

Company & Commercial - Hungary

Company registration in Hungary

Contributed by **Nagy és Trócsányi**

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Introduction

New business entities in Hungary may be listed in the Company Register by using either an instrument of construction⁽¹⁾ whose content is established by the parties (the normal registration procedure), or the template set forth in the annex of Act 5/2006 on Public Company Information, Company Registration and Winding-up (the simplified registration procedure). These two types of registration are separate, and in later stages companies cannot switch from one procedure to the other.

General rules

The company registration procedure is an electronic, non-litigious procedure both at first and second instance. It begins with a request made by the company's legal representative. The main rules are set forth in Act 5/2006 while the rules of Act 3/1952 of the Code of Civil Procedure are supplementary. In the registration procedure, a stay of proceeding does not apply and Act 5/2006 lists the few reasons that may trigger the suspension of the procedure. Only documentary evidence is acceptable and legal representation is compulsory. There are no exemptions or suspensions from the payment of procedural processing fees.

The request must be submitted electronically to the competent⁽²⁾ court of registration within 30 days of the signing of the instrument of construction. If an official licence is required for the foundation of a company, the deadline is 15 days from receipt of the licence. If the appropriate deadline is missed, the court may impose a fine of between Ft50,000 and Ft900,000.⁽³⁾

Documents submitted to the court must contain the qualified electronic signature of the legal representative and a time stamp. Documents that were issued by the authorities with qualified electronic signatures can be directly attached to the registration request; in all other cases, it is the legal representative's duty to convert any paper-based documentation to electronic documentation.⁽⁴⁾ The legal representative is obliged to retain the original documents (or certified copies) that he or she converted into electronic format. If substantial suspicion arises over the integrity of the electronic documents, he or she will be required to show the originals. The procedural and publication fees must also be paid electronically.

The company registration request forms are first examined by the Company Registration and Company Information Service, which confirms the authenticity of the electronic signature and time stamp and the integrity of the data. It then forwards the request to the competent court of registration. The administrative due date is normally the day after the request is received from the Company Registration and Company Information Service. The court of registration then sends its orders to the company's legal representative electronically. If the electronic communication fails, the court will forward its orders by post. In this case, the rules of postal delivery will apply.

Normal procedure

Formal court review

The court will examine the company registration request within three working days of receipt. This initial examination can be performed by a court clerk, since it is carried out only as a formal (and not substantive) review.⁽⁵⁾

The request will be rejected without issuing an invitation for completion if it or the relevant documents listed in Annex 1 of Act 5/2006 were not fully submitted, or if the

Author

Olga Péter-Szabó



procedural or publication fees were not paid in full. This is because it is reasonable in cases of compulsory legal representation to expect the legal representative to submit a request in the correct manner and with all necessary documents enclosed. The rejected application can be resubmitted only once and within eight days of the rejection. In case of resubmission, the previously submitted documents can be reused and the consequences of the rejection will not apply.

Examination and decision

If the court does not reject the request, the examination of its contents will begin. Even if the court later realises that the registration request should have been rejected during the formal review, the request cannot be rejected at this stage of the proceedings, and the court is obliged to issue an invitation for completion.

In the examination phase (which takes place within eight days of receipt of the request), the court examines whether the data specific to the company's form (as set forth in Act 5/2006) complies with the law. The instrument of construction and all necessary documents listed in Annex 1 and 2 of Act 5/2006 are also examined. Finally, the court examines whether the intended members, executive officers and managing director of the company have any legal boundaries to stop them from fulfilling their duties. If the court finds any such boundaries, the registration request will be rejected within eight working days without issuing an invitation for completion.

Registration requests for general partnerships, limited partnerships and sole proprietorships can be reviewed by clerks, who can – with the previous written consent of a judge at the registration court – issue a rejection order.

If a company has not included the necessary documents in its application or if the court has found that the application is not in compliance with the law, the court will issue an invitation for completion within eight working days. An invitation for completion can be issued only once and must list all the faults of the application form. The judge will set an appropriate deadline (no longer than 45 days) by which the company must comply with the court's requests. If the deadline is missed or if the company fails to comply with all court requests, the court will reject the company's registration with an order.

To ensure the shortest period between the court's decision and the company's listing in the Company Register, the court will not only examine the request and decide on its merits within 15 days of receipt, but will also take measures to have its order put in writing and forwarded to the company's legal representative within this timeframe. If the court fails to issue a decision by this deadline, the head of the court will undertake measures on the decision within three working days of the missed deadline. If this deadline is also missed, the registration of the company will automatically take place on the following working day by course of law.

For further information on this topic please contact [Olga Péter Szabó](mailto:peter-szabo.olga@nt.hu) at Nagy és Trócsányi by telephone (+36 1 487 8700), fax (+36 1 487 8701) or email (peter-szabo.olga@nt.hu).

Endnotes

- (1) articles of association or a memorandum of association.
- (2) The court's competency is based on the seat of the business entity to be registered.
- (3) Based on an exchange rate of HUF285 to €1, this would be between €175 and €3,155.
- (4) Usually, the paper documents that were not prepared by the legal representative (eg, official licences) should be converted to electronic format and enclosed with the registration request.
- (5) This includes court clerks, court aids and court secretaries.

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