

INTERNATIONAL BEST PRACTICES SURVEY

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HUNGARY

Responses submitted by:

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1. Would your jurisdiction be described as a common law or civil code jurisdiction?

Hungary is a civil code jurisdiction. Hungarian law is, for historical reasons, strongly influenced by the German-Austrian legal tradition.

2. What method of adjudication is used (adversarial, inquisitorial, other or hybrid)?

The method of adjudication is rather inquisitorial; however, there are adversarial traits in certain civil law related proceedings.

3. What are the qualifications of the adjudicator (judge – elected, appointed; jury; other)?

The adjudicator is a professional judge with appropriate training in the law. Judges are appointed by the President of Hungary, for life. Anyone, with a Hungarian legal degree, a bar exam and a clear criminal track record may be eligible for being appointed as a judge. There is no jury in today's Hungary, however, laymen may have a limited role in labor disputes as well as in criminal proceedings involving a minor suspect. Formally, the same rights are conferred and the same obligations are imposed on lay judges as on professional judges, nonetheless, their practical role is not considerable.

4. Are there any procedures available for specialized courts (i.e. commercial court, employment, environmental)?

Under Hungarian jurisdiction, only the administrative and labour courts function as specialized courts which have jurisdiction over proceedings initiated for the review of administrative decisions as well as over disputes originating from labour issues, respectively. There are also distinct "commercial divisions" at county court and appellate levels, which exclusively hear disputes between companies and corporations. Several non-contentious proceedings, such as liquidation proceedings or corporate registry proceedings, are handled by specialized departments of the law courts having general jurisdiction, however, these departments are not standalone units.

5. Is arbitration an option and when? If so, what rules are typically used?

According to the relevant provisions of Act LXXI of 1994 on Arbitration ("**Hungarian Arbitration Act**") (that is based on the UNCITRAL Model Law (1985)) disputes may be settled by way of arbitration if the following three conditions are fulfilled: (i) at least one of the parties is professionally engaged in business activities and the legal dispute arises out of or in connection with this activity; (ii) the parties can freely dispose over the subject matter of the proceedings; and (iii) arbitration was stipulated in an arbitration agreement concluded between the parties (*compromissum*). There are a few

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exceptions, including family-related (status) lawsuits, simplified small claims (payment order) proceedings, judicial review of administrative decisions, libel, rectification claims, claims based on the damage of personal rights, and labour disputes, that may not be settled by arbitration, irrespective of whether the ad hoc or permanent arbitration tribunal is seated inside or outside of Hungary.

Arbitral tribunals are either *ad hoc* or operate under the auspices of a permanent arbitral institution. Permanent courts of arbitration use their own procedural rules (the most frequently used local permanent court of arbitration is the Arbitration Court attached to the Hungarian Chamber of Commerce and Industry, the procedural rules of which are based on the UNCITRAL Arbitration Rules), whilst the procedural rules of the *ad hoc* courts are subject to the parties' agreement. In Hungary, there are permanent courts of arbitration existing for specialized subject matters, e.g. for capital market-related cases, for agricultural business, etc. In international matters it is not uncommon to agree on the jurisdiction of foreign arbitration institutes, such as the ICC (Paris), the LCIA (London), the SCC (Stockholm) or the VIAC (Vienna).

6. Will the Courts enforce an arbitration agreement to preclude other forms of litigation?

The *pacta sunt servanda* principle shall apply also in case of arbitration agreements (*compromissum*), which is coupled with a strong *pro-arbitration* approach of the state courts.

7. For Court proceedings, is mediation mandatory, either before or after filing of a claim or complaint?

There is no mandatory mediation in any type of proceedings in Hungary. The law only provides for a short conciliation by the judge in family law and labour disputes, which if fails, the court would continue the proceedings.

In commercial disputes, i.e. those where all parties are companies, the law require the parties to attempt to resolve their dispute prior to filing a statement of claim with the court (Section 121/A of the Hungarian Civil Procedure Code). However, this obligation of the parties cannot be deemed as real mediation proceedings as there is no third party, no professional facilitator involved. Mandatory mediation only exists in cases concerning parental supervision, however, not by virtue of law, but only if the court deems it fit.

8. What is the process for pre-hearing fact discovery (if any)?

Hungarian law generally does not acknowledge, provide for or require parties to engage in any discovery or disclosure, in the meaning that information or evidence be provided to the opposing party or filed with the court. Hungarian law still provides for the possibility of pre-hearing evidence taking. The aim of this preliminary procedure is to ensure that the parties may duly collect evidence also prior to the litigation phase thereby mitigating the risk that the evidence vanishes before evidence-taking could be successfully done at a later stage in the proceedings. Since parties are not before court at this point of the dispute, appointment of expert witness shall be done by a notary public to ensure impartiality. It must be pointed out though that pre-hearing evidence taking is an extraordinary device and its sole purpose is to mitigate the risk that the evidence-taking cannot be made successfully later, while already before court. This pre-hearing fact discovery is not identical with the one under the common law.

The most significant and often used type of the pre-hearing evidence taking is to appoint an expert witness that may

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observe and analyze a piece of evidence that may no longer exist, or not in the same condition, once time progresses and the parties reach the trial phase

(a) *Are there provisions for mandatory document disclosures?*

No.

(b) *Is there provision for oral examinations of the parties or others?*

The Code of Civil Procedure, as a subsidiary regulation shall apply also to pre-hearing evidence taking.

(c) *Are there limits on the length of oral examinations?*

No.

(d) *Are witness statements or summaries to be provided before the hearing?*

No, not forbidden but it is generally not a practice.

9. What is the process for pre-hearing expert disclosure (if any)?

Hungarian law generally does not acknowledge, provide for or require parties to engage in any discovery or disclosure, in the meaning that information or evidence be provided to the opposing party or filed with the court.

(a) *Are expert reports or written summaries required to be exchanged?*

Procedural obligations for exchanging expert reports or written summaries are unknown under Hungarian law.

(b) *Are the parties entitled to conduct a pre-hearing oral examination of opposing experts?*

No, not applicable.

(c) *Are there provisions requiring experts to meet and narrow issues before the hearing?*

No such rule exists, experts do not have such obligation under Hungarian law. Nonetheless, if several experts are active in the same case, e.g. party-appointed and court experts, it is possible for the experts to raise questions towards each other, and such questions are to be answered.

10. Are there other notable discovery rules?

No. Hungarian law generally does not acknowledge, provide for or require parties to engage in any discovery or

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disclosure, in the meaning that information or evidence be provided to the opposing party or filed with the court.

11. Is there a prehearing conference (for trial management, settlement or other purposes)? Who conducts it? How long before the hearing?

Although not prior to the trial phase but on the first hearing potential settlement and trial management are often discussed or even mandatory. Such conciliation by the judge is mandatory in family law and labour disputes but is widely attempted also in civil and commercial cases.

12. Can a prehearing motion for judgment be brought? If so, what is the threshold test for judgment?

Hungarian law does not have such legal institution.

13. Is there a process for obtaining pre-hearing rulings with respect to evidence admissibility including admissibility of expert testimony? What is the process and when does it occur?

There are no specific pre-hearing rules for the process of evidence admissibility.

14. What is the standard for admissibility of expert evidence?

The expert's opinion is admissible if the expert has the appropriate knowledge of the issue and is not disqualified for any reason whatsoever (for instance the expert is a party itself or the party's representative or shall be deemed biased for any other reasons). The judge is entitled to assess and construe the expert evidence freely, so the judge is not bound by the statements of the expert opinion.

15. Does the Court have the power to appoint its own experts? Under what circumstances and what type?

The most common procedure of involving an expert witness is the appointment of a judicial expert by the judge, upon the request of the party who carries the burden of proof. Judicial or court expert witnesses are various professionals on a wide range of areas of expertise who are highly trained on their respective fields, have abundant practical experiences and agree to be involved in the judicial work. These experts are all enrolled in a list held by the Ministry of Justice which list serves as a basis of the judge's expert selection. In fields where only a few court experts are available, in order to avoid any potential bias, judges may allow parties to select themselves the preferred expert, or they may discuss with the parties their preferences. Parties filing expert motions shall be also ready to advance the costs of the expert that need to be paid to the court in advance. Thus, it is very rare that a court appoints an expert without the specific request of one of the parties, since there would be no one advancing the costs.

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16. Does your jurisdiction protect privilege? If so, what privileges are protected from disclosure (attorney client / legal advice; documents prepared in anticipation of litigation; settlement discussions; other)?

Yes, Hungarian jurisdiction protects privilege. According to the Act XI of 1998 on Attorneys at Law an attorney is bound by confidentiality with regard to every fact and data about which he gains knowledge in the course of carrying out his/her professional duties as well as all of the documents prepared by an attorney and all other documents in his possession that contain any fact or data subject to confidentiality. This obligation is independent of the existence of the mandate and continues to apply even after the attorney-at-law ceases to function as an attorney in the given matter. A client, its legal successor or its legal representative may release an attorney from the obligation to maintain confidentiality. However, even if the client released the attorney, no attorney may be questioned as a witness about any fact or information about which he gained knowledge as a defense counsel. The attorneys' confidentiality also protects documents or other objects from being accessed or seized, unless specifically permitted.

Documents prepared in anticipation of litigation or settlement discussions are not protected beyond the general client-attorney privilege. That means that as long as these documents are available at the law firm, they cannot be accessed or seized, unlike any documents that are with the client.

17. If privilege is not protected, are there other protections from disclosure (i.e. privacy) that could prevent disclosure of otherwise privileged information, and what is the basis for those protections?

Privilege is protected, as seen above in the answer to Question 16, by the respective laws on attorneys. Privacy is of course another barrier for disclosure.

18. Who determines privilege disputes, or disputes with respect to other forms of protection described in 17 above?

There is no special court or authority for deciding on privilege disputes. If it is disputed within a procedure whether or not a given piece of information is subject to privilege, the court hearing the case decides on that dispute in a procedural order. Note that, whatever decision is made, it may not be appealed separately, since procedural orders handed down in the course of the proceedings (i.e. prior to the judgment) may be appealed only in an appeal brief filed against the final judgment.

19. Briefly describe the trial process?

After opening the proceedings the presiding judge establishes whether the parties have been duly summoned, are present or represented by their counsels. If either of the parties or its counsel does not appear, it must be determined whether the writ of summons had been served as required. Lawyers are obliged to file a duly signed written power of attorney from their clients.

At the beginning of the first hearing the claimant or the presiding judge shall read out or explain the statement of claim and ask the claimant whether or not it maintains its statement of claim unaltered or indicates any changes or revisions.

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Afterwards the defendant presents its statement of defense aiming either at having the proceedings terminated (on a formal ground) or at dismissing the claim on the merits. Importantly, if the defendant has any procedural objections, he/she must invoke them first, before pleading its statement of defense on the merits. In the statement of defense the defendant must present the facts underpinning its defense as well as the supporting evidence. If the defendant has also a counterclaim, that needs to be in.

If the motion for having the proceedings terminated is denied, the court proceeds to hear the arguments of the parties on the merits of the case, and if the facts can be determined during the first hearing, the court is supposed to render a decision without delay. If the court cannot adopt the decision at the first hearing it shall set the day of the subsequent hearing immediately. In practice, one may expect 5-10 hearings with a gap of 2-4 months in between each two hearing sessions.

(a) Are there opening submissions, in what form and of what length?

The plaintiff's statement of claim and the defendant's statement of defense may be considered as opening submissions. They must be submitted in writing or be pleaded orally and put on record. The length of the statements are not prescribed by law. Later, on each hearing, parties or party representatives may make short oral pleadings highlighting the key points of their views or are obliged by the judge to respond to the judge's questions, if any.

(b) What is the order of presentation of witnesses?

There is no specific order set up for the presentation of witnesses. In accordance with the general rules of evidencing, the party who is obliged to evidence its statements (ordinarily the plaintiff) must present its evidence first.

(c) Who conducts examination and in what order?

The parties may present motions for hearing witnesses and experts to support their statements. The court decides if it finds relevant to hear a witness, or if it deems necessary to appoint an expert. In principle, the court conducts the examination. During the presentation of the witnesses the presiding judge may authorize the parties, upon request, to address questions directly to the witness. In cases where the litigated amount exceeds HUF 400 million (approx. \$ 1,63 million) the party who motioned for hearing the witness can start the examination after the judge finished with his/her own questions, and then the opposite party may question the witness.

(d) What is the process for closing submissions?

Before closing the hearing the presiding judge shall request the parties to make any closing statements they may have. There are no specific rules as to the presentation of the closing submissions.

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20. Please identify any other notable trial procedures.

On-site trial is worth mentioning, for which the same rules are applicable as for general trials, however, such trial is held outside of the courtroom, typically where the subject matter of the case may be best observed.

21. Who bears the burden of proof of liability? Causation? Damages? What is the standard of proof for each?

Generally the facts and evidence shall be pleaded by the party bearing an interest in persuading the court to recognize them as true. As a general rule, the court is not allowed to order evidence-taking *ex officio*, although the court bears the obligation to teach parties who act per se. Regarding causation and damages see the answer for question 22. In Hungary there is no set standard of proof (e.g. the one of “beyond reasonable doubt”) at all, but the judge is free to assess and attribute the proper weight to each piece of evidence.

22. What heads of damage are recoverable (compensatory, pre-judgment interest, punitive damages, other)?

Under Hungarian law, the concept of liability for damages is basically of compensatory nature. The legal notion of damages is deemed as an umbrella term, which includes and refers to three prongs: (i) *damnum emergens*, i.e. the damages actually incurred, (ii) *lucrum cessans*, i.e. loss of any pecuniary advantage (most typically loss of income or profit) and (iii) the costs of the mitigation or elimination of the losses sustained by the aggrieved party (including but not limited to lawyers’ fees, enforcement costs). When coming to issues regarding the amount of damages that shall be compensated by the liable party, the principle of full compensation prevails as a general rule, meaning that the liable party shall compensate all the damages suffered by the aggrieved party as a result of the harmful conduct. Hungarian civil law sets forth certain restrictions though to this principle and applies slightly different rules in terms of contractual and non-contractual (tortious) liability. In case of contractual liability, where the damage is the result of a contractual breach, full compensation is only applicable to the damages incurred; otherwise the liability is restricted to the damages foreseeable at the time of the conclusion of the contract. Foreseeability is not to be taken into consideration if the damage (breach) was caused intentionally.

The aggrieved party is obliged to prevent and mitigate the damages. In the event of any actionable breach of those obligations, the liable party is not obliged to provide compensation in proportion to the aggrieved party’s attributable conduct.

Punitive damages do not exist under Hungarian law, however, the Civil Code has recently introduced the notion of “compensation for grievance” (in Hungarian: *sérelemdíj*) for the compensation of violations of personal rights. In this case, the aggrieved party needs not evidence the exact amount of the damage and the court establishes the amount of the “compensation for grievance” upon considering the specific circumstances of the case.

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23. If punitive damages are available, what is the threshold for recovery, and range of awards?

Punitive damages are not available under Hungarian law. Foreign judgments or arbitral awards awarding punitive damages do not receive recognition and enforcement in Hungary as ones against public order.

24. Are there time limits for bringing claims? Responding to claims? Please describe.

As to procedural aspects: As a general rule, both the claim and the counterclaim may be amended until the court closes the hearings at the first instance, provided that the counterclaim arises from or relates to the same cause of action as the original claim.

Special rules and strict deadlines apply to cases where legal representation is mandatory, i.e. no *per se* action is allowed: these are cases where the litigated amount exceeds HUF 30 million (approx. \$ 122,000). In such cases the claimant may amend its claim only within 30 days upon the presentation of the defendant's statement of defense, and the defendant is also requested to file its counterclaim within thirty days after the first hearing. Interestingly, however, the current procedural regime lifts these deadlines in cases where the litigated amount is over HUF 200 million (approx. \$815,000) basically rendering the tight 30-day time limits applicable only to cases between HUF 30 to 200 million (\$122,000 to \$815,000).

As to substantive aspects: Unless otherwise provided, claims lapse after five years, which is the general statute of limitation. For certain civil, labour or tort law relations there are specific statutes of limitations that restrict the time to bring a claim to 3 years. The period starts to run when the obligation becomes due. In accordance with the Civil Code, this period of time is extended with one additional year from the date when the obstacle has ceased to exist in case the obligee was not in a position (for an excusable reason) to enforce his claim. Furthermore, certain acts interrupt the limitation period and the period recommences (e.g. the acknowledgement of the obligation, the amendment of the obligation by mutual agreement, enforcing the claim before the court).

Lapse of time must be referred to by the defendant, it cannot be considered by the court *ex officio*.

25. What are the requirements to establish jurisdiction over a foreign defendant in your court? Can a foreign defendant request that the court decline jurisdiction on the basis that there is a more convenient forum?

The legislation of the European Union (including the new Brussels I and Brussels II Regulations) and the Hungarian Law-Decree No. 13 of 1979 on International Private Law regulate the international jurisdiction, i.e. the courts of which country shall proceed. Jurisdictional issues within Hungary are regulated by various principles of the Civil Procedure Code (Act III of 1952). The law offers various grounds to establish jurisdiction so it is typically up to the claimant where it files its statement of claim. If any of the invoked jurisdictional ground is established for the court of filing, the court will hear the case. If none, the court will forward the statement of claim to the court that bears general jurisdiction (i.e. seat/residence of defendant). If there is a positive or negative collision between several courts (i.e. more or none decide to hear the case) the court to proceed is appointed by the court that is one level above in the hierarchy of the courts than the courts

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concerned in the jurisdiction dispute, or (if there is no such court) by the Supreme Court.

The court examines its jurisdiction *ex officio*. Pursuant to Section 130(1) a) of the Code of Civil Procedure, if the jurisdiction of the Hungarian courts is explicitly excluded by law or by international convention (e.g. property rights related to real estate situated abroad), the court dismisses the statement of claim without issuing a writ or later during the proceedings, terminates the proceedings *ex officio*. However, if the jurisdiction of the Hungarian courts is not explicitly excluded, but there is no legal ground for jurisdiction either, the defendant *may* request the court to terminate the proceedings. If the defendant has not retained a legal counsel, the court informs the defendant on the possibility of such a request. However, such motion can only be substantiated by the lack of a legal provision resulting in the jurisdiction of the Hungarian courts, the defendant cannot request that the court decline jurisdiction on the basis of “more convenient forum” argument.

26. Are there procedures for a defendant to bring other potentially responsible parties into the proceeding? Briefly describe.

Within 30 days after the receipt of the statement of claim, the defendant may give notice to third party if in case of losing the lawsuit, the defendant intends to enforce claims against such third party. Joining to the lawsuit by the third party as a result of such notice is voluntary and the third party has 30 days to make a statement if it accepts the notice. Should the third party accept the notice it will join the lawsuit as an intervening party on the side of the defendant.

27. Are legal costs recoverable by either party? If so, under what circumstances, and how is the amount calculated? (i.e. is it a loser pays costs system).

According to Section 78(1) of Code of Civil Procedure, in principle all legal costs incurred by the successful party should be recovered by the losing party. As a default setting judges determine the court costs and the legal fees to be paid to the successful party’s legal representative upon the Decree of the Minister of Justice No. 32 of 2003 (VIII.22.) that sets attorney fees typically in 1% to 5% of the litigated amount. If there has been an agreement between the client and the lawyer that sets out costs, and the party also files this document, the costs are generally calculated on that basis; however, the court may reduce the amount to be recovered from the losing party if it is not proportionate to the volume of the claim or to the attorney’s performed work. In case the court overrides the agreed costs, the complexity, the volume, etc. of the case should always be taken into account.

In case of partial success, the court decides on the amount of legal costs taking into account the proportion in which the claim was successful. If the difference is not considerable (i.e. close to 50-50%) the court decides that each party bears its own costs.

28. Are contingency fees allowed?

Yes, according to Section 9(2) of Act XI of 1998 on Attorneys at Law “*the attorney’s fee shall be freely decided*” and there are no rules forbidding the use of contingency fees.

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29. Is third party funding of claims permitted? Under what circumstances?

Third party funding is not explicitly forbidden by Hungarian law; however, in practice, lawyers rarely recommend this.

30. Are class or multi-party actions allowed? Under what circumstances? For what types of claims?

In the Hungarian jurisdiction there is no such multi-party action which would be equivalent to the multi-party actions of the common law.

However, it is possible for two or more claimants to unite in/join a court action as well as two or more defendants may be jointly charged if the following conditions are fulfilled:

- a) the subject matter of the litigation is a common right or a common liability that can only be resolved in unity, or if the ruling would affect all defendants, even those who are not participating in the proceedings;
- b) the litigated claims originate from the same legal relationship;
- c) the litigated claims involve the same cause of action and legal basis, and the same court is recognized to have jurisdiction with respect to all defendants.

31. Can claims be commenced by a consumers association or other representative organization? Under what circumstances?

Claims can be commenced only by the interested parties with the exception of public interest proceedings. As regards contracts which involve a consumer and a business party, an action may be brought for the annulment of an unfair contract term that has been incorporated into a contract by:

- a) the public prosecutor;
- b) the minister, autonomous administrative agencies, government agencies, the director of the head office;
- c) the heads of the Budapest and county government agencies;
- d) economic and trade organizations or interest-representation bodies; and
- e) associations for the protection of consumers interests within the scope of consumer interests they protect, and organizations set up for the protection of consumers interests under the laws of any Member State of the European Economic Area.

32. On average, how long does it take to get to trial/final hearing, and what factors can affect that?

In principle the first hearing shall be scheduled within four months upon the time when the statement of claim has been delivered to the court having jurisdiction. Such period may be different in case of special procedures where the court should schedule its first hearing in a shorter period. The closure of the procedure cannot be estimated as it depends on

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several factors (e.g. complexity of the case, number of parties, etc.); however the general rule that all cases should be finished within a reasonable period of time applies in each case. There is no period laid down in the legislation within which the final hearing shall be held. Most cases reach first instance decision within 1-3 years. Appeals and review proceeding usually take 0.5-2 years each.

In case of priority cases (where the litigated amount exceeds HUF 400 million (approx. \$ 1,63 million)), the first hearing shall be held within 30 days from filing the statement of claim, while all consecutive hearings shall be scheduled in every 2 months. In theory, the aim of this provision is to facilitate the timely manner of adjudication.

33. Is an appeal process available (distinguish between final and interlocutory/procedural orders as needed)? Who hears the appeal? How are they appointed? What are their qualifications?

Yes, appeal process is available in civil cases. In general, appeal may be filed against all final and partial/interlocutory judgments, while in case of procedural rulings, separate appeal may only be filed if it is permitted by the law (e.g. a procedural order imposing a procedural fine), otherwise, procedural orders may only be disputed in the appeal against the final judgment.

The second instance court manages the appeal, which is in principal the court having competency over the first instance court (county court in case of proceedings initiated before local courts and the competent Court of Appeal in case of proceedings initiated before county courts in the first instance). The court acting in the second instance shall consist of three professional judges appointed by the president of Hungary (see answer to Question 3). There is no jury in the appeal process either.

34. Are hearing rooms available for electronic trials or appeals (i.e. where documents and transcripts are presented on computer monitors; witnesses can testify by video conference)?

Although there are hearing rooms equipped with the needed equipment, they cannot be used for electronic trials. The witnesses shall testify in person and the documents shall be presented before the court as well.

35. What is the practice regarding the use of graphics, computer animation, power point and the like, in trials? In appeals?

It is unusual in Hungary to use graphics, computer animation and other similar electronic methods in trials, however, they are implicitly permitted. If a party would like to use them during the evidence taking he shall present such request for the court. If the court accepts such request, the party shall ensure the necessary conditions to present the evidence.

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36. Will the lawyer at trial be the same as the one responsible for pre-trial procedures? Is there a solicitor / barrister distinction?

There is no solicitor/barrister distinction in Hungary. There is only one exception: if the lawyer is a junior lawyer not having yet passed his bar exam, it cannot represent the client in cases where legal representation is mandatory, furthermore, before any Court of Appeal or before the Supreme Court in any case.

The in-house legal counsel (employee) of a legal entity does not qualify as an attorney and has limited representation rights restricted only to his/her employer.

37. What are the contributory negligence laws in your jurisdiction? Is there a comparative fault assessment, joint and several or proportionate liability among tortfeasors? Does a plaintiff's negligence reduce or eliminate liability of defendants named in the litigation?

Hungarian tort law has a fault-based liability system. The tortfeasor having liability for damage caused unlawfully may only exonerate himself if he/she proves that his/her conduct was not attributable to him/her. The standard of liability is whether he/she acted in the manner that can generally be expected in the given situation. As to causation, no causal link exists in respect of any damage that the tortfeasor could not and should not have foreseen.

If the damage is caused jointly by two or more persons, their liability is joint and several towards the aggrieved person.

The plaintiff is subject to the obligation of prevention and mitigation of damages, therefore his negligence might reduce or eliminate the defendants' liability if, by prevention or mitigation of damage, the damage might have been reduced or eliminated.

Liability for damages are to be borne by the tortfeasor and the aggrieved party consistent with the degree of their attributability, or – if this cannot be determined – in proportion to their respective involvement. If the degree of involvement cannot be verified, the tortfeasors and the aggrieved party share the damages equally.

When dividing the liability for damages between the tortfeasor and the aggrieved party, any omission by the persons whose conduct the aggrieved party is responsible for, should be considered to the detriment of the aggrieved party.

38. Is service of a complaint issued outside your country permitted in your country by “informal” means, or must the Hague Convention be followed?

Within the European Union Regulation No. 1393/2007 of the European Parliament and of the Council provides the rules of the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. For all other cases the Hague Convention must be followed. Hungarian courts do not accept “informal” service or service by private couriers.

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39. Do your laws prohibit export of relevant documents from your jurisdiction for the purposes of litigation outside your jurisdiction? (Consider privacy rules)

There is no provision generally prohibiting exporting relevant documents from our jurisdiction for the purposes of litigation outside this jurisdiction provided that such export does not breach any privacy obligation. The only obstacle for such export is data protection rules to states that do not ensure like standards as in Hungary/in the EU.

40. Please point out any litigation Best Practices employed by Courts in your jurisdiction but not yet referenced in the survey.

There are no such best practices which have not been mentioned above.

41. Are there any significant areas in which you believe the playing field between plaintiff and defendant is not level that you think need to be addressed?

No, the so-called equality of arms is a basic principle of the civil procedure meaning that the parties have the same possibilities during the process.

42. Are there legislative efforts under way that address any of the litigation practices in your country?

Yes, the first draft principles of the new Code of Civil Procedure have just been published. The aim of the new legislation is to ensure the timely manner of adjudication. In addition, according to an interview given by the head of the National Judiciary Office the implementation of electronic ways of hearing witnesses or experts (closed circuit television, conference call) is planned.