



LAKATOS, KÖVES ÉS TÁRSAI
ÜGYVÉDI IRODA

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THIS IS AN UPDATE ON OUR PREVIOUS LITIGATION NEWSLETTER DATED 24 MARCH 2020

IMPACT OF COVID19 IN ONGOING LAWSUITS AND ARBITRATION CASES

Further information to follow

FAQ: HOW COVID-19 IMPACTS ONGOING LAWSUITS AND ARBITRATION CASES?

In light of the current COVID-19 outbreak, the local courts of Hungary, as well as the main local and global arbitral institutions, are taking precautionary measures to minimise the potential impact of the virus and to safeguard the health and safety of everyone involved in litigious or arbitral proceedings. The below summarises the current situation and how COVID-19 impacts the ordinary course of proceedings. **In certain key respects the situation applying after the declaration on 15 March 2020 of an “extraordinary judicial holiday”, as described in our 24 March 2020 briefing, no longer applies.**

LOCAL COURT PROCEEDINGS

After proclamation of an “extraordinary judicial holiday” on 15 March, the Hungarian Government on 31 March released a detailed Government Decree no 74/2020 on the special rules of civil (and administrative) procedures. These rules are applicable to every ongoing and newly initiated case as of 31 March 2020 until the end of the “state of emergency”.

The most important message that can be derived from the new rules is that, contrary to what was announced earlier about the extraordinary judicial holiday, lawsuits are still ongoing despite the COVID-19 situation and the courts will switch from in-person hearings to videoconferences or other technology platforms for conducting hearings. In general lawsuits will – to the extent possible - not be adversely affected by the COVID-19 outbreak.

CAN I INITIATE A NEW LAWSUIT?

The answer is **Yes**. All filing is made electronically, therefore despite the court’s limited availability, it is possible to file a new lawsuit or file a request for interim measure or other similar emergency action. Once a lawsuit is filed the court is obliged to inspect the statement of claim and proceed with the document-only part of the lawsuit (i.e. send the statement of claim to the defendant requesting it to submit its defence statement). In addition, during the ‘state of emergency’, the court is entitled to close the preparatory part of the hearing without holding a hearing in person, i.e. the preparatory phase can be conducted document-only which is likely to result in the speeding up of the proceedings.

This means that if you have a litigious matter, there is no reason not to file the lawsuit now. On the contrary, in our professional view the “remote” operation of the courts and the document-only proceeding would most probably facilitate the preparatory phase and therefore the time needed to have a first instance decision can be shorter than usual.

CAN THE COURT SET HEARINGS?

The answer is **Yes**. If the court decides that a hearing is necessary, the court is now entitled to conduct hearings by electronic means. It is expected that the detailed rules on electronic hearings will be issued later this week. Although a court hearing through videoconferences is unprecedented in Hungary in civil cases, we are hopeful that not only the lawyers but the courts will also be prepared technically and otherwise to conduct hearings by electronic means. We at Lakatos Köves and Partners are fully prepared for the electronic hearings and have already experience of such hearings from other matters (i.e. arbitration and mediation matters) and therefore are fully prepared and committed to tackle any issues that may come as part of the implementation of the hearings through videoconferences or other technology platforms.

CAN THE COURT ISSUE EX-PARTE DECISIONS?

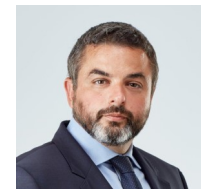
The answer is **No**. Irrespective of the COVID-19 situation, the court is obliged to hear both parties. Document-only decision is possible, but both parties will be heard before a decision is issued.



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WHAT HAPPENS WITH THE DEADLINES?

As a result of the (now terminated) Extraordinary Judicial Holiday any deadlines which would have expired between 15 March and 15 April 2020 (inclusive) are extended to 30 April 2020. In all other cases the suspension effected by the Extraordinary Judicial Holiday is now lifted.

Therefore, special attention from parties and lawyers is required to ensure that no procedural deadlines are missed and each submission is submitted in a timely manner. Please note that the above relates only to procedural deadlines in ongoing cases.

This means that limitation periods and statutory deadlines (e.g. deadline to file a lawsuit) are still pending as usual

WHAT HAPPENS WITH THE SECOND INSTANCE CASES?

Second instance courts are required to proceed with the proceedings and issue their decision without holding any hearing (i.e. the second instance courts will issue document-only decisions).

ARBITRATION CASES

It seems that arbitral tribunals are much more flexible and are more able – and willing – to adopt to the new situation to ensure that the ordinary course of the arbitral proceedings is not disrupted by the COVID-19 outbreak.

According to the information published, all main international institutions (ICC, ICSID, LCIA, etc.) are working remotely while all communication with the respective secretariat (including the filing of new requests for arbitration or other motions) is advised to be conducted by e-mail or by the online filing system operated by the arbitration court. This also means that awards issued by the arbitral tribunals during the time of the crisis will also be dispatched to the parties in e-mail.

The main local arbitration court (the permanent arbitration court attached to the Hungarian Chamber of Commerce and Industry) has also ordered the stay of all personal hearings and ordered that all communication between the arbitration court and the parties must be conducted by e-mail.

Although arbitral tribunals may implement videoconferences and various technology platforms to proceed with the hearings, many obstacles are obvious in such cases: even when the hearing is conducted through a videoconference, it would be difficult for a team of lawyers to be in several locations and need the professional and timely coordination of numerous different connections.

WHO TO CONTACT?

If you have any questions arising from the matters in this note, please do not hesitate to contact any member of our team:

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