

## Hungary

### Act XXIV of 1988 on foreign investments in Hungary (1988)

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# **Act XXIV of 1988 on foreign investments in Hungary**

In order to develop international economic cooperation, particularly to facilitate the direct presence of foreign capital in our economy and promote technological advancement in the Hungarian economy through this means — by ensuring non-discriminatory and national treatment for foreign investors — the National Assembly enacts the following law:

## Chapter I General Provisions

### Article 1

- (1) Foreign investments in Hungary enjoy full protection and security.
- (2) Any foreign investor must be promptly compensated at the actual value for any damages resulting from nationalization, expropriation, or similar legal measures affecting their property.
- (3) The state ensures compensation through the administrative body that enacted the measure. In the case of a violation of the law, the administrative authority's decision on compensation may be reviewed by the court.
- (4) The compensation amount must be paid to the rightful party in the currency of the investment.

### Article 2

For the purposes of this law:

- a) Foreigner: A foreign person as defined by the law on the abolition of currency restrictions;
- b) Foreign investments in Hungary: The share in the assets of a company, union, or cooperative with a domestic headquarters, based on the membership (shareholding, ownership of business shares) relationship of the foreign investor. This also includes the assets of the Hungarian branches and commercial representatives of foreign businesses, and the assets of the independent business of a foreign national as described in point a);
- c) Economic establishment of foreigners: The actual and continuous conduct of economic activities in Hungary in an independent, regular, and profit-oriented manner, with the assumption of economic risk, carried out through a designated facility, plant, office, shop, or other place, with fixed equipment or installations;
- d) Enterprise established in an EEA country: A legal entity or other legal entity without legal personality, created under the law of a country that is part of the European Economic Area Agreement, whose registered office, central management, or main place of business is in one of the countries participating in the European Economic Area Agreement;
- e) Cross-border provision of services: The pursuit of economic activities on an independent, regular, and profit-oriented basis, without the need for economic establishment;
- f) Self-employment: Any economic activity that can be conducted independently under the law and is not subject to the law on individual entrepreneurship, where the practitioner is responsible for providing for their own health insurance and pension services in accordance with the relevant legal provisions.

### Article 3

- (1) A foreigner may conduct independent, business-oriented – regular, profit-oriented, and economically risk-taking – economic activities within the territory of Hungary under the following forms of economic establishment, except as provided in subsection (2):
  - a) As an independent entrepreneur, in the form of individual entrepreneurship or self-employment, as defined by a separate law;
  - b) Through a branch or commercial representative as defined by a separate law;
  - c) Through a domestic company, union, or cooperative in which the foreigner has a stake.

(2) The provisions of subsection (1) do not apply to the following economic activities if the foreigner does not employ anyone domestically for the purpose of carrying out the activities, including cases where a foreign employee or contractor is seconded or assigned to Hungary:

- a) Teaching or research activities at an educational, vocational, or higher education institution;
- b) Performing arts activities;
- c) Professional athletic activities;
- d) Activities limited to the sale of goods or provision of services acquired abroad, where such transactions are conducted without personal presence and through the use of commercial cards issued abroad;
- e) The utilization of real estate and natural resources for compensation, as well as the transfer, sale, or contribution of property-related rights connected to real estate or natural resources for compensation.

#### **Article 3/A**

(1) A foreigner – except for a business established in an EEA member state – may only carry out cross-border service activities within the territory of Hungary if this is explicitly allowed by law or an international agreement.

(2) A business established in an EEA member state may carry out cross-border service activities in accordance with the provisions of a separate law.

#### **Article 3/B**

(1) A foreign natural person is entitled to start or continue independent, business-oriented – regular, profit-driven, and risk-bearing – economic activities within the framework of economic establishment under the same conditions as Hungarian citizens if they are: a) A business established in an EEA member state, or b) Entitled to such rights and national treatment under law or an international agreement.

(2) A foreign national's independent business must meet the professional or other requirements necessary for conducting economic activities, as prescribed by law, under the same conditions as domestic citizens.

(3) A foreign national's independent business must comply with the domestic regulations regarding contract formation and must obtain permits for permit-required transactions.

(4) For the purposes of real estate acquisition laws, a foreign national's independent business is considered equivalent to a foreign natural person.

#### **Article 4**

A company with foreign participation may participate in the establishment of other companies or cooperatives, may establish a company on its own, and may acquire a stake in an existing company or cooperative. The provisions of this law do not apply to these companies or cooperatives, except for those stated in Chapter IV.

#### **Article 5**

The legality of a company operating with foreign participation is supervised by the court maintaining the company register (hereinafter: company court).

## **Article 6**

If an international agreement or a generally applicable, directly applicable mandatory legal act of the European Union contains provisions differing from this law, the provisions of the international agreement or EU legal act shall apply.

## **Chapter II Establishment of companies with foreign participation, acquisition of shares in existing companies**

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#### **Article 37**

(1) A company can also be established in a free zone by a foreign person or with foreign participation, and a foreign person may acquire a share in such a company. However, unions and cooperatives cannot be established in a free zone.

(2) The provisions of this law, with the differences and additions specified in this chapter, apply to the establishment of a company in a free zone, the acquisition of shares in such a company, and the operation of the company.

(3) The technical delimitation of the free zone, the establishment of facilities, and the conditions for conducting activities within the free zone, as well as the rules for the movement of persons and goods within the free zone, are regulated by customs law and customs procedures.

#### **Article 37/A**

#### **Article 38**

The free zone is considered foreign territory for the application of customs, foreign exchange regulations, and—with the exceptions regulated in Section 39—foreign trade laws. For the application of the aforementioned regulations, a company in the free zone is considered a foreign entity. As a result, regulations regarding price control and state supervision do not apply to companies in the free zone.

#### **Article 39**

(1) The provisions of international treaties that are binding on Hungary, related to foreign trade, as well as the export and import regulations established for specific relations or goods, also apply to companies in the free zone.

(2)

#### **Article 40**

(1) For the registration of free zone companies in the commercial register, a certificate from the central body of the state tax and customs authority is required, stating that the property where the company's headquarters are located and where its operations are planned has been declared a free zone.

(2) Upon the company's request, the commercial court contacts the central body of the state tax and customs authority for the submission of the certificate.

#### **Article 41**

(1) A free zone company shall maintain its books in the convertible currency specified in the company's articles of association (bylaws), except as regulated in paragraph (2).

#### **Article 42**

#### **Article 43**

### **Chapter V Final Provisions**

**Article 44**

Disputes related to the articles of association of a company with foreign participation shall be resolved by a domestic or foreign, regular or arbitration court, if the founders or members of the company have agreed to this in writing.

**Article 45**

This law shall come into force on January 1, 1989.

**Article 46**

(1)

(2)

(3) The tax benefits granted to a company with foreign participation before the entry into force of the law may be retained from the calculated tax until their expiration, up to the amount of the tax.

**Article 47**

This law does not affect the provisions regarding the establishment of credit institutions and insurance companies with foreign participation or the acquisition of foreign participation in domestic credit institutions and insurance companies.

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