independent private equity and venture capital firms of Central Europe is planning to start its 5th investment fund aiming primarily at in-growth or early-stage companies of the technology industry. As a long-standing partner of Euroventures, VJT & Partners is in a fortunate position to witness their unique success story. [Read more...](#)



[Be careful!](#)

[Autonomous cars are coming!](#)

It is surprising, but true. From now on, thanks to the new regulations you may come up on autonomous cars on the roads of Hungary. In the first half of 2017 a new legislation has been introduced regarding the testing of autonomous vehicles, and one of its huge benefits is that it allows vehicle developers to test the cars or select functions on the public roads in Hungary. [Read more...](#)



[How to avoid a cartel when doing an M&A deal](#)

[Another trouble in Hungarian M&A deals](#)

Trends in recent Hungarian competition law – including fines on gun-jumping and changes in rules on dawn raids – show that the Hungarian Competition Authority is placing greater emphasis on competition issues in the pre-merger phase of M&A transactions. Exchange of business information between the parties of M&A deals may be considered anti-competitive, so businesses must be wary of how to share such information before the merger clearance. In this edition VJT & Partners will shed light on how to avoid a cartel when doing M&A deals. [Read more...](#)

The long-awaited Budapest–Belgrade railway upgrade tender published

The new Silk Road finally leads to Hungary

The long-awaited call for tender for the Budapest–Belgrade railway construction has finally been published. The scope of the Hungarian tender is to upgrade the 166 km railway line stretching from Budapest to the Serbian border in line with Trans-European Transport Network specifications. The total cost of the investment is expected to be close to EUR 2 billion. It may attract key players of the construction and railway sector. The first round of the tender will be closed on 19 January 2018. Be ready and seize this exceptional investment opportunity.



This tender has been preceded by years of international negotiations. As we have already reported the Budapest–Belgrade railway deal will be one of the largest railway deals in the CEE region. The electrified, but outdated and one-track railway line has to be converted into a modern two-track system. As a result of this project, trains will operate at 160 km/h (which

could halve the travel time) and the modernized railway line will be able to accommodate cargo trains of 740 meters in length.

This railway upgrade is clearly of strategic importance. Under the Silk Road project China wants to ensure swift transit of Chinese goods from the Greek port Piraeus to Western Europe. Hungary is positioned between the Greek Port and Western Europe and the Budapest–Belgrade railway line presents one of the shortest routes to Western destinations. As the call for tender for the Hungarian part of the upgrade has been published the Silk Road is one step closer towards its ultimate goal.

The scope of the tender is to upgrade the railway line stretching between Soroksár (entering district of Budapest) and Kelebia (on the Serbian border) in line with the Trans-European Transport Network specifications. The contract is for building approximately 374 track kilometres, 18 grade-separated and 89 level crossings, 590.4 metres of bridges and the reconstruction of about 444 kilometres of catenary wire and supply wire among others.

The work will also include installation of the standardised European Railway Traffic Management System (ERTMS) which is costly to implement and requires niche market knowledge known by only few specialists of the railway industry – as Mr. Nagy, the project officer of European Union Railway Agency noted in our previous edition, [Hungarian Watch Spring 2017](#).

The tender will be led by a Hungarian-Chinese joint venture which will conclude an EPC (engineering, procurement and construction) contract with the winning party.

Primary transit corridor to Western Europe

EUR 2 billion valued project

The first-round applicants may submit their tender by 19 January 2018. Three bidders will be chosen in the second and final phase. The total cost of the investment is expected to be close to EUR 2 billion financed by a 20-year loan from Exim Bank of China.

The Budapest–Belgrade modernization project could attract the biggest players of railway construction – such as Kozgep, Swietelsky, Strabag – but also players specializing in ERTMS such as Alstom, Thales, Siemens, Bombardier or CAF. But as the largest Hungarian railway investment in the last 25 years it will certainly need the contribution of plenty of other enterprises apart from the biggest Hungarian and international players.

Opportunity knocks only once

Now every potential player should prepare for bidding because the first round will be closed very soon. Be prepared, exceptional bidding opportunity knocks only once.

Main details of the tender

Type of the tender	EPC (engineering, procurement and construction) contract
Language of the procurement procedure	English and Hungarian, with the condition that in case of disputed interpretation, English shall prevail
Main scoring criteria	<p>In the first phase, the Contracting Authority will examine the companies' professional experience (references) as economic operators, their expert staff, their available equipment and financial compliance.</p> <p>In the second phase, the evaluation of the technical bid is linked to the design, construction arrangement, time schedule/project plan, technical solutions for the different subsystems and equipment, organizational methodology and project management, testing, logistics, commissioning, quality control and environmental protection offered for the execution of the project.</p>
Maximum available score	<p>The technical and the financial bid will be weighed 50-50%.</p> <p>The technical score will be based on how well the technical plan can fulfil the above written scoring criteria. The best applicant will receive 100 points, the others will receive proportionally less.</p> <p>The financial score will depend on the bid given, with the lowest bid getting the maximum 100 points.</p> <p>After that, for the other companies the financial score will be calculated using this formula:</p> $\text{Financial score} = (\text{the lowest price offered}) / (\text{price offered}) * 100$ <p>The overall score will be given for both the technical and financial score divided by 50%, then added together.</p> <p>The maximum available score is therefore 100 points.</p>

Main eligibility criteria	<p>The candidate must be</p> <ul style="list-style-type: none"> • suitable to pursue professional activity, including requirements relating to enrolment on professional or trade registers • must have strong economical and financial standing • must show technical and professional ability through experience in similar projects, background and education of the staff
Type of the procedure	Negotiated procedure with prior call for competition
Main contractual commitments	The commitments will be negotiated in the second phase of the tender.
Expected duration of the contract	86 months
Deadline for submission of application	19 January 2018

Euroventures: The driving force of money?

Euroventures launches its 5th fund

One of the leading independent private equity and venture capital firms of Central Europe is planning to start its 5th investment fund aiming primarily at in-growth or early-stage companies of the technology industry. As a long-standing partner of Euroventures, VJT & Partners is in a fortunate position to witness their unique success story.



The incredible success story began 28 years ago. Up to this point, Euroventures has closed three investment periods each with very successful exits. Euroventures has already opened their fourth investment period. They have created the fourth venture capital and private equity fund under which they have managed to achieve so far five major exits widely acknowledged at international level.

Euroventures is one of the longest-established private equity and venture capital firms in Central Europe investing in companies in diverse industries including technology, consumer goods, telecommunications, transportation, agriculture and financial services. Their goal is to help management teams build their businesses into regional leaders. This mission has been at the heart of Euroventures' approach to investing, and their nearly 50 current and former portfolio companies, which illustrates their commitment to provide steady support through the cycles of the regional economy.

Euroventures has been present from the beginning of Hungarian Venture Capital and Private Equity Industry. Up to 2010 only a small number of transactions were registered in the country. Thanks to the industry's operational logic only a few of these were visible to the Hungarian entrepreneurial layer. Due to lack of information a large number of entrepreneurs were not prepared to cooperate with venture capital/private equity fund managers. Overall, venture capital was not a commonly used instrument for corporate finance, but despite all this even up to 2010, Euroventures has successfully closed three investment programs.

Their first fund was started in 1991. Euroventures fancied 10 companies, majority of them marketed its products and services in international markets. The portfolio companies included Semilab, Euronet and Uproar, the shares of the latter two were introduced on the New York Stock Exchange (NASDAQ).

The second fund sought investment opportunities not only in companies located in Hungary, but the whole CEE region. They managed EUR 15 million, 5 companies have been included in the portfolio e.g. Enigma/Cellum and SkyEurope.

The third fund became a springboard, as the borders disappeared right in front of the investors after the 2004 enlargement of the EU. Euroventures started looking for cross-border investment targets in the region, including Romania, Bulgaria and

Croatia. This fund managed EUR 46 million and invested in 9 companies, such as a leading global software engineering and an IT consulting provider, EPAM and leading innovator in digital solutions, IND.

The story of the fourth fund started with the EU Jeremie Program. JEREMIE was a milestone in the history of the Hungarian Venture Capital and Private Equity Industry. Thanks to JEREMIE, support from European Regional Development Fund (ERDF) was also allocated to venture capital funds. This resulted in a significant increase in the amount of funding in early-stage companies.

The Euroventures team participated in the Jeremie tender and created its fourth venture capital/private equity fund with its largest portfolio ever made. Euroventures invested in 20 companies with the total monetary value of between EUR 20-30 million. Already under this fourth investment period, Euroventures has successfully completed five major exits widely recognized at the international level, but they still have 10 companies in their portfolio from the fourth fund, so the exits may last for another three years.

Although the Jeremie fund (the fourth fund) has not yet been completed, Euroventures now plans to continue investing. They are working on their fifth venture capital and private equity fund, with this, Euroventures only aims at technology investments, solely from institutional investors' money. The fund designed for EUR 30-50 million may be able to start early next year. Euroventures is getting acquainted with the elements of their fifth fund targeting primarily in-growth or early-stage companies.

As a long-standing partner of Euroventures VJT & Partners feels privileged to follow this success story. This story may continue to flourish as Euroventures is seeking for new innovative growth opportunities to invest in. If you find this opportunity lucrative, VJT & Partners would be happy to get in contact with Euroventures on your behalf.

New fund to start soon with EUR 30-50 million investment volume

Successful exits from Euroventures' investment programs

Invested amount	Portfolio company	Sale price of the portfolio company
EUR 400 000	SEMILAB	EUR 1 376 000
USD 1 000 000	EURONET	USD 11 300 000
USD 1 000 000	UPROAR	USD 6 100 000
EUR 1 000 000	ENIGMA / CELLUM	EUR 2 600 000
EUR 334 000	SKYEUROPE	EUR 3 446 880
EUR 4 400 000	IND	EUR 17 800 000
NA	EPAM	USD 29 200 000

Source: Hungarian Forbes Magazine

Be careful!

Autonomous cars are coming!

It is surprising, but true. From now on, thanks to the new regulations you may come up on autonomous cars on the roads of Hungary. In the first half of 2017 a new legislation has been introduced regarding the testing of autonomous vehicles, and one of its huge benefits is that it allows vehicle developers to test the cars or select functions on the public roads in Hungary.



The different levels of automatization referred to in the legislation (levels 0-5) are similar to what is defined by SAE International. The rules of the new legislation shall apply for the testing of level 2-5 autonomous vehicles, the rules of which include, among others, the following requirements.

There are eligibility criteria for companies to qualify as vehicle developers (for the purpose of this new legislation) and to be registered as such at the competent authority. Vehicle developers or developers of vehicle units having European Community type approval and R+D companies or institutions in the field of vehicle development may obtain this status.

The autonomous cars tested on public roads and the test-drives shall meet certain requirements in order to ensure safe participation in traffic. A tested vehicle must comply with the general technical requirements, furthermore, it shall be first tested on a closed test track before proceeding to testing on public roads. The test-driver shall be present in the vehicle at all times during the test in order to intervene, if necessary. The test-driver, besides the relevant driving license, needs to have additional training and qualifications, plus at least one-year of testing experience in connection with the development of autonomous vehicles. Some of the requirements for the tested cars and for the test-drivers can be validated by the vehicle developer itself.

Each planned testing of the autonomous vehicles on public roads must be reported to the authorities beforehand (planned date and time of testing, the public roads on which the test is to be performed, vehicle identification information, etc.). During the testing, at least a minimum scope of data (prescribed in the legislation) must be continuously recorded, then kept for a given period of time and upon request shall be handed over to the authorities. The data should be stored for a longer period of time in the event of an accident.

This new regulation is a huge step in the world of autonomous cars. From now on let's be careful on the Hungarian roads because you may cross paths with an autonomous vehicle.

How to avoid a cartel when doing an M&A deal

Another trouble in Hungarian M&A deals

Trends in recent Hungarian competition law – including fines on gun-jumping and changes in rules on dawn raids – show that the Hungarian Competition Authority is placing greater emphasis on competition issues in the pre-merger phase of M&A transactions. Exchange of business information between the parties of M&A deals may be considered anti-competitive, so businesses must be wary of how to share such information before the merger clearance. In this edition VJT & Partners will shed light on how to avoid a cartel when doing M&A deals.



The HCA has started to eye the pre-merger phase

In our previous editions we already reported that the Hungarian Competition Authority (HCA) has begun to pay serious attention to competition issues in the pre-merger phase.

In 2016 the HCA started to develop consistent practice on gun jumping. It fined several businesses for implementing the merger transaction prior to

merger control clearance (even amending the quota holder in the deed of foundation was considered as implementation of the transaction).

Moreover, the very recent amendments of the Hungarian Competition Act extended the power of the HCA to conduct dawn raids (unannounced inspections) in the merger control. This means that in the merger process the HCA will be able to enter the premises without the consent of the owner/tenant, and seize data carriers or other confidential materials.

Overall, businesses must be wary of competition issues in the pre-merger phase as the HCA may knock on their door any time. In this edition, we will shed light on another trap that might occur in the pre-merger phase: exchange of sensitive business information.

The wind of cartel

According to the Competition Act, illegal collusions may be carried out through exchanges of sensitive and confidential business information. Usually, though, before completing M&A deals, the parties perform detailed due diligence investigations and intense negotiations. Needless to say, the parties exchange business information in this process.

But in principle, parties that are competitors may coordinate each other's businesses through the exchange of such information. They may run therefore a serious cartel risk (even if they have no intention of using such information for anti-competitive purposes).

The risk is even higher if the pre-completion phase of the deals takes several months – with the recent amendment it could even be half a year, with 4 months of standard deadline for the authority and a 2 month extension – as longer anti-competitive behaviour usually means higher fines. But the worst scenario is if the parties abandon the deal. In such a case, the parties' behaviour may be particularly suspicious in the eyes of the competition authority.

So how can we minimize the competition law risks in the course of M&A transactions?

Exchanges of information is necessary

The bottom line is that the information exchanged is necessary for the deal valuation. For example, it is legitimate to provide the auditor report, as the buyer needs this information to make a decision about the deal. On the other hand, information about the targeted company's offer for upcoming tenders is clearly not justified. Such information is not necessary for the deal valuation, and clearly enables the parties to collude.

Avoid providing sensitive data

It is also very important to avoid providing competitively sensitive data. Among others this can include information about pricing, distribution, and strategy plans. But in the lack of precise business information, it may be very hard for the buyer to make a decision about the transaction.

For example, in the case that the targeted company is a wholesaler, the buyer might want to get more information about its pricing policy. How can the business needs be coordinated with competition law concerns? This presents a challenging task, for sure – which requires expertise in competition law.

Who can receive the information?

Another crucial step is to ensure access to information only to the people who are directly involved in the valuation of the deal (for example: lawyers, accountants, managing directors). It is particularly important to prevent marketing people and salespeople from accessing competitively sensitive information of the competitor.

It shall also be noted that the information exchange shall be one-way, that is, unilateral. Only the seller shall provide information to the buyer for the deal valuation. The anti-competitive concerns of the two-way information exchanges may cast a shadow of doubt on legitimacy of the transaction.

The lesson to be learnt

As HCA's focus shifted to the period before the merging, parties must avoid a cartel risk by careful deal planning. Among others, proper techniques include working out a non-disclosure agreement, creating a separate "clean team" or virtual data rooms. But it is also true that competition law concerns shall not get in the way of completing the deal.

Of course, VJT & Partners, can assist the buyers in obtaining sufficient information to prepare the deal without creating cartel risks.

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