HUNGARIAN GOVERNMENT ORDERS TEMPORARY REQUISITION OF CERTAIN COMPANIES

Further information to follow

FAQ: HUNGARIAN GOVERNMENT ORDERS TEMPORARY REQUISITION OF CERTAIN COMPANIES

As part of the Hungarian government’s efforts to protect the safety and health of Hungary during the state of emergency ordered as a result of COVID-19, the task force established by the Hungarian government has announced a list of companies which, due to their operation in the energy, telecommunication, transportation, health or technological sector may represent an infrastructure that has a direct and imminent role in protecting the national safety, health and economy of Hungary. The companies listed have all – apparently – received a notification letter from the head of the task force detailing the measures and requirements applicable on the respective company during the state of emergency.

IS THE LIST FINAL?

No, the list is not final. At first 71 companies were notified about the measures and requirements applicable on them during the state of emergency. According to the head of the task force, there are currently 140 companies on the list, however, it may be expected that the list will be further expanded in the near future.

ARE THERE PRIVATE ENTITIES ALSO ON THE LIST?

As of today the companies listed are mostly state owned companies, however, there are some notable exceptions, such as Hungaropharma, Auchan Hungary and Robert Bosch Hungary, therefore, it can be generally expected that other private companies will also be affected by the measures. Especially if the COVID-19 situation in Hungary deteriorates, companies involved in the medical and food supply or retail sector, the hospitality and catering business or transportation business (freight carriage, air carriage, shipping (in all case either cargo or passenger)) may expect to be listed and face restrictions or expropriation measures.

WHAT ARE THE POTENTIAL RESTRICTIVE MEASURES?

Under the special regime the right to property may be suspended or restricted and therefore, among others, the (temporary) expropriation or nationalisation of the companies and their assets may be ordered. In practice this means that the listed company may be ordered to hand over certain equipment (e.g. buses, airplanes, helicopters, medical equipments, etc.) or assets (e.g. medical supplies, food, beverage, healthcare items, household products, chemicals, cosmetics, etc.) to the Hungarian military, the Hungarian military may set up emergency hospitals or other quarantine zones at the premises of the listed companies or may order the company to change its production line to produce certain equipment or material.

HAS THE GOVERNMENT TAKEN ANY MEASURES TO EXPROPRIATE ANY OF THE LISTED COMPANIES?

As of today we are not aware of such actions. Unfortunately the notification letters sent to the companies are not public, therefore, we have no information on the scope of the currently applicable limitations. It is our understanding that as of today no company or asset is expropriated or substantially limited in its operation (apart from the general limitations and restrictions ordered by the Hungarian government), however, the task force (or the person(s) delegated by the task force) is entitled to supervise and coordinate the operation of the companies and the companies are required to prepare daily reports to the task force.

WHAT HAPPENS IF MY COMPANY IS LISTED AND AFFECTED BY ANY OF THE MEASURES LISTED ABOVE?

Under the relevant legislation full and prompt compensation must be paid to the affected companies. The compensation is, however, not automatic, the person affected by the measure must submit a request for compensation. Without such request, no compensation will be paid.

WHAT HAPPENS IF NO COMPENSATION IS PAID DESPITE THE MEASURES?

If no or not full compensation is paid, the person affected by the measure may file a lawsuit at the national courts of Hungary seeking full compensation or the review of the measure on expropriation and nationalisation. In the worst case scenario investors suffering damage may try seeking recovery on the grounds of bilateral investment agreements (BIT) or turn to the European Court of Human Right as the expropriation without fair compensation is deemed as a violation to the right to property. Generally and in particular given that the functioning of most courts is suspended, any compensation is likely to be subject to significant delay.

WHEN WILL THE RESTRICTIONS END?

The restrictions will, as a general principle, be applicable as long as the state of emergency is declared. Once the state of emergency is withdrawn, the measures and restrictions applied by the task force will also be withdrawn.

WHO TO CONTACT?

If your business is listed or otherwise affected by the state of emergency, please do not hesitate to contact any member of our team:

Péter Köves: peter.koves@lakatoskoves.hu +36 20 931 4578
Péter Lakatos: peter.lakatos@lakatoskoves.hu +36 20 952 8799
Iván Sólyom: ivan.solyom@lakatoskoves.hu +36 20 344 8089
Balázs Fazakas: balazs.fazakas@lakatoskoves.hu +36 20 482 4133

Lakatos, Köves and Partners
1075 Budapest
Madách Imre út 14.
Tel: +36 (1) 429 1300
Fax: +36 (1) 429 1390
www.lakatoskoves.hu

CREATIVE I COMMITTED I CLIENT FOCUSED

This newsletter does not constitute legal advice with respect to any matter or set of facts and may not be relied upon for such purposes.

Readers are advised to seek appropriate legal advice before making any determination or taking any action related to matters discussed herein. No part of this newsletter may be copied or quoted without the prior written consent of Lakatos, Köves and Partners.