

AMENDMENT OF THE SPECIAL PROCEDURAL RULES DURING THE STATE OF EMERGENCY

The Governmental Decree No. 74/2020. ("Decree") on the applicable procedural measures for the period of the state of emergency has been in force since the 31st of March, 2020. The Decree will be amended from the 1st of June by the Governmental Decree No. 229/2020. ("Amd.") on the amendment of the Governmental Decree No. 74/2020. on the applicable procedural measures for the period of the state of emergency and Governmental Decree No. 90/2020. on the amendment of certain rules on the enforcement of sentences in connection with the state of emergency, which prepares the courts to the cessation of the state of emergency and the return to the general, pre-emergency procedural rules by amending the procedural rules applicable during the state of emergency. The amended Decree will still remain in force until the termination of the state of emergency. The amended provisions apply to the legal proceedings in progress and also include certain rules regarding the initiation of proceedings.

The following is a summary of the most important civil and administrative procedural law related amendments made by the Amd., highlighting the issues that require special attention in litigations.

CIVIL PROCEEDINGS

From the 1st of June, the courts will return to the principle of personal participation and to in-person hearings, and provisional rules will be introduced in this regard by the Amd., with respect to litigations under the effective Code of Civil Procedure ("CCP") and litigations subject to the former Code of Civil Procedure of 1952 ("former CCP"). Following the amendment, in-person hearings will again be the general rule instead of the proceedings without holding a hearing, or hearings held via electronic devices. The public can be excluded from the hearings in order to ensure that the epidemiological measures are complied with. In the future, hearings can only be held via electronic devices if specific epidemiological measures make it necessary, or if it follows from the general procedural rules.

The preparatory phase of the procedures under the CCP will be conducted with preparatory hearing. However, if the court has obtained the necessary preparatory briefs to define the framework of the litigation between the 1st of March and the 1st of June, it shall close the preparatory phase without a preparatory hearing. The court shall inform the parties about the closure of the preparatory phase in advance, and shall provide the parties with the opportunity to file further written submissions before the closure of the preparatory phase. The court will then notify the parties in writing of the conclusion of the preparatory phase.

If the court began the preparatory phase between the 31st of March and the 1st of June but not all preparatory statements defining the scope of the dispute had been made by the 1st of June, then the court shall choose between holding a preparatory hearing or continuing the preparatory phase without a hearing. In the latter case, however, either party can request a hearing in accordance with the general rules.

There are several issues with the preparatory phase of the procedures after the amendment of the Decree. It is not clear whether a preparatory hearing can be held in case of proceedings where the preparatory phase was initiated before the 31st of March, and it is not clear whether “obtaining the necessary preparatory briefs” should be understood as an action carried out by the court for this purpose, or as the receipt of a statement from the parties.

The substantive hearings under the CCP (meaning, in case of procedures under the former CCP, the hearings in general) should be held in person. If the court has previously ordered hearing via electronic means, then it shall proceed with in-person hearings and shall notify those summoned of the place of the hearing, except if specific epidemiological measures are in place.

If the court notified the parties about proceeding without holding a hearing between the 31st of March and the 1st of June in the appeal proceedings or in the judicial review procedures before the Kúria (Supreme Court), then it shall proceed without holding a hearing. In case of a hearing that has already been scheduled in an appeal or judicial review procedure initiated before the state of emergency, and the court notified the parties about adjournment and further proceeding without holding a hearing, then the parties had the option to request a hearing via electronic device. In case of the parties' above request, following the amendment of Amd., the court will hold a hearing.

Beside the general provisions of the CCP and the former CCP, courts shall render a decision without holding a hearing in the following cases:

- If the court notified the parties in writing about the closing of the hearing between the 31st of March and the 1st of June and if the parties have made statements at the request of the court or have not made such statements within the prescribed deadline, the court shall adjudicate the case without holding a hearing.
- The court may approve the settlement reached by the parties without holding a hearing if the parties already made the necessary statements. However, an appeal against this order has suspensory effect on enforcement.

From the 1st of June, with respect to the stay of proceedings, composition of courts of first instance and procedural measures, the general rules of the CCP or the former CCP shall apply instead of the temporary rules.

ADMINISTRATIVE LITIGATIONS

In administrative proceedings, as in civil proceedings, the courts shall return to in-person hearings- and proceedings, except in cases covered by a specific epidemiological measure, with the following transitional provisions:

- Proceedings initiated by an action filed after the 1st of June, shall proceed with in-person hearing, if it is requested by the party or the person concerned according to the general legal provisions.
- If the court notified the parties about proceeding without holding a hearing between the 31st of March and the 1st of June, then it shall proceed without hearing, unless the party or the person concerned request a hearing within 15 days after the end of the state of emergency.
- If the party requested the postponement of the hearing for a date after the termination of the state of emergency between the 31st of March and the 1st of June, then the court shall take action within 15 days of the end of the state of emergency in connection with summons.
- If the proceedings stopped due to a procedural act requiring in-person involvement between the 31st of March and the 1st of June, then the court shall take action within 15 days after the 1st of June.
- If the court notified the parties about the closing of the hearing between the 31st of March and the 1st of June, and if the parties have made statements at the request of the court or have not made such statements within the prescribed deadline, the court shall adjudicate the case without holding a hearing.
- The court may approve the settlement reached by the parties without holding a hearing, if the parties already made the necessary statements. However, an appeal against this order has suspensory effect on enforcement.

OUT-OF-COURT PROCEEDINGS (company registry, enforcement)

The temporary rules of the out-of-court proceedings were not amended by the Amd.

NOTARIAL PROCEDURES (payment order, succession proceeding)

The temporary rules of the notarial procedures were not amended by the Amd.

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