

THE EFFECT OF COVID-19 ON HUNGARIAN COURTS AND INSTITUTIONAL ARBITRATION

Below, we briefly summarise how COVID-19 affects the functioning of the Hungarian court system and that of institutional arbitration.

A. COURTS

On 12 March 2020, a special state of emergency was declared by Government decree 40/2020. (III. 11.) under which special emergency laws are applicable for an indefinite period of time. One of the first emergency measures taken by the Government, upon the recommendation of the President of the Curia (the highest court of Hungary), the President of the National Office for the Judiciary and the chief prosecutor, was an order for an extraordinary judicial vacation for an indefinite period.

The main elements of the judicial vacation, in general, are governed by the Hungarian Civil Procedure Act, while the specific rules are defined by the orders of the National Office for the Judiciary. In the following, we summarise how the functioning of courts is affected by the extraordinary judicial vacation.

1. The effect of judicial vacation on court hearings

As courts cannot hold preparatory hearings and hearings due to the pandemic, every court hearing for the date after 15 March 2020 has been postponed. Courts have informed litigants and summoned parties about the postponement without determining a new date for the court hearing since the final date of the judicial vacation has not yet been defined.

However, the judicial vacation does not affect such duties of courts that can be handled without court hearings. Moreover, urgent procedural acts shall be retained by the court, if possible, by remote hearing. If an urgent procedural act cannot be carried out by remote hearing, a special courtroom protocol shall be in place. According to this protocol, persons present must be at least two meters apart, and they must declare whether they have

- been in an affected area for the past 14 days,
- met an infected person or a person related to an infected person.

If it is likely that an infected person is present in the courtroom, the trial will be immediately interrupted by the court. The infected person shall be taken to a separate room and the competent body shall be informed. The contact details of the persons present in the courtroom shall be registered by the court and transmitted to the competent body.

As the customer centres are closed, litigants can request information by telecommunication or electronically.

During the judicial vacation, only the following persons can enter court buildings:

- judges and judicial officers performing their official duties;
- persons who have been summoned to court for urgent procedural acts;

- persons who perform judicial tasks.

2. The effect of judicial vacation on procedural deadlines

In case of civil procedures, where a certain deadline is defined in days, it shall not include the period of the judicial vacation. Where the deadline is defined in months and/or years expiring during the period of the judicial vacation, it shall expire on that day of the following month, the numbering of which corresponds to the day of initiation, and if this day also falls within the period of the judicial vacation, then the deadline shall expire on the first day after the judicial vacation. It is important to note that the judicial vacation has no impact on such deadlines which are in connection with urgent procedural acts such as interim judicial injunctions, enforcement procedures, etc.

B. Institutional Arbitration

The arbitration community in Hungary is faced with similar problems that other arbitration practitioners in the world are, such as the lack of the opportunity to hold physical CMCs, hearings, etc. Moreover, often without the chance for parties/arbitrators to dispatch/courier original documents from/to certain parts of the world, it is questionable how cases can be moved forward, especially with a view to the respective confidentiality, technical, due process, etc. considerations.

The most widely used arbitration institution for arbitrating in Hungary is the Permanent Arbitration Court attached to the Hungarian Chamber of Commerce and Industry (Commercial Arbitration Court Budapest; the “**Arbitration Court**”).

Due to the COVID-19 situation, the Arbitration Court has issued a request to arbitrators asking them to try not to hold hearings before May and especially to postpone any hearings, where foreign parties would be present (this request came out at a time when there were not many locals diagnosed with the virus – this, unfortunately, is changing rapidly).

In the meantime, the secretariat of the Arbitration Court has moved into remote work mode and thus no hearing during this period is expected to be held at the Arbitration Court’s premises.

While the rules in force of the Arbitration Court state that “*The arbitral tribunal shall to the extent possible close the proceedings within six months from its constitution.*” and this rule has not been officially suspended, no one really expects that running cases will be closed within this very short timeframe. The wording “... *to the extent possible* ...” has got true meaning under these circumstances.

This communication offers general comments on legal developments of concern to business organisations and individuals and is not intended to provide legal advice. Readers should seek professional legal advice on the particular issues that concern them.

Should you have questions in connection with the above or an issue under Hungarian law, contact your usual point of contact at Forgó, Damjanovic & Partners or write to us at office@fdlaw.hu.