

On 25 March 2013, the Hungarian Parliament adopted the Act XXXIV of 2013 ("the Act"), with the intention of introducing significant changes in the field of contract law.

The Act amends the Hungarian Civil Code and is effective from 1 July 2013. The changes affect the regulations relating to the interest rate on late payments, the calculation of late payment interest and payment terms.

Changes in the Late Payment Interest Rate Applicable to Economic Organizations and the Calculation of the Late Payment Interest

Under current regulations, the late payment interest rate applicable to economic organizations (where both parties are economic organizations) is calculated upon the central bank base rate effective on the **last day** before the calendar half-year concerned, plus **7 percent**.

After 1 July 2013, the late payment interest rate shall be calculated upon the central bank base rate effective on the **first day** of the calendar half-year concerned, plus **8 percent**.

Changes in Regulations on Payment Term

After 1 July 2013, if not expressly determined in the contract, the payment term will be considered to be 30 days of receipt of the invoice of the debtor. Parties may agree on a payment term longer than 30 days but, generally, this period cannot exceed 60 days. Contractual provisions stipulating a payment term longer than 60 days may be considered unfair and can be challenged by the debtor unless proved to the contrary. Additionally, as a new regulation, it is difficult to determine under what criteria or set of criteria a payment term exceeding 60 days could qualify as being fair and enforceable.

However, it must be emphasized that the regulation does not make the payment terms exceeding 60 days automatically void but, until established by court practice, all contracts providing payment terms exceeding 60 days bear the risk of challenge by the debtor.

Therefore, for example, it is hard to predict whether an economic organization selling products to customers on 90-day payment terms would satisfy the fairness criteria or not.

The new regulations are applicable to all economic organizations regardless of their financial status or power.

In addition to the above, the amendment further provides that an "organization defined in a separate rule of law" might also challenge any payment terms exceeding 60 days that are set in general terms and conditions. In this instance, the court may declare the terms invalid and apply the ruling to all debtors contracted under the payment terms.

However, until the relating rule of law is issued, a thorough assessment of the legal implications of the amendment is difficult to make.

Contacts

Ákos Erős

Partner
T +36 1 428 7111
E akos.eros@squiresanders.com

Zsolt Fábán

Partner
T +36 1 428 7145
E zsolt.fabian@squiresanders.com

Ákos Mester

Partner
T +36 1 428 7168
E akos.mester@squiresanders.com

Judit Kelemen

Partner
+36 1 428 7156
E judit.kelemen@squiresanders.com

squiresanders.com/real-estate/

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

© Squire Sanders.