Addendum

Chapter 3
Equality of treatment on the basis of nationality

3.3. Social and taxation advantages

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The Personal Income Taxation Act[1] provides the possibility of tax refund in case of life and retirement insurance fees if the contract was concluded with a Hungarian resident company. For this reason non all taxpayers are entitled to tax refund on the basis of contacts concluded with companies not established in Hungary but in other Member States of the European Union. According to case Bachmann (C-204/90) „legislation of a Member State which makes the deductibility of sickness and invalidity insurance contributions or pension and life assurance contributions conditional on those contributions being paid in that State is contrary to Articles 48 and 59 of the Treaty. However, that condition may be justified by the need to safeguard the cohesion of the applicable tax system." Hungarian law regulates the deductibility of life insurance contributions paid on the basis of contract entered into with companies established in Hungary but it excludes the deductibility of life insurance contributions paid to companies not established in Hungary. In this regard Hungarian tax law does not provide for tax advantages for every person falling within its jurisdiction thereby not placing them on equal footing. However, as the case Bachmann shows justification may be given if the cohesion of the applicable tax system explains this discrimination. A more detailed analysis would be necessary to establish whether the Hungarian tax law is balanced in this sense also taking into account case C-150/04 Commission v Denmark.

Chapter 7
Obstacles in Free Movement

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Due to the entitlement of local self-governments to regulate on local social, settlement, child care or other public services we *cannot exclude the existence of other obstacles to free movement in countryside deriving from the fact that EEA national has not a required length of local staying*. We have to obtain information on the base of a small survey or interviews because of the absence of the central collection of the local self-governmental decrees. In future we have to collect local information from research or from the ombudsman office.

Chapter 9
Statistics

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Due to the preparatory to the implementation of the Schengen acquis, a joint ministerial order was issued on how to manage enhanced, complex authority control on illegal employment[2]. It regulated the method of co-operation and exchange of information among the OIN, Customs

[1] modified Act CXVII of 1995, Art.42(1)
[2] 20/2004.(BK.15.) BM-PM-FMM együttes utasítás

Office, Labour Inspector Office, Border Guard and the Police including the control on legality of residence and employment of foreigners in working places. On the base of theses joint actions some statistics are provided in the Ministry of Employment Policy and Labour. Accordingly, the rate of illegal employment meant 6 percent of all controlled labourers in 2005 covering on 7 percent of all companies. Numerically in 2005 it meant 1550 illegal, not-authorised foreign workers. The results of controlling actions can be seen in the following table.

Table 16: Illegal employment by joint actions in 2006

Time and actions	Illegally employed persons and nationality	Major economic branches	Complied fines against employers
1st quarter: 859 controlling actions	94 from Romania, 70 from Ukraine and 12 others = 176	Building industry, catering, micro/ small-entrepreneurs	242 000 €
2nd quarter: 88 controlling actions	295 from Romania, 132 from Ukraine, 27 others = 456	Building industry, agriculture, catering and hotel industry, small-entrepreneurs	820 000 €
3rd quarter: 91 controlling actions	264 from Romania, 150 from Ukraine, 14 others = 429		420 000 €
4th quarter: 155 controlling actions	268 from Romania, 150 from Ukraine, 56 others = 474		440 000 €
	Total: 1535		