



# **IOTA** **CASE STUDY** **WORKSHOP**

on  
**Transfer Pricing Challenges  
in Advance Pricing Agreements**

3-5 December 2024  
Budapest, Hungary

# Welcome Message



**Alix Perrignon de Troyes**  
**Executive Secretary of IOTA**

Dear Colleagues,

On behalf of the Secretariat of the Intra-European Organisation of Tax Administrations, it is my honour to extend a warm and cordial welcome to all tax officials representing their tax administrations gathered here today. We are delighted to organise this significant IOTA event to provide a platform for exchanging experiences and best practices on important issues and current developments concerning practical aspects of tax administration.

Established in 1996, IOTA is a non-profit intergovernmental organisation comprising 44 member tax administrations across Europe and beyond. Our vision is to strengthen members' ability to collect tax revenues, ensure taxpayer compliance, and deliver highly professional taxpayer services. Through our strategic framework, we aim to achieve these objectives and foster collaboration among tax administrations.

Throughout our time together, may we engage in fruitful discussions, forge meaningful connections, and collectively strive towards greater efficiency, transparency, and fairness in taxation practices in our region. I encourage you to take full advantage of the wealth of knowledge and expertise present in this venue, and may this event serve as a catalyst for continued collaboration and progress in our shared mission.


Once again, welcome to this distinguished event. May our interactions be enriching, our discussions insightful, and our bonds continuing.



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# MEET THE TEAM



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Leader of the event

**Ivana Donchevska**  
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# AGENDA

Scan the QR code to  
visit the event page



# Monday, 2 December 2024

**18:00 – 18:45 Preparatory meeting with the speakers and chairpersons of discussion groups**

Plenary room – Blaha Lujza Ballroom 1 & 2 on the 1<sup>st</sup> floor

**19:00 – 21:00 Welcome reception at Oléo Pazzo in Courtyard by Marriott Budapest City Center**



# Tuesday, 3 December 2024

**09:00 – 09:15 Opening session – Welcome & Introduction to the Workshop**

The workshop will be opened by the IOTA Secretariat who will welcome participants, outline the agenda, and highlight the objectives and expected outcomes of the event

› Mr Alexandros Roukalis and Ms Ivana Donchevska

**09:15 – 09:45 Getting to Know You**

Brief introduction of delegates, their needs and expectations from this workshop (group discussion at the plenary)

☞ composition of groups on page 10

**09:45 – 10:15 Case Study 1  
SPAIN**

› Ms. Natalia Gascón and Mr. Carlos Rubio

**10:15 – 11:00 Commemorative Photo and Coffee Break**

**11:00 – 12:30 Case Study 1 (continued)**

› Discussions in the groups (all delegates)

☞ more information on page 14

**12:30 – 13:00 Case Study 1 (continued)**

› Reporting back from group discussions

› Presentation of the proposed solution

**13:00 – 14:30 Lunch Break**

14:30 – 15:00 **Case Study 2**

**LITHUANIA**

› Ms. Joana Lileikė and Ms. Vaide Riskute

15:00 – 16:30 **Case Study 2 (continued)**

› Discussions in the groups (all delegates)

☞ more information on page 17

16:30 - 17:00 *Coffee Break*

17:00 – 17:30 **Case Study 2 (continued)**

› Reporting back from group discussions

› Presentation of the proposed solution

17:30 **End of Day 1**

18:00 – 22:00 *Guided bus tour and social dinner*

☞ more information on page 34



## Wednesday, 4 December 2024

09:30 – 09:40 **Introduction**

Recap and introduction to Day 2 of the workshop by the IOTA Secretariat.

09:40 – 10:10 **Case Study 3**

**FINLAND**

› Mr. Sami Laaksonen

10:10 – 11:40 **Case Study 3 (continued)**

› Discussions in the groups (all delegates)

☞ more information on page 22

11:40 - 12:10 *Coffee Break*

12:10 – 12:40 **Case Study 3 (continued)**

› Reporting back from group discussions

› Presentation of the proposed solution

12:40 - 14:00 *Lunch Break*

**14:00 – 14:30 Case Study 4**  
**FRANCE**

› Mr. Imtiaz Mohammed and Ms. Edina Mahmutovic

**14:30 – 16:00 Case Study 4 (continued)**

› Discussions in the groups (all delegates)  
☞ more information on page 27

16:00 - 16:30 Coffee Break

**16:30 – 17:00 Case Study 4 (continued)**

› Reporting back from group discussions  
› Presentation of the proposed solution

**17:00 End of Day 2**



## Thursday, 5 December 2024

**09:00 – 09:10 Introduction**

Recap and introduction to Day 3 of the workshop by the IOTA Secretariat.

**09:10 – 09:40 Case Study 5**  
**GERMANY**

› Mr. Tobias Mönch

**09:40 – 11:10 Case Study 5 (continued)**

› Discussions in the groups (all delegates)  
☞ more information on page 29

11:10 - 11:40 Coffee Break

**11:40 – 12:10 Case Study 5 (continued)**

› Reporting back from group discussions  
› Presentation of the proposed solution

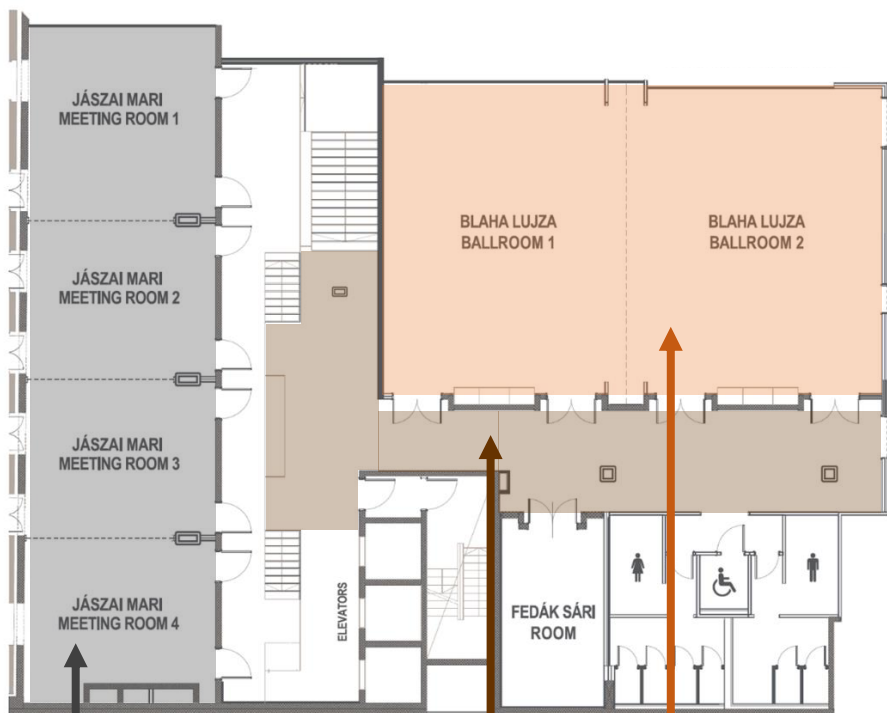
**12:10 – 12:40 Summary, Evaluation, Closing Remarks**

This plenary session will include concluding statements from the IOTA Secretariat on the issues examined and discussed at the workshop.

**12:40 End of the Workshop**



# FLOOR MAP



Group Discussions

Plenary Sessions

Coffee Breaks



# GROUP COMPOSITION

## Group 1 – RED

Lala Babayeva  
Azerbaijan  
Mariana Mladenova  
Bulgaria  
Danijela Šrepfler  
Croatia  
Jan Fiala  
Czech Republic  
Merje Roomet  
Estonia  
Edina Mahmutovic  
France  
Dávid Simon  
Hungary  
Vaide Riskute  
Lithuania  
Piotr Klimczyk  
Poland  
Jung Dageom  
Republic of Korea  
Mateja Bahar  
Slovenia

## Group 2 – YELLOW

Luftar Murrizi  
Albania  
Anar Huseynov  
Azerbaijan  
Ivan Neychev  
Bulgaria  
Andrea Povrova  
Czech Republic  
Brigitta Beres-Molnar  
Hungary  
Joana Lileikė  
Lithuania  
Marta Chybalska  
Poland  
Injae Lim  
Republic of Korea  
Suzana Jovanoska  
Republic of North Macedonia  
Mija Ivanič  
Slovenia  
Natalia Gascón  
Spain  
Jeanne Roy-Stämpfli  
Switzerland

## Group 3 – GREEN

Edmond Stefanidhi  
Albania  
Emil Harutyunyan  
Armenia  
Melanie Traindl  
Austria  
Joel Malan  
Denmark  
Sami Laaksonen  
Finland  
Nadia Murjikneli  
Georgia  
Reini Berzins  
Latvia  
Pavel Dima  
Republic of Moldova  
Zhaklina Nastevska  
Republic of North Macedonia  
Katarína Lafférová  
Slovakia  
Carlos Rubio  
Spain

## Group 4 – BLUE

Nairuhi Avetisyan  
Armenia  
Franz Kiss  
Austria  
Tatjana Petrić  
Croatia  
Fredrik Huitfeldt  
Denmark  
Imtiaz Mohammed  
France  
Mose Sakhamberidze  
Georgia  
Tobias Mönch  
Germany  
Seora Jang  
Republic of Korea  
Radu David  
Republic of Moldova  
Zdenko Vidlák  
Slovakia  
Jakob Lanz  
Switzerland



# BACKGROUND NOTE

# BACKGROUND

Tax certainty nowadays is a very important and essential element for MNEs. Providing and enhancing tax certainty can assist in tax planning, growth, and promoting investment, bringing benefits at the same time both for taxpayers, and for tax administrations. In order to achieve this, certain tools have been developed so far.

An advance pricing agreement (APA), according to OECD Guidelines, is an arrangement that determines, in advance of controlled transactions, an appropriate set criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time. An APA is formally initiated by a taxpayer and requires negotiations between the taxpayer, one or more associated enterprises, and one or more tax administrations. Detailed guidelines for conducting advance pricing arrangements under the mutual agreement procedure (MAP APAs) were adopted as early as October 1999. Of course, IOTA Members have incorporated the respective internal legislation and procedures gradually, while some others are still thinking of doing so.

The IOTA Case Study workshop, will bring the latest member-country experiences, present practical examples, and discuss challenges in accepting, assessing, and negotiating those terms or sets of criteria, that shape the pricing of controlled transactions between related companies, either with a taxpayer, or with a tax administration.

## OBJECTIVES

The overall aim of the workshop is to share IOTA member tax administrations' experiences, on the practical aspects of negotiating an Advanced Pricing Agreement (APA) with another tax administration, or even with the taxpayer (in case of a unilateral APA), when determining the arm's length analysis and pricing of a controlled transaction. Moreover, it will show the challenges that tax administrations need to face and overcome when negotiating such agreements, and will help participants to be informed and up to date with respective approaches and rationale, followed by other experts in potentially similar cases.

## EXPECTED OUTCOMES

As a result of attending this Workshop, delegates will achieve a greater practical understanding and awareness on:

- Knowledge and practical experience of the competent authority officials' in relation to the negotiation of an APA agreement;
- Best practices and additional approaches for streamlining and enhancing the APA process;
- New solutions for resolving the most difficult APA cases..





# CASE STUDIES

# CASE STUDY 1 – SPAIN

## CASE SUBMITTER

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## BACKGROUND – DESCRIPTION OF THE CASE

This case is about a company whose activity consists of the sale of tangible fashion products. There are two parties involved:

- The operational headquarters of the group is placed in country B (Company B or HQ)
- Our company, a subsidiary of the Group, is located in country A. (Company A)

The head office is responsible for all operational and strategic business activities including clothes designing, assortment planning, logistics, definition of the pricing policy, advertising and marketing, shop location policy, web & store selling platform management, and finance, amongst other strategic functions.

The HQ also develops, enhances and maintains the intellectual property used in the business activities. In addition, they are responsible for the functions regarding the overall strategic direction of the Group, and the maintenance of the Group's brand and trademarks.

Company B also carries out general support functions regarding accounts receivable or payable, human resources, and information technology (IT), nowadays referred to as business tech (BT).

Apart from that, regarding the Online clothes selling business, HQ is responsible for the design, assortment planning, sourcing, logistics, pricing policy definition, marketing, finance, and sales strategy. Moreover, they own all operational IP related to the online business.

Company A (the subsidiary), on the other hand, acts as a distributor in the market, with functions that include the implementation of the store's interior design, implementation of the marketing and advertising campaigns, the merchandising and sales policy, and pricing as well as an assortment of the inventory, managing and maintaining it, and executing quality control procedures.

All of these activities are based on the support from the headquarters.

The group proposed an APA to cover the following transactions:

- T1. Sale of goods and materials: tangible fashion products.
- T2. Business platform.
- T3. Support services to online sales.

### **T1) Sale of fashion products:**

There are two main actors in the supply chain. Firstly, the buyer, which in our case is the HQ. Secondly, the external supplier; is an independent third-party supplier who will produce the products asked for by the buyer. Therefore, the HQ acts as a buying agent for the group.

Company A places its orders through the buying agent (HQ) at a third-party supplier. The HQ acts as an intermediary between the buyer, in our case Company A, and the supplier, and makes sure all requirements, such as quality control and documentation for shipment, are met.

### **T2) Business platform:**

The head office is the owner of a business platform and gives access to it to all the subsidiaries charging a business platform fee.

The head office owns the platform and carries out the design, enhancement and maintenance. These functions include amongst others the definition of the strategic framework of the Group regarding value chain, sourcing, procurement function, and sales.

By providing access to the business platform, the head office supports all the subsidiaries on all aspects of the business.

### **T3) Support services to the online sales:**

The service provider (in this case company A) provides to the service receiver (HQ) customer and administrative support services, communication and in-store promotional support services and, in some markets, services related to handling of deliveries and returns in-store.

## **Transfer pricing policy**

### **T1) Sale of fashion products:**

The pricing for the transaction under review is open market-price (third party) cost-based: the actual cost of the product, purchased from independent suppliers by HQ, is passed on to the product receiver, which in our case is Company A.

The Group argues that the rationale behind the choice of method is that the Product Receiver could have been purchasing the products on its own. However, for operational and cost efficiency reasons the HQ is taking on this function.

## **T2) Business platform:**

The Group selects the transactional net margin method (TNMM), selecting sales as a profit level indicator, to value the intercompany transaction under review. The tested party is company A. The benchmark derived from the study is represented in the table below:

Measure	Operating Profit Margin – (2016-2020)
Lower Quartile	1,67%
Median	2,89%
Upper Quartile	4,87%
Observations	14

## **T3) Support services to the online sales:**

The Group argues that the online selling model is centralized and operated directly through them in Country B, without an operational presence in Country A. The uniqueness of the operational situation at hand results in the fact that there are no reliable comparables to be found in any database, thus no comparable economic analysis has been conducted from any database.

Instead, the most appropriate arm's length remuneration has been determined based on several concluded unilateral and bilateral APAs over time. The selected method, TNMM, takes the online sales as a profit level indicator, within the next range:

Measure	Operating Profit Margin
Lower Quartile	0.25%
Median	N/A
Upper Quartile	0.4%
Formula	Operating Profit / Turnover

## **Questions (relating to the case):**

- Would you categorize the functions carried out by Company A related to the Online Sales in Country A, as a provision of services?
- Given that the functional characterization made by the Group is correct, do you think the remuneration for company A is accurate?
- Do you think that the related-party transactions proposed by the company are well-defined?

# CASE STUDY 2 – LITHUANIA

## CASE SUBMITTER

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## BACKGROUND – DESCRIPTION OF THE CASE

### APA application regarding intragroup transactions in the cryptocurrency business

A Lithuanian company UAB “A” (UAB means private Limited Liability Company) applied for a unilateral Advance Pricing Agreement (APA) in Lithuania. UAB “A” belongs to the “Crypto” Group.

### Description of the group's business

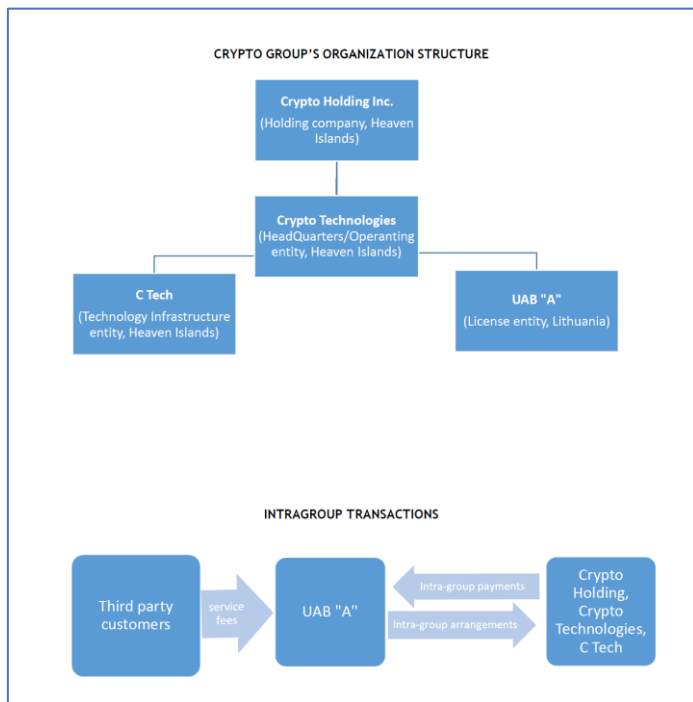
„Crypto“ Group provides payment administration and cryptocurrency exchange services for cryptocurrency (Bitcoin and other coins). Various crypto operations (storage, exchange, purchase, sale, etc.) are performed and services (multi-signature, instant confirmations, etc.) are provided through an online multi-cryptocurrency platform.

### Crypto group's organization structure and description of the intra-group transactions

“Crypto Holding Inc.” is primarily engaged in holding activities and performs a limited part of the Group's strategic management functions.

“Crypto Technologies” is the main headquarters entity and has teams that perform strategic management, sales and overall strategy development, business assessment and consulting, project coordination, data collection and market research, legal and finance, HR, office and general administration, marketing, and other business-related tasks.

“C Tech” is an entity that will be established imminently (i.e. over the coming months after the APA request) and will engage in technology infrastructure development, implementation, testing, maintenance, also system solutions and design, web and app development, general IT integrations and support, data analytics, and other IT related activities (software related activities will be forwarded from Crypto Technologies to C Tech).



UAB „A“ (Set-up in June 2022 / one year before APA application), UAB „A“ holds the registrations to be a virtual asset service provider (“VASP”). UAB „A“ has a license to provide virtual assets services to the Group’s customers and collects revenues from the Group’s customers for the services provided. UAB „A“ compliance team specializes in compliance-related tasks, performing

activities such as Know Your Customer (“KYC”) procedures, client onboarding, anti-money laundering (“AML”) investigations reporting, risk management, collecting details from businesses, transaction monitoring, responding to legal inquiries, and other compliance-related tasks. UAB „A“ functions as a VASP, hence it has direct contact with the final customers and collects the service fee.

### **Functional and value chain analysis**

“Crypto Technologies” is responsible for strategic management, sales, marketing and branding, back-office, compliance, and administrative activities for the benefit of the whole Group. “Crypto Technologies” assumes and manages the Group’s market risk, operational banking risk, currency exchange risk, compliance risk, and indirect registration loss risk. “Crypto Technologies” owns tangible routine assets, as well as intangible brand and client relationship assets. Based on the functional analysis, “Crypto Technologies” is the main entrepreneur entity in the Group performing the main DEMPE functions in relation to the brand and customer relationships.

“C Tech” is responsible for software management and technical IT customer support activities for the benefit of the whole Group. “C Tech” assumes and manages the Group’s operational IT risk. “C Tech” owns tangible routine assets, as well as intangible software assets. Based on the functional analysis, “C Tech” is the

main technology entity in the Group performing all DEMPE functions in relation to the Group's software.

UAB „A“ is responsible for regulatory and compliance activities for the benefit of the whole Group. UAB „A“ assumes and manages the Group's direct registration loss risk and compliance risk. UAB „A“ owns tangible routine assets, as well as intangible regulatory registration assets. Based on the functional analysis, UAB „A“ is a regulatory license-holding entity in the Group performing less complex functions compared to “Crypto Technologies” or “C Tech”. Nonetheless, UAB „A“ is an essential part of the provision of the Group's cryptocurrency payment processing services.

“Crypto Holding” is primarily a holding entity and has limited input in the Group's strategic management decision-making process and owns tangible routine assets. Other than that, “Crypto Holding” does not perform significant functions, bear risks, nor owns assets in relation to the Group's intercompany transactions.

Main value drivers:

- High weight – very important activities which are unique and highly valuable providing competitive advantage: Strategic management, Software, and Client relationships.
- Medium weight – necessary and important activities but do not lead to a significant competitive advantage: Brand, Regulatory registration.
- Low weight – routine and not unique activities: Compliance, Back-office administration.

### **TP method**

Taking into account the circumstances of the intra-group transactions (integrated business and unique and valuable assets), the residual profit split method is chosen to estimate the remuneration for the parties.

### **Application of the PS method**

Combined consolidated financial results (profit/loss) are used.

In applying the residual profit split method, a two-stage analysis is performed:

- Step 1. Each participant is allocated an arm's length remuneration for its non-unique contribution in relation to the controlled transactions (the compliance and back office functions).  
The TNMM, using a PLI of full cost markup (FCMU), will be applied as the appropriate method to establish arm's length remuneration for the Group's non-unique controlled transactions and to calculate the residual profit for splitting.

- › Step 2. Any residual profit (or loss) remaining after the first stage division would be allocated among the parties based on an analysis of the unique contributions made by each transaction party (other remaining activities).

The functional and value chain analysis is used for the identification of the functions, performed, recourses employed, and risk assumed by the entities. The weight of each value driver is allocated for the identification of the importance of each factor and its contribution to the business.

### **APA request**

UAB “A” requests the Lithuanian Tax Authorities to approve the transfer pricing methodology for the intra-group arrangement with „Crypto Group” entities, in particular to:

Apply the profit split method, including:

- › Step 1 - allocation of remuneration for routine activities to be set on cost plus mark-up basis as follows:
  - Compliance activities performed by Group entities are to be remunerated on a cost-plus mark-up basis. Mark-up to be within the arm’s length range of 8.61% and 34.97%.
  - Back-office activities performed by Group entities (incl. human resources, finance) to be remunerated on a cost plus 5% mark-up basis.
- › Step 2 – allocation of remuneration (i.e. split of residual profit) for non-routine activities to be set as follows:
  - Software – remuneration to be allocated at 29% of residual profit remaining after Step 1 in a particular year. The remuneration is to be allocated to “C Tech”.
  - Brand - remuneration to be allocated at 3% of residual profit remaining after Step 1 in a particular year. The remuneration is to be allocated to “Crypto Technologies”.

The weight for software was determined based on benchmarking study results for comparable software (IQR from 15% to 40%, with a median of 25%), alongside a value chain analysis and comparison to other key value drivers, such as strategic management and client relationships. Similarly, the weight for the brand was established using benchmarking study results for comparable brands (IQR from 1.35% to 7.25%, with a median of 4.5%).
  - Strategic management - remuneration to be allocated at 32.5% of residual profit remaining after Step 1 in a particular year (i.e. similar proportion as for software). The allocated total remuneration should be split among UAB “A”, “Crypto Technologies”, “C Tech” and “Crypto Holding” proportionally according to the incurred



strategic management costs by each Group entity in a particular year.

- Regulatory registration - remuneration to be allocated at 3% of residual profit remaining after Step 1 in a particular year (i.e. the same proportion as for brand). The allocated total remuneration should be allocated to UAB “A” (receiving 75%) and “Crypto Technologies” (receiving 25%).
- Client relationships - remuneration to be allocated at 32.5% of residual profit remaining after Step 1 in a particular year (i.e. similar proportion as for software). The remuneration is to be allocated to “Crypto Technologies”.

#### Issues and the challenges encountered while dealing with the case

- › Most of the Group’s companies are established in tax heaven (“Heaven Islands”);
- › Although the Group applies International Financial Reporting Standards (IFRS), they are not mandatory in the “Heaven Islands”;
- › Volatility of the Group’s activities - the foreign company related to The Group performed the same activities as the UAB “A” until June 2022. Following the tightening of legal regulations in Country X, this activity was moved to Lithuania, but the UAB “A” has registered the activity of the virtual currency exchange operator only since 2023-03-24, i.e. UAB “A” (and The Group) operated for some time without mandatory registration;
  - UAB “A” does not have a bank account in Lithuania;
  - UAB “A” has only two employees;
  - Uncertainty regarding the value chain—specifically the allocation of profits among group companies—has raised concerns;
  - Doubts about the validity of the Group companies’ contributions, mutual transactions, and the integrity of the transactions;
  - Uncertainty about the uniqueness and value of the intangible assets used.

#### Questions (relating to the case):

- › Are the specified circumstances sufficient to apply the profit split method? If not, what other evidence is missing? What other transfer pricing method could be applied to these transactions?
- › Would your tax administration accept to examine such a request and what could be your decision (approve, disapprove the request, approve with reservations / additional critical assumptions or other options)?

# CASE STUDY 3 – FINLAND

## CASE SUBMITTER

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*Director*

Finnish Tax Administration

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## BACKGROUND

Finnish taxpayer B Corporation and X Country taxpayer BX, which both belong to the B Group, filed a submission to request a bilateral APA between Finland and X Country covering two transactions. The request was based on Article 24 of the Double Tax Convention between Finland and X Country.

According to the request the purpose of the APA request was to establish a procedure among taxpayers for the price determination and application of transfer pricing methods for taxation purposes under the controlled transactions within the effective term of the APA between Finnish and X Country Competent Authorities. The proposed term of the APA is for the taxpayers' fiscal years starting January 1, 2025, through December 31, 2029, with roll-back on years 2023-2024.

The Competent Authorities have exchanged positions but haven't yet completed the agreement.

## DESCRIPTION OF THE CASE

### Covered entities and transactions

B Corporation is a Finnish limited liability company incorporated and located in Finland. B Corporation is the ultimate parent company of the B Group. BX is a newly established limited liability company in X Country and a wholly owned subsidiary of B Corporation. B Group entities don't have any other subsidiaries or any prior operations in X Country.

B Group develops and manufactures premium products, which are sold in approximately 60 countries worldwide. In 2022, B Group employed approximately 2500 employees and achieved net sales of approximately 1 billion euro.

B Group manufacturing plants are currently in Finland and USA. To increase supply of its products B Corporation decided to invest in a new factory in X Country. The new greenfield factory will be first zero CO2 emission factory in industry of the B Group. The total value of the investment is estimated to be approximately 650 million euro. Construction has begun in early 2023 and the first products are estimated to be produced in late 2024. Commercial production is expected to start in 2025 and full capacity will be achieved in 2028. The planned headcount of the factory is about 500 employees.

In order to finance the construction, B Corporation intends to finance BX through equity and an intercompany loan. The equity is estimated to be 195 million euro and the estimated debt is 455 million euro. Under the two transactions in the requested APA the Covered Transaction 1 is an intercompany loan from B Corporation to BX to finance the factory investment.

Additionally, BX will operate as a contract manufacturer towards B Corporation performing production activity strictly under and within the instructions from B Corporation. Under the Covered Transaction 2, products manufactured by BX will be sold to B Corporation under the Net Cost Plus (NCP) method.

According to the APA request the compensation for the transactions are:

Covered Transaction 1: B Corporation grants BX an intercompany revolving loan facility in an aggregate amount of 455 million euro. The interest rate is zero point zero five (0.05) per cent per annum for the entire loan period. Maturity date of the loan is December 2033.

Covered Transaction 2: BX's sale of products to B Corporation. BX operates as a low-risk contract manufacturer for B Corporation, performing production activity strictly under B Corporation's instruction. The products manufactured by BX are sold to B Corporation under an arm's length compensation of Net Cost Plus 3,5%.

### **Functions, assets and risks**

B Corporation is the principal entity for operations covered by the APA. In this capacity, B Corporation is responsible for the strategic direction of BX's manufacturing operations, approving all budgets, and controlling all risks for those operations. B Corporation performs and has historically performed B Groups' research and development work leading to technological developments, which is considered a competitive advantage and key differentiation factor for the B Group. B Corporation owns the intangibles and makes all the important decisions related to intangibles. B Corporation performs a majority of activities related to the sales and operations planning process and hence, manages the overall supply chain and allocates the production capacity to the manufacturing units. B Corporation determines the pricing principles in third-party sales and allocates production to markets. B Corporation also manages the sourcing and contracting of raw

materials. Altogether, B Corporation controls all the significant risks of the business.

BX operates as a low-risk contract manufacturer for the mass production of products based on the models, specifications, guidance, quality, and supervision of B Corporation. BX sells the manufactured products immediately to B Corporation, which sells the products to the markets directly or via its routine distributors. BX purchases most raw materials directly from third-party suppliers based on the global frame agreements negotiated solely by B Corporation. BX is expected to develop and maintain manufacturing related competences and processes. BX owns the factory in X Country as well as production machinery, warehouse facilities, skilled workforce and raw materials needed in its operations. The factory will operate using the state-of-the-art technology, allowing for an increased degree of automation and precision to minimize defects and waste. BX does not bear market, investment, utilization, product, quality or other considerable or likely risks in its operations.

Regarding the Covered Transaction 1 as presented in the APA request, BX functions and risks are deemed as minimum. B Corporation through its treasury function carries out most of the functions and carries the risk in the provision of intra-group financing activities.

### **Economic analysis as presented in the APA request**

#### **Covered Transaction 1**

B Corporation does not have an official credit rating from established credit rating agencies. An indicative credit risk analysis performed by S&P Credit Analytics tool resulted in a credit score bbb. According to the analysis credit risk of the core subsidiary is generally rated at the same level as the parent company, so the credit risk of BX is bbb. It was explained that B Corporation has not taken any external loan to fund the investment. Therefore, internal CUP is not applicable.

The applicants claimed that an arm's length interest rate should consider all benefits expected by B Corporation from the investment. Even an external party in a similar situation would be willing to give funds at low interest rates when the funding is instrumental in securing future production capacity. Thus, the arm's length interest rate in this case should be lower than the cost of funds for B Corporation (the average cost of external financing in B Corporation is around 2,6%). From BX's perspective, the funding should be done in a manner that enables it to make a reasonable profit from the operations, given the functions and risks it carries.

The applicants had performed loan interest rate benchmark analysis. The fixed rate of the final six loan instruments varies from 4,063% to 5,338% with a median of 4,438%. After that, the country risk to the cash flows has been adjusted to the difference in country risk between Finland and X Country (-3,905%). The adjusted applicable interest rate for regional comparables varies between 0,158% and 1,433% with a median of 0,533%. However, the range between the minimum and lower quartile from 0,158% to 0,476% is best representing the applicable interest rate. Further analysis based on X Country comparable bonds shows an applicable range between 0,001% and 1,902%. Based on the analyses, a 0,05% interest rate appears to result in arm's length overall profitability when aligning the result with an indicative profitability calculation for BX (attached).

Based on the indicative profitability calculation for BX for the first 10 years, a 0,05% interest rate would result in small losses in the early ramp-up phase but yield a reasonable profit level after 2023. At this interest rate, the overall transaction (intra-group loan and the contract manufacturing operations) should be at arm's length.

## **Covered Transaction 2**

TNMM (Transactional Net Margin Method) was deemed the most appropriate transfer pricing method in the context of BX's sale of contract manufactured products to B Corporation. As a profit level indicator (PLI) was chosen the Net Cost Plus (NCP, also called Full Cost Mark-up), is the ratio of operating profit to total costs. In addition, BX was selected as a tested party.

A benchmark comparability analysis was performed using the TP Catalyst of Bureau van Dijk. The analysis produced a minimum and a maximum range of three-year weighted average NCPs between 0,4% and 9,2% as well as an inter-quartile range between 1,5% and 4,7% with a median of 2,9%. Based on the comparability analysis and the indicative profitability calculation, a net cost plus compensation of 3,5% not only should be considered at arm's length but would allocate sufficient compensation and ultimately enable to overall profitability of BX.

## Overall BX profitability estimation

BX high-level P&L summary												
MEUR	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	
Operating revenues	0,7	13,0	124,5	218,3	268,8	274,2	272,4	272,5	278,8	273,0	273,4	
Production costs	0,0	6,7	66,2	159,2	207,1	212,1	210,3	210,2	210,0	209,8	209,7	
Other costs	0,7	5,8	12,2	13,5	14,0	13,5	13,3	13,3	13,3	13,3	13,3	
Depreciations	0,0	0,0	41,8	38,1	38,7	39,2	39,5	39,8	40,2	40,6	41,1	
Total costs & depreciations	0,7	12,5	120,2	210,9	259,8	264,9	263,2	263,3	263,6	263,8	264,1	
EBIT	0,0	0,4	4,2	7,4	9,1	9,3	9,2	9,2	9,2	9,2	9,2	
% of sales			3,1	3,4	3,4	3,4	3,4	3,4	3,4	3,4	3,4	
Loan interest costs	0,2	0,2	0,2	0,2	0,2	0,2	0,1	0,1	0,1	0,1	0,1	
Net working capital costs	0,0	0,0	4,3	4,3	7,3	7,9	7,8	8,0	8,3	8,6	9,1	
Profit before tax	-0,2	0,2	-0,3	2,9	1,6	1,2	1,2	1,1	0,8	0,5	0,1	

## Assumptions

- 3,5% contract manufacturing mark-up on total costs and depreciation
- Investment with 70% share of debt and 30% equity
- 0,05% annually paid interest rate
- Loan repayments are assumed to be according to the depreciation schedule
- Net working capital is financed through an intra-group loan from another group entity

## **Questions (relating to the case):**

- **What is your first reaction to the 0,05% interest rate of the Covered Transaction 1? Have you seen similar interest rates?**
- **What is your first reaction to the contract manufacturing compensation of the Covered Transaction 2? Have you seen a similar level of compensation for contract manufacturing?**
- **B Corporation sells the products to markets, but there is no further information on distribution activities. Would you send a lengthy questionnaire to the taxpayer where you would ask for more information about distribution, or would you consider that you are able to discuss the APA without distribution information?**
- **In what way would you approach the case? Would you evaluate the case on a transaction-by-transaction basis, or would you combine the evaluation of both transactions?**
- **What would be your position to sign the APA?**

# CASE STUDY 4 – FRANCE

## CASE SUBMITTER

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## BACKGROUND – DESCRIPTION OF THE CASE

Z Group (Chemicals): MNE that has a strong presence in 3 regions and entrepreneur roles in each of them.

Submitted case: Bilateral APA involving 4 entities - 2 in each county - that are performing various roles.

The Z Group organizes its operations and management reporting according to brand and region with each of its member entities performing one or more roles within a matrix organization.

The Z Group organizes its operations through 3 main regions (US, FR, CN), in which several entities perform different roles:

- › Brand Holder (“BH”): An entrepreneurial/non-routine role that develops, maintains and executes global strategies to increase brand value and manages the global performance of the brand (FR1, US1),
- › Regional Headquarters (“RHQ”): An entrepreneurial/non-routine role that develops, maintains and executes regional marketing strategies in accordance with the BH’s global strategies and manages the operation of Z entities within its region (FR1, US1),
- › Local Sales Entity (“LSE”): A routine role that performs promotion, distribution and sales activities based on regional market strategies (FR1, other Affiliates, US1),
- › Manufacturing Entity (“ME”): A routine role that manufactures and supplies products to RHQs and LSEs according to BH and RHQ specifications and instructions (FR2, US2).

The proposed Covered Transactions are as follows:

1. FR1’s sale of finished products to US1, for which FR1 undertakes the BH and ME roles and US2 undertake the RHQ and LSE roles for the U.S. market.

2. US2's sale of finished products to FR1, for which US2 undertakes the BH and ME roles and FR1 is responsible for the RHQ and LSE roles for the EMEA region.
3. US2's sale of finished products to FR1, for which CN1 undertakes the BH role<sup>5</sup>, US2 undertakes the ME role and FR1 is responsible for the RHQ and LSE roles for the EMEA region.  
NCP [7.4-7.9-10.3]
4. FR1's sale of finished products to US1, for which CN1 undertakes the BH role, FR1 undertakes the ME role and US1 undertakes the RHQ and LSE roles for the U.S. market.  
NCP [3.2-6.2-13]

Calculation of the split factor for transactions #1 and #2:

1. Calculation of system profit/loss by brand/brand group
2. Allocation of routine profits to ME
3. Allocation of routine profits to RHQ and LSE (distribution) 1.6% to 3.7% interquartile range

Application of the profit split factor between BH and RHQ. The split in favour of the RHQ is calculated by region as follows:

$\text{RHQ Routine costs} / (\text{RHQ Routine costs} + \text{BH Routine costs})$

#### Questions (relating to the case):

- › Proper use of benchmarking studies, and the correct range to choose
- › Dealing with some routine remuneration that will impact an RPSM, with potentially some side effects, up to sharing losses.
- › The correct remuneration of each entity holding IP and/or value creation, while also performing some routine functions.
- › The taxpayer came again with the idea of adding more transactions, regarding some restructurings.
- › Z group has filed a similar BAPA with FR and another country, but this time with a different TP methodology proposed.



# CASE STUDY 5 – GERMANY

## CASE SUBMITTER

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## BACKGROUND – DESCRIPTION OF THE CASE

### Facts of the case presented by the taxpayer

<b>Covered entities</b>	Germany: Funny Cars AG Country B: Funny Cars SA	
<b>Covered term</b>	APA 2021 – 2024 Roll back 2018 - 2020	
<b>Covered transaction</b>	1. Purchase of automobiles and parts from Funny Cars AG to Funny Cars SA for sale (Distribution) 2. Sale of finished vehicles/parts from Funny Cars SA to Funny Cars AG (Manufacturing) 3. Sale of components/parts from Funny Cars AG to Funny Cars SA (Manufacturing)	
<b>Transfer Price Method (TPM) and Profit Level Indicator (PLI)</b>	Transactional Net Margin Method (TNMM) Transaction 1: Operating Margin (OM) Transaction 2+3: Cost+ (MOTC)	
<b>Tested party</b>	Funny Cars SA	
<b>ALR Benchmark</b>	Transaction 1: 1. Quartil: 0,89% Median: 1,49% 3. Quartil: 2,93%	Transaction 2+3: 1. Quartil: 3,4% Median: 6,2% 3. Quartil: 8,35%
<b>Compensation adjustment</b>	Cumulative adjustment term test for the whole APA term 2021-2025 term test for the whole RB term 2018-2020	

### General information

Funny Cars SA is a subsidiary of Funny Cars AG, engaged in contract manufacturing activities and in wholesale distribution and marketing activities for vehicles in the local market.

Funny Cars SA operates in two divisions, namely the Funny Cars SA marketing, sales and distribution division which operates as the National Sales Company in Country B and is responsible for the marketing and distribution of motor vehicles as well as parts and accessories in Country B (hereinafter referred to as “NSC”; Transaction 1); and the Funny Cars SA production facility, which operates as a vehicle

manufacturing plant and manufactures vehicles as contract manufacturer on behalf of Funny Cars AG (hereinafter referred to as “Plant”; Transaction 2+3).

This structure is different from the typical set-up in the Funny Cars Group, where the NSCs and Plants are generally held in separate legal entities. However, a special incentive program offered in Country B requires Funny Cars SA (or any other Country B vehicle manufacturer) to follow an integrated approach, as certain custom benefits can only be claimed by Funny Cars SA if it is organized in the same legal entity (Local Content).

For transfer pricing purposes, Funny Cars SA has implemented a transfer pricing model based on segmentation with effect from 1 January 2004, which allows for separate transfer pricing steering for the Plant and the NSC.

But, due to the structure of the incentive Program, the profitability of the NSC and the Plant are inseparably linked and an analysis of the two segments in isolation alone does not necessarily provide a correct reflection of the arm’s length nature of the overall arrangements in place. Consequently, an analysis of the arm’s length nature of the overall profitability of Funny Cars SA as a legal entity, based on the “whole of entity” approach was also performed.

## **Function and Risks**

### **NSC – Functions performed**

The NSC is acting as a wholesaler for its own account and in its own business interest. Hence, the NSC is notably responsible for marketing and distribution in its local market and distributing the Cars bought from Funny Cars AG. Compared to Funny Cars AG as a central entrepreneur, the NSC is characterised by a rather limited functions and risks profile and, hence, qualifies as a routine distributor.

### **Plant – Functions performed**

The Plant operates as a contract manufacturer on behalf of Funny Cars AG (the principal). There are only a limited number of functions the Plant exercises at its own responsibility. The production is coordinated by Funny Cars AG centrally, being responsible for strategic control and planning of the production activities. This coordination includes the choice and amounts of products manufactured in the plant, start of production decisions, product line controlling, major component logistics planning, etc. All produced products are sold to Funny Cars AG.

The Plant has been responsible for the production of the Funny Cars X-series since the mid-80s. In 2021 and 2022 the Plant converted to enable the production of the next generation Funny Cars Y-Series. In February 2021, the Plant manufactured the last of the X-Series vehicles and in April 2022, following a significant investment to convert and improve the plant, the production of the Funny Cars Y-Series commenced. The costs for the production change are allocated over the life cycle of the new production model.

## Covered Transactions

**NSC:** import and distribution of Completely built units (CBUs), Parts & Accessories

**Plant:** procurement of materials and components to be used by Funny Cars SA in manufacturing vehicles; export of locally manufactured vehicles to Funny Cars AG

## Financial results

### **NSC**

In XXR (million)	2018	2019	2020	18-20
<b>Revenue</b>	10,000	12,000	10,000	<b>32,000</b>
<b>EBIT</b>	260	260	50	<b>570</b>
<b>EBIT in %</b>	2.6%	2.25%	0.5%	<b>1.78%</b>

In XXR (million)	2021	2022	2023	2024*	2021-2024
<b>Revenue</b>	12,000	16,000	16,000	20,000	<b>64,000</b>
<b>EBIT</b>	150	500	400	300	<b>1,350</b>
<b>EBIT in %</b>	1.25%	3.13%	2.5%	1.5%	<b>2.11%</b>

### **Plant**

In XXR (million)	2018	2019	2020	2018-2020
<b>Revenue</b>	10,450	11,550	13,000	<b>35,000</b>
<b>Costs</b>	10,000	11,000	12,500	<b>33,500</b>
<b>EBIT</b>	450	550	500	<b>1,500</b>
<b>Cost Plus in %</b>	4.5%	5%	4%	<b>4.5%</b>

In XXR (million)	2021	2022	2023	2024*	2021-2024
<b>Revenue</b>	5,010	8,040	14,746	17,983	<b>45,779</b>
<b>Costs</b>	5,000	8,000	13,846	16,783	<b>43,629</b>
<b>EBIT</b>	10	40	900	1,200	<b>2,150</b>
<b>Cost Plus in %</b>	0.2%	0.5%	6.5%	7.15%	<b>4.93%</b>

\*Budget

## Characterization by the taxpayer and Selection of most appropriate Transfer Pricing Method

- **NSC = routine distributor**  
Transfer Pricing Method: TNMM analysis with EBIT-margin as profit level indicator.
- **Plant = typical contract manufacturer**  
Transfer Pricing Method: TNMM analysis with Net Cost Plus (NCP) as profit level indicator.

## **Benchmark studies provided by the Taxpayer**

Benchmarking	2017-2020 NSC EBIT-Margin	2017-2020 Plant C+-Margin
1 <sup>st</sup> quartile	0.89%	3.4%
median	1.49%	6.2%
3 <sup>rd</sup> quartile	2.93%	8.35%

## **Whole of entity approach**

During the reported period, the arm's length nature of the profitability of the two segments (NSC/Plant) was evaluated separately by testing the net profits earned by these two "fictitious" separate business lines. However, due to the integrated nature of Funny Cars SA's business configuration, an analysis of the profitability of the two main divisions alone will not necessarily provide an accurate assessment of the arm's length nature. A complete picture of the arm's length nature of Funny Cars SA's activities can therefore only be obtained through also analysing the overall profitability realised by Funny Cars SA. On this basis, it was decided to consider the profitability of Funny Cars SA on a "whole of entity" basis. The "whole of entity" approach also ensures that all Incentive benefits generated by Funny Cars SA due to its manufacturing activities in Country B are taken into account when analyzing the overall operating profit of Funny Cars SA, regardless of which business division generates and/or uses the duty rebates.

The interquartile range of the manufacturing benchmark result and the distribution benchmark result therefore was weighted and combined.

## **Combined Whole of entity Margin**

Benchmarking (EBIT-margin)	2017-2020
1 <sup>st</sup> quartile	1.8%
median	3.2%
2 <sup>nd</sup> quartile	6.7%
Whole of entity EBIT-margin Funny Cars SA 2018-2020	3.1%

## **Questions (relating to the case):**

- Is the Tested Party "one" legal entity or different divisions?
- How to handle Upfront Costs from change of production?
- Performing a Term Test or a single-year test? If Term Test: How long is a "Term"?
- Which years should a benchmark analysis include?
- How to deal with Local Tax Audit adjustments during the negotiation/APA period?



# PRACTICAL INFORMATION

# ACCOMMODATION AND VENUE

Both the venue and the place of accommodation of the event is the

## **Courtyard by Marriott Budapest City Center**

József körút 5, 1088 Budapest, Hungary

Tel.: + 36 1 327 5100

Email: [events.mbcc@cpihotels.com](mailto:events.mbcc@cpihotels.com)



**Check-in time is 15:00; check-out time is 12:00.** Early check-in or late check-out is only possible by paying a surcharge which is not covered by IOTA.

The venue of the **plenary sessions** will be in the **Blaha Lujza Ballroom 1-2**. The venue of the **group discussion sessions** will be in **breakout rooms (Jászai Mari Meeting Room 1, 2, 3 & 4)**.

# MEALS & SOCIAL PROGRAMME

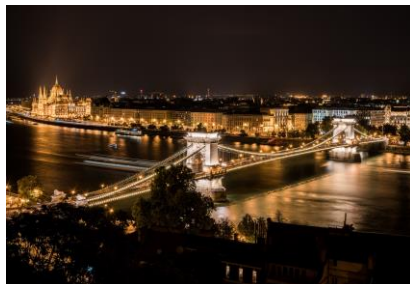
On **2<sup>nd</sup> December** a **welcome reception (seated finger food buffet)** will be organised for participants at the hotel restaurant “Oléo Pazzo” from 19:00.

Throughout your stay **breakfast** will be provided at the hotel (included in room rate) between **6.30-10.30**.

On **3<sup>rd</sup> and 4<sup>th</sup> December** lunches will be served buffet style at the hotel restaurant “Oléo Pazzo”.

The IOTA Secretariat is hosting a **social program and dinner** at Monk's Bistrot (located at Budapest, Piarista köz 1) on **3<sup>rd</sup> December**. The Budapest sightseeing tour will start at 18:00. The tour will combine a guided bus journey with some walking, so please dress warmly, wear comfortable shoes, and follow a casual dress code.

Please let Dóra Pencz know (if you haven't mentioned in the registration form) if you have any special requirements (vegetarian / gluten or lactose intolerance / allergies).



# DEPARTURE INFORMATION

Delegates are kindly asked to organise and cover the cost of their transport from the airport to the hotel and back.

## To the Airport

The Budapest airport is officially called “Liszt Ferenc International Airport”. There are two terminals at the airport: 2/A and 2/B. Please check your terminal before departure to avoid ending up in the wrong terminal. The distance between the Hotel and the Liszt Ferenc International Airport is 20 km.

## By Public Transport

Tickets and travel cards can be easily purchased from BKK's vending machines available at every metro station and many tram/bus stops as well using your credit card.

Please click on the QR code to find the ticket/travel card types, prices and a public transport trip planner.



We suggest taking the following route from the hotel to the airport:

1. "Blaha Lujza tér" station is 2-minute walk (150 m) from the hotel,
2. Take metro No. 2 (red line) - direction to Déli Pályaudvar – to “Deák Ferenc tér” station,
3. Take bus No. 100E to Liszt Ferenc Airport 2.

## By Taxi

Fares for licensed taxis in Budapest are standardised, which means there is no difference in fares between taxi companies from/to the Liszt Ferenc International Airport and within Budapest. The fare to the airport from the hotel is about HUF 9,000. Your taxi fee adds up from an initiation fee of HUF 1100, a travel fare of HUF/km 440 and a waiting fee of HUF/minute 85.

The biggest licensed taxi companies are: Főtaxi: tel. +36 1 222 2 222, City Taxi: tel. +36 1 2 111 111, and Budapest Taxi: tel. +36 1 777 7 777.

**IMPORTANT!** Unfortunately, in Hungary there are many illegal taxis so please only use the above companies.

There is an application as well, called 'Bolt', which can be downloaded for iOS and for Android too.

### By Airport Shuttle

Click on the QR code and book your airport shuttle (MiniBud) in advance. On-board services include free Wi-Fi network. You will be dropped off at the departures of Liszt Ferenc International Airport.



## INSURANCE & SECURITY

It is strongly recommended that participants take out adequate cover for health, travel and private liability insurance. The organisers do not take any responsibility for personal injury, loss or damage to private property belonging to the participants. Do not leave personal belongings unattended at any time.

In case of emergency please find below some useful telephone numbers:

**112 – Common emergency telephone number**

**104 – Ambulance**

**105 – Fire Brigade**

**107 – Police**

## LOCAL CURRENCY

The Hungarian national currency is called Forint (HUF). The current exchange midrate is: **1 EUR = 390 HUF.**

In the centre of Budapest there are several exchange offices available. It is best to find exchange offices without commission. Major credit cards are usually accepted in most hotels, restaurants and certain shops in the city. Obtaining cash against ATM cards (or credit cards, but this is more expensive) is very easy in Budapest from Bankomats that can be found at most bank offices, hotels or on the street.



## ELECTRICITY

The electric current in Hungary is 230 Volts. In case you intend to use any of your own electric devices (phone charger, laptop etc.) please consider taking with you an adapter which fits a Central European standard shockproof socket.



# PRIVACY POLICY & PRIVACY DISCLAIMER

Please take a look at our privacy policy and privacy disclaimer by clicking on the QR code.



## USEFUL WORDS IN HUNGARIAN

Phrase	What it means	How to pronounce it
Szia	Hello (and informal goodbye)	'sijə
Jó reggelt	Good morning	'jo:reg:ɛlt
Jó napot	Good day	'jo:nɒpot
Jó estét	Good evening	'jo:ɛfte:t
Jó éjszakát	Good night	'jo:e:jsɒka:t
Viszlát	Goodbye	'visla:t
Köszönöm	Thank you!	'kɒsønɒm
Bocsánat	I am sorry	'boʦʃa:nɒt
Igen/nem	Yes/no	'igen/'nɛm
Igen, kérem	Yes, please	'igen:ke:rɛm
Nem, köszönöm	No, thank you	'nɛm:kɒsønɒm
Minden rendben	Everything is ok	'minden:rendben
Szívesen	You are welcome	'si:vɛʃɛn
Legyen szíves	Please (formal)	'lɛʃɛn:si:vɛʃ
Mennyibe kerül?	How much does it cost?	'mɛɲ:ibe:kɛrɛl
Egészségedre!	Cheers!	'ɛgɛ:f:e:gɛdrɛ
A számlát kérem!	The bill, please!	'b:sa:mla:t:ke:rɛm

# LOCAL TIME AND CLIMATE

CEST

GMT + 1 hour

Tue 03 | Day

4° 


 17%  
 SE9 km/h

Mostly cloudy skies early, then partly cloudy in the afternoon. High 4C. Winds light and variable.

 Humidity  
91%

 UV Index  
1 of 11

 Sunrise  
7:13 am

 Sunset  
3:53 pm

Tue 03 | Night

0° 


 13%  
 E5 km/h

Partly cloudy skies during the evening will give way to cloudy skies overnight. Low near 0C. Winds light and variable.

 Humidity  
100%

 UV Index  
0 of 11



 Moonrise  
9:46 am

 Moonset  
5:14 pm

● Waxing Crescent

Wed 04 | Day

4° 


 24%  
 NE8 km/h

Cloudy skies. High 4C. Winds light and variable.

 Humidity  
91%



 UV Index  
1 of 11

 Sunrise  
7:14 am

 Sunset  
3:53 pm

Wed 04 | Night

-1° 

 14%  
 NE5 km/h

Cloudy. Low -1C. Winds light and variable.

 Humidity  
99%

 UV Index  
0 of 11



 Moonrise  
10:32 am

 Moonset  
6:25 pm

● Waxing Crescent

Thu 05 | Day


4° 


 7%  
 N8 km/h

Mostly cloudy. High 4C. Winds light and variable.

 Humidity  
83%

 UV Index  
1 of 11

 Sunrise  
7:15 am

 Sunset  
3:53 pm

Thu 05 | Night

-1° 

 16%  
 E6 km/h

Considerable cloudiness. Low -1C. Winds light and variable.

 Humidity  
92%

 UV Index  
0 of 11

 Moonrise  
11:06 am

 Moonset  
7:42 pm

● Waxing Crescent



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