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Five Years in the EU – Two Aspects of Membership

1 May 2009 is the fifth anniversary of Hungary's accession to the European Union (EU). With the execution of the Treaty of Accession, the obligations of EU Member States are in effect for Hungary, except for those restrictions that were adopted either by Hungary or another EU Member State with respect to Hungary for a predefined temporary period.

In the following summary, we present changes to the restrictions that were in place during the last five years regarding the free movement of workers and the acquisition of ownership of real property.

I. The Free Movement of Workers: Regulations in Connection With the Work Permit

A. Hungarian Employees in EU Member States

Only three Member States opened their labor markets to employees from Hungary on 1 May 2004: Ireland, Sweden and the United Kingdom. Since then, Finland, France, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain have joined them and permitted working without a work permit.

Additionally, the following countries do not offer any restrictions for employees from Hungary: Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Poland, the Slovak Republic and the Republic of Slovenia, all of which joined the EU with Hungary, as well as Romania and Bulgaria, which become EU Member States on 1 January 2007.

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Working without a work permit in Belgium and in Denmark became possible for Hungarian citizens on 1 May 2009.

Since 16 October 2007, Germany has permitted restriction-free employment for workers in specified engineering professions who are the citizens of countries that joined the EU at the same time as Hungary, as well as for citizens of Romania and Bulgaria. Otherwise, Germany preserved its pre-existing permission system.

Austria introduced a simplified permission process for 50 professions with a shortage of workers (e.g., bricklayer, carpenter, locksmith, optician, electrician and specified engineering professions) defined in a related legal regulation on 1 January 2008. The list was extended by 15 professions (e.g., insulator and workers in the food industry) on 1 July 2008.

In Germany and Austria, the temporary restrictions will expire on 1 May 2011, which means that working without a permit will be possible for citizens of Hungary after this date.

B. Working in Hungary

On the date Hungary joined the EU, it implemented a restriction against citizens of Austria, Belgium, Denmark, France, Germany, Liechtenstein, Norway and Switzerland filling unskilled jobs (those that do not require skilled, intermediate or advanced qualification) without a work permit. Such restrictions were applied to the citizens of Romania and Bulgaria when the countries joined the EU on 1 January 2007.

However, any person entitled to the right of free movement and free residence¹ has been allowed to enter into employment in Hungary without a work permit since 1 January 2009.

II. Acquisition of Ownership of Real Property

When considering Hungary's restrictions and prohibitions regarding obtaining ownership of real property (see below in Section II/B), it is particularly important to define whether land is arable. The qualification must be based on land registry data. Real properties qualified as non-arable lands include those not registered as tillage, meadow, pasture, vineyard, garden, orchard, reed bank, forest, woodland or fish pond.

A. Acquisition of Ownership of Real Properties Qualified as Non-Arable Lands Without Restriction

Until 1 May 2009 an EU citizen's reason for acquiring real property was significant because previous regulations in Hungary differed based on whether the property served as a principal or secondary place of residence.²

In order to ensure the freedom of establishment and the free movement of capital, Hungary permitted EU and European Economic Area (EEA) citizens to acquire ownership of real property as a principal place of residence under the same regulations that governed Hungarian citizens.

However, until 1 May 2009 EU citizens who already had other real property serving as a principal place of residence (in either Hungary or another EU Member State) could not acquire more real property in Hungary without permission.

For the five years following Hungary's accession to the EU, EU citizens acquiring real properties that would serve as secondary residences (those in which the citizen spends less than half a year or 185 days – e.g., investment properties) needed authorization from the administrative authority.

The transitional period regarding the above restrictions expired on 1 May 2009, and EU and EEA citizens may now acquire ownership of real property not qualified as arable land without any restrictions.

B. Restrictions in Connection With the Acquisition of Ownership of Arable Lands

Acquiring ownership of arable land is partially restricted for citizens of Hungary, as well, as citizens may acquire arable land only up to 300 hectares in size or 6,000 "aranykorona" (gold crowns) in value.

Further restrictions apply to EU and EEA citizens. They may acquire ownership of arable land in Hungary only if they wish to settle in Hungary to engage in agricultural production independently and have legitimately resided in Hungary for at least three consecutive years pursuing agricultural activities. However, in these cases they may acquire land only up to 300 hectares in size

or 6,000 gold crowns in value.

Legal persons or other organizations – regardless of whether they are based in Hungary or another country – may not, except in a few cases, acquire ownership of arable land in Hungary.

This regulation, however, did not expire as of 1 May 2009 because, in accordance with the Treaty of Accession, Hungary may reserve restrictions and prohibitions in connection with the acquisition of ownership of arable land for seven years from the date of EU accession – until 1 May 2011.

¹ Currently citizens of Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland and the United Kingdom – and their relatives, regardless of nationality – have the right of free movement and free residence.

² A principal place of residence is defined as any real property (dwelling or building used for housing purposes, as well as an incorporated building plot) on which the EU national wishes to settle and establish residence (spending at least half a year or 185 days in the same Member State).

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

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