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## **Act CXLII of 1997**

### **on regulating the legal status of real estates owned by the State and used by civil society organizations**

#### ***Scope of this Act***

##### ***Section 1***

The dispositions of this Act shall apply to such real estates owned by the State, in respect whereof the management rights are exercised by "Kincstári Vagyoni Igazgatóság" (Directorate for the Management of Treasury Property, hereinafter referred to as "KVI") pursuant to Paragraph (2), Section 1 of Act LXX of 1990 (hereinafter referred to as "The Act"), except for the real estates used by the political parties pursuant to Section 2 of The Act.

#### ***Acquisition of Ownership by Civil Society Organizations***

##### ***Section 2***

(1) The real estates serving as accomodation for the civil society organizations and any portion of such real estates (hereinafter collectively referred to as "real estate"), in the measure necessary for the operation, shall be passed into the proprietorship of the civil society organization that has previously acquired beneficiary right of utilization in respect of the aforementioned real property pursuant to Section 2 of The Act.

(2) The dispositions of this Act concerning civil society organizations that have acquired beneficiary right of utilization in respect of the real estate, shall also apply to the associations and foundations that serve educational, cultural and social goals, and which associations and foundations actually use the real estate in their quality of third party as defined in Section 4 of The Act.

(3) The real estate is of the necessary measure for the operation if the beneficiary user thereof has used, from the effective date of The Act, such real property in the exercise of its activity, in a continuous, actual and direct manner and to the extent it is required by its activity.

(4) The accomodation of the organization shall consist of the office and the connected sanitary, social and other service rooms.

(5) In the event that the civil society organization has obtained the management rights or, previously, the ownership of the real estate by using its own resources (without involving any support from the central or local government funds) in paying the consideration therefor, then the real estate shall be passed into the ownership of the civil society

organization notwithstanding any restriction whatever set out in Paragraphs (1)-(4) herein. The civil society organization shall produce valid and authentic evidence in respect of the acquisition that occurred by the use of its own resources.

(6) The civil society organization which is eligible pursuant to Section 2 of The Act but is the owner of any such real estate which is used in good faith by any other civil society organization in accordance with the bylaws and in the measure necessary for the operation of the latter, shall be allowed to acquire the ownership of the real estate coming under the scope of Section 2 of The Act, provided that such organization acquired the ownership of the real estate, which is actually used by any other civil society organization, by utilizing its own resources or, in the event of any other modes of acquisition of ownership, such organization surrenders the ownership of the real estate which is actually used by any other civil society organization to the State before or on the deadline set out in Paragraph (1) Section 13 of this Act.

### ***Rules of Property Acquisition***

#### ***Section 3***

Together with the building to be delivered, it is allowed to transfer the ownership of a plot of land whose surface corresponds to the minimum surface of a plot of land that cannot be divided into further building plots in accordance with the local spatial development and building regulations. In the event that the surface of the plot of land so concerned is larger than the minimum, then the necessary adjustments to the plot shall be executed prior to the transfer of the property.

#### ***Section 4***

(1) It is allowed to transfer the ownership of a real estate to the organizations entitled thereto in the form of joint ownership, if they used the real estate together or the ownership may be transferred only in such form.

(2) In the event that the right of use refers only to a portion of the real estate, then the ownership claim shall refer to the quota calculated in accordance with the proportion that the market value of the portion in kind of the real estate so concerned bears to the market value of the entire real estate property, together with the right of beneficiary use of the portion of the real estate concerned by use (Section 165 of the Hungarian Civil Code).

#### ***Section 5***

(1) Any real estate whose ownership cannot be transferred pursuant to the dispositions of any other act, shall not be passed into the proprietorship of any civil society organization specified under Section 2 herein (hereinafter referred to as the "user").

(2) Unless such transfer is prohibited by law, any building under special protection because of its historic importance, and any plot of land situated in a nature reserve shall pass into the proprietorship of the user only with the approval of the Minister for Environmental Protection and Regional Development.

(3) The real estate specified under Paragraph (2) above shall not pass into the proprietorship of the user if the user fails to agree to the respective conditions set out by the Minister for Environmental Protection and Regional Development, and the portion of the building specified hereabove shall not pass into the proprietorship of the user if the transfer of ownership was previously prohibited by the competent authority in respect of the entire building, due to causes of historic building protection.

(4) The real estate shall pass into the ownership of the user, provided such user has no outstanding public liability whatsoever or the user pays such debts continuously in pre-determined installments, and such fact is supported by a certificate issued not earlier than sixty (60) days by the competent local department of Adó- és Pénzügyi Ellenőrzési Hivatal (The Tax and Financial Audit Office), Vám- és Pénzügyőrség Országos Parancsnoksága (The National Headquarters of the Customs and Excise Guard), Országos Egészségbiztosítási Pénztár (The National Health Insurance Fund) and Országos Nyugdíjpénztár (The National Pension Fund), and the user has no outstanding debt whatever due to KVI in relation with the use of the real estate.

#### *Section 6*

The real estate shall pass into the ownership of the entitled subjects free of charge. The transaction is exempt from the payment of any charges imposed on the acquisition of property and on the registration of the real property in the register of title deeds, and shall further be exempt from the payment of any general turnover tax.

#### *Section 7*

(1) Except for the provisions set out in Paragraph (2) hereunder, the real estate so acquired shall not be alienated and/or encumbered for the period of fifteen (15) years from the stipulation of the agreement. Such restraint of alienation and encumbrance shall be registered in the register of title deeds in favour of KVI.

(2) With KVI's consent the real property may be encumbered in connection with any loan granted for the purpose of restructuration and/or development of the real estate, may be alienated in order to buy or build another real estate with identical or similar destination, and may be exchanged for another real property. The dispositions set out herein, referring to real estates whose ownership was transferred pursuant to this Act, shall also apply to any new real estate so acquired.

(3) If the owner fails to obtain the title of ownership of the new real estate within one (1) year or, in respect of a newly constructed real property, fails to obtain the permit of use

within four (4) years, the owner shall pay the purchase price of the alienated real property, in the amount as set out in the agreement, into the central budget.

(4) In the event that the difference between the amount of the purchase price of the alienated real property as set out in the respective agreement and the amount of the purchase price of the acquired real property as set out in the respective agreement exceeds fifty per cent (50%) in respect of the alienated real property, then the difference shall be paid into the central budget.

(5) The owner shall comply with the payment obligation set out in Paragraph (3) herein within thirty (30) days from the expiry of the deadline set out therein, and shall comply with the payment obligation set out in Paragraph (4) herein within thirty (30) days from the signing of the agreement referring to the acquired real estate. In the event of any delay whatsoever the outstanding debt shall be collected in accordance with the dispositions concerning the collection of outstanding and payable taxes.

### *Section 8*

The agreement on the ownership transfer shall include the disposition that, during the term of the restraint of alienation and encumbrance, the owner shall use the real estate so transferred exclusively for the accomodation of the organization and/or for the exercise of the goal activities specified in the bylaws of the organization. In the event that the owner fails to comply with this obligation, pursuant to this Act the right of proprietorship shall revert to the State.

### *Section 9*

In the event that, during the term of the restraint of alienation and encumbrance, the civil society organization holding the title of ownership is terminated without legal successor or the legal successor fails to agree to the conditions of use set out in Section 8 herein, then the real property previously transferred in accordance with this Act shall revert to the State and the terminating civil society organization shall not have any right of disposal thereon.

### *Section 10*

(1) Any residue amount after the full payment of the creditors in any process of forced execution levied during the term of the restraint of alienation and encumbrance, shall be paid in the central budget and shall not be paid up to the debtor (the formal owner of the real property).

(2) The debtor shall reimburse to the central budget the amount of the debt paid up from the purchase price of the real estate alienated in the process of forced execution levied during the term of the restraint of alienation and encumbrance, in accordance with the

schedule set out in the respective agreement entered into with KVI. KVKI may authorize that such amount be paid up by installments. In the event that the debtor has obtained any financing from the central budget, the amount of the debt shall be set off against such financial support in accordance with the general setoff rules.

### ***Section 11***

In the event that the ownership of the real property was transferred to the civil society organization pursuant to Paragraphs (5)-(6) of Section 2 herein, then Sections 5, 7, 8, 9 and 10 shall not apply.

## ***Procedural Rules of the Transfer of Ownership***

### ***Section 12***

The agreement on the transfer of the ownership shall be entered between the user entitled to acquire such title of ownership and KVI. The real estates shall be transferred at their book value.

### ***Section 13***

(1) The users shall advise KVI in writing on their intention to acquire the ownership of the real estates within two (2) months from the effective date of this Act. Any delay whatsoever shall result in the forfeiture of any such right.

(2) Within four (4) months from the expiry of the deadline set out in Paragraph (1) hereabove, KVI shall deliver the agreement on the transfer of the ownership to the subject entitled thereto.

### ***Section 14***

In the event that the parties fail to sign the agreement on the transfer of the ownership within two (2) months from the receipt of the agreement by the party entitled to acquire such right of ownership, the right to acquire any such beneficiary right shall cease. Any delay whatsoever shall result in the forfeiture of any such right.

## ***Lease***

### ***Section 15***

(1) In the event that the conditions specified under Paragraph (3) of Section 2 herein subsist, the civil society organization user of the real property shall be entitled to the right of lease in respect of any such real estate used by it for operational purposes that the civil society organization cannot acquire in accordance with Section 2 herein. The same disposition shall apply to the real estate whose ownership is transferable to the civil society organization but fails to be claimed by the organization in accordance with Paragraph (1) of Section 13 herein.

(2) KVI shall invite the user to enter into a lease agreement by delivering a copy thereof to the user. In the event that the user fails to sign the agreement within two (2) months, then the right of the user to any such lease shall be forfeited.

(3) KVI shall establish the rent in accordance with the market conditions. In the event that the aim of the activity pursued in the leased real estate is other than profitmaking, then KVI may grant a market rent discount to the maximum of seventy per cent (70%). KVI shall review the subsistence of the conditions that entitle the user to such discount annually and, as a result thereof, may modify or withdraw any such discount.

### *Right of Use*

#### *Section 16*

(1) In the event that the real estate as specified in Section 2 herein cannot pass into the ownership of the civil society organization because such transfer is prohibited by any other act or any rulings of the authorities, then the subsistent right of use of the civil society organization shall be renewed in accordance with the dispositions of this Act. The right of use so renewed shall be registered in the register of title deeds.

(2) In respect of the renewal of the right of use, Sections 3-6, Section 8 and Section 9 shall accordingly apply. In the application of Section 8 and Section 9 the period of time set out therein shall be fifteen (15) years from the signing of the agreement on the renewal of such right of use, and the legal consequence therein specified shall be the forfeiture of such right of use.

(3) In respect of the stipulation of the agreement on the renewal of the right of use, the dispositions set out in Paragraph (2) of Section 15 shall apply accordingly.

(4) The costs and expenses relating to the running, operation, maintenance and restructuring of the real estate shall be borne by the user. In any other respects the dispositions of Ptk. (the Hungarian Civil Code) on beneficiary use shall apply accordingly.

### *Termination of the Right of Use*

### ***Section 17***

(1) The right of use acquired free of charge pursuant to The Act shall terminate if the user acquires any other title in respect of the use of the real estate (including the renewal pursuant to Section 16 herein) or the deadlines specified herein [Paragraph (1) of Section 13, Section 14, Paragraph (2) of Section 15, Paragraph (3) of Section 16.] expire. In the event that the user acquires any new title only in respect of a portion of the real estate, then the right of use in respect of the other portions of the building shall cease contemporaneously with the acquisition of the aforementioned new title.

(2) If the title to beneficiary use of the user terminates, then KVI shall promptly take the necessary measures in order to cause the real estate to be vacated, unless the user acquired any other title allowing the use of the real estate.

### ***Ownership Acquisition by Tender of Civil Society Organizations and Foundations***

#### ***Section 18***

(1) Within one (1) year from the effective date of this Act KVI shall publish, in accordance with the dispositions set out in Section 23, the list of the real estates serving the purpose of accomodation (office) that failed to pass into the proprietorship of the civil society organizations pursuant to Section 2 herein and/or in respect whereof the beneficiary right of use of any such organization shall cease, except for any such real estate that shall be used to comply with the obligation of obligatory accomodation of KVI set out by any law or administrative ruling prior to the effective date of this Act, and unless any real estate is subject to the beneficiary right of use pursuant to Section 16 herein.

(2) The civil society organizations and foundations (for the purposes of this Section hereinafter collectively referred to as "the civil society organizations") may submit a tender within two (2) months, in the format set out by KVI, in order to acquire beneficiary ownership of the real estate used by them. Such tenders shall be submitted to KVI.

(3) The tenders shall be evaluated by a committee consisting of the representatives of the political parties with parliamentary panels, and the representatives of civil society organizations. The secretarial duties shall be fulfilled by KVI.

*a)* The committee consists of the chairman and the members appointed for the period of one (1) year by the Prime Minister, from among the candidates of the political parties with parliamentary panels and the delegated candidates of civil society organizations.

*b)* The committee shall be formed within 120 days from the effective date of this Act.



c) The political parties with parliamentary panels may candidate one member each and the civil society organizations may candidate a number of members whose total number exceeds by one the total number of the candidates of the political parties.

d) The candidates of the civil society organizations shall be delegated by the incorporated civil society organizations. In the event that the civil society organizations fail to reach an agreement upon the delegation of the candidates, then the candidates shall be selected by public ballot.

e) The call for registration shall be published in Magyar Közlöny (the Hungarian Official Gazette) with thirty (30) days notice, within fifteen (15) days from the effective date of this Act.

f) Only the incorporated civil society organizations shall apply for registration.

g) Prior to the expiry date of the committee's appointment, the civil society organizations shall be registered again.

h) The committee shall be deemed established upon nomination of all the members.

i) The committee shall have a quorum if at least one half of the members are present.

j) The committee shall bring forth its resolutions by a simple majority of votes.

(4) KVI shall enter into an agreement with the civil society organization appointed for the acquisition of beneficiary ownership by the committee, within three (3) months from the resolution of the committee.

(5) To the acquisition of beneficiary ownership pursuant to Paragraph (4) herein, the dispositions set out in Sections 3-10 shall apply accordingly.

### *Miscellaneous Dispositions*

#### *Section 19*

In the event that the user has failed to acquire beneficiary ownership or any right of use renewed in accordance with the dispositions of Section 16 herein, in respect of any real estate or any portion of any real estate, and it has also failed to acquire ownership by title of superstructure, then the user shall be entitled to claim that the value of the improvements effectuated by such user in accordance with the laws be reimbursed to it to the maximum value of the material gains (Section 361 of the Hungarian Civil Code), provided that the user effectuated any such improvement by using its own financial resources (without involving any support from the central or local government funds)

### ***Section 20***

Any portions of the real estates coming under the scope of this Act which are used by the organs of KVI and/or its legal predecessor in the implementation of their duties, shall remain in the ownership of the Hungarian State and such real estate portions shall pass into the property management of KVI and thereafter shall continue to serve as accomodation for the various organs thereof.

### ***Section 21***

KVI shall provide for the further utilization of the real estates coming under the scope of this Act but not utilized by transfer of ownership, by lease, by beneficiary use or pursuant to the dispositions of Section 20. During such utilization the right of pre-lease shall be granted to any such civil society organization that used such real property on the effective date of this Act, free of charge and in compliance with the laws.

### ***Section 22***

In respect of any further issues concerning the real estates coming under the scope of this Act, the dispositions of the Hungarian Civil Code and the dispositions set out in Act LXXVIII of 1993 on Certain Rules of Privatization and Lease of Residential Property shall apply accordingly.

### ***Section 23***

Within five (5) workdays from the effective date of this Act KVI shall publish in two national newspapers, twice in each newspaper, the required contents of the petition to be submitted pursuant to Section 13 of The Act by the beneficiary user, and the address to which such petition shall be sent.

### ***Effective Date***

### ***Section 24***

This Act shall come into force on the fifteenth (15th) day following its promulgation.

### ***Acts Subject to Modification***

### ***Section 25***

(1) Paragraph (2) of Section 1 of The Act shall become Paragraph (3) and the following new provisions shall be included therein as Paragraph (2):

"(2) The ownership of the real estates owned by the State and managed by Szakszervezetek Országos Tanácsa (The National Trade Union Council) and/or the respective trade unions of the various trades and professions prior to the 2nd day of March 1990, except for the real estates passed over to Nemzeti Üdülési Alapítvány (The National Recreation Foundation), shall be transferred to their lawful users determined in accordance with this act and other legal rules and regulations. The dispositions governing the division of trade union property shall be deemed governing also in respect of any such real estate. The authority that exercises the management rights shall provide for the transfer of the ownership right. Any such transfer shall be exempt from any taxes and duties."

(2) Paragraph (2) of Section 6 of The Act shall be replaced by the following disposition:

"(2) The real estates passed into the management of KVI pursuant to Paragraph (2) of Section 1 shall not be alienated and/or encumbered. Any act may dispose otherwise."