

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 came into effect on the 31st of March, 2020, which introduces special rules that apply during the extraordinary judicial break (which was declared on the 15th of March, 2020). The Decree remains in force until the termination of the state of emergency and applies to the legal proceedings in progress and also includes certain rules regarding the initiation of proceedings. The following is a summary of the most important procedural law related rules of the Decree, highlighting the issues that require special attention in litigations.

CIVIL PROCEEDINGS

Unless otherwise stated in the Decree, the state of emergency has no effect on the passing of deadlines neither in proceedings under the Code of Civil Procedure ("CCP") of 1952, nor in cases under the CCP in effect. It is important that pursuant to Section 97 (2) of the Decree, the deadlines that expired, or would expire, between the 15th of March, 2020 and 15th of April, 2020, are by force of law extended until the 30th of April, 2020.

According to the Decree, if a court has already resolved on the interruption of the proceedings on the basis of the extraordinary judicial break, then such court resolution is set aside by force of law, and the court shall resume proceedings in accordance with the rules set out in the same Decree. It does not mean that the interruption of the procedure could not be established later, on different appropriate grounds.

The service by the administrative departments of the courts to receive inquiries and clients in-person is not available, including the in-person review of court files.

Until the termination of the state of emergency, the judicial councils at first instance courts consist of one judge in every case.

In relation to the objections concerning the delivery (provision) of court documents, the Decree lays down that if the delivery of such documents was made during the state of emergency, the duration of the state of emergency shall not be counted as falling within the deadline for submitting the objection. The duration of the state of emergency shall also not be counted as falling within the deadline for submitting an application for justification of failure to comply with a deadline (this does not mean that the state of emergency, in itself, constitutes a proper ground for submitting such an application).

As a general rule, procedural measures (such as, for example, inspections) may not be taken place in a location subject to an epidemiological restriction during the state of emergency.

The court may establish the stay of procedure – upon the joint request of the parties – unlimited number of times.

The court may approve the settlement reached by the parties without holding a hearing.

The preparatory phase of the procedures under the new CCP will be conducted without holding any preparatory hearing (even if the parties request the court to hold a preparatory hearing) during the state of emergency, however, the court may order the parties to submit their statements in writing. If the personal participation of a party is necessary for the closing of the preparatory phase, the statements may be obtained in writing or by means of electronic communication allowing personal identification. 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 substantive hearings under the new CCP (meaning, in case of procedures under CCP of 1952, the hearings in general) should be held by means of an electronic communication network or through the use of other devices suitable for transmitting electronic images and sound. If these conditions are not met, the parties shall be requested by the court to submit their statements to be presented at the hearing in writing or through electronic devices. These rules for making a statement apply to all cases where the in-person oral presentation of statements is required, but the detailed technical rules for procedural measures to be fulfilled and hearings to be held through electronic devices are yet to be published.

During the extraordinary judicial break, the parties have no right to request a hearing in appeal proceedings and in the judicial review procedures before the Kúria (Supreme Court), i.e. in these cases, the courts shall render a decision without holding a hearing.

If, however, a hearing has already been scheduled prior to the 31st of March, 2020, the court shall – upon the parties' joint request – proceed in accordance with the rules summarized in the above paragraph (i.e. hold a hearing by electronic means, or, if the required conditions are not met, request written submissions).

ADMINISTRATIVE LITIGATIONS

The above rules of the civil proceedings *mutatis mutandis* apply in administrative litigations, therefore only those provisions will be highlighted, which are specific for administrative litigations.

In the proceedings in progress under the CCP of 1952, the enforcement of decisions cannot be suspended, and in the proceedings under the Code of Administration Litigation in effect, the measure of immediate legal protection cannot be applied in cases, where the administrative action pertains to measures managing the consequences of the epidemic causing mass infection threatening the safety of life and property, or relating to the protection of the health and life of the Hungarian citizens.

If a hearing should be held, the plaintiff may request the court – instead of adjudicating the case without holding a hearing – to postpone the hearing for a date after the termination of the state of emergency, if the suspensory effect of the administrative action is not applied at least partially, the submission of the case has suspensory effect, and the suspensory effect was not relieved or temporary measure was not ordered by the court.

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

The rules of the civil procedures presented above also apply in out-of-court proceedings pending or to be initiated before courts, by taking into account the features of noncontentious procedures, except where the Decree introduces special rules for a given procedure. Special rules were introduced for the procedure of company registration and for the enforcement proceedings.

In respect of the procedures of company registration, the registry court may carry out only document based evidentiary procedures, and the Company Information Service (in Hungarian: Céginformációs és az Elektronikus Cégeljárásban Közreműködő Szolgálat) provides company information or other services only by electronic means.

With respect to the enforcement procedures, these cannot be ordered during the state of emergency under the Brussels Ila regulation, and based on requests for returning a child who has been wrongfully removed to Hungary, the deadlines for ordering the enforcement will start to run again on the first day after the termination of the state of emergency. Under the Brussels Ila regulation, or in procedures based on requests for returning a child who has been wrongfully removed to Hungary, procedural measures or actions in enforcement procedures ordered prior to the date the Decree entered into force, cannot be conducted during the state of emergency, and the deadlines for procedural measures and actions will start to run again on the first day after the termination of the state of emergency.

NOTARIAL PROCEDURES (payment order, succession proceeding)

The Hungarian Chamber of Civil Law Notaries publishes on its website the name, area of competence, contact details and the opening hours of the competent notaries designated for the entire, or certain territory within the area of competence of the local chamber.

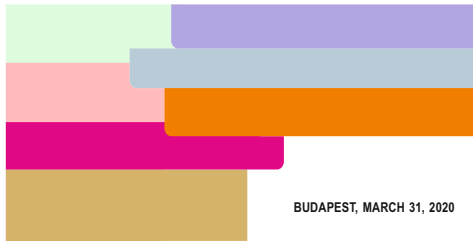
The Hungarian Chamber of Civil Law Notaries continues to provide the option to make notarial wills or to deposit wills, and continues to provide the operation of the collateral register, and the operation of the system used by the notaries in payment order procedures during the state of emergency.

During the state of emergency, as a general rule, oral requests cannot be made, case files cannot be reviewed in-person, and where oral statements are required via personal presentation, the statements are to be submitted in written form. The notary may postpone the procedural measures requiring in-person participation that should be carried out during the state of emergency with notification to the parties. Should such measures not be postponed, in case of non-participation, the consequences of omissions are not to apply.

In succession proceedings, the notary shall not schedule a hearing, and shall postpone the hearings for a date after the termination of the state of emergency. In absence of will, subject to the conditions laid down in the Decree, the estate can be passed over without holding a succession hearing.

In payment order procedures, until the first day after the termination of the state of emergency, oral submissions cannot be made before the notaries. Until the termination of the state of emergency, the service of the payment order cannot be performed by an executor, the deadline for the service will start to run again on the first day after the termination of the state of emergency.

The above summary is for general information purposes only.
Its content is not fully comprehensive, it does not constitute and shall
not be interpreted as legal advice.
The above summary is not a substitute for seeking legal counsel.



NAGY & TRÓCSÁNYI

the premier independent law firm in Hungary

visit our website: www.nt.hu