

July 2020

## NEW ENTRY RESTRICTIONS TO HUNGARY

On 18 June 2020, the state of emergency in Hungary was terminated. Accordingly, the travel rules eased, as (i) Hungarian citizens, (ii) citizens of EU and EEA Member States (iii) and the family members of the listed citizens could enter Hungary without any restrictions. As the number of people infected by the coronavirus is increasing in Hungary's neighbouring countries, new legislation on travel restrictions came into effect as of 15 July 2020 [Government Decree 341/2020. (VII. 12.) ("**Government Decree**")].

The Government Decree governs entry into Hungary based on the (i) citizenship or immigration status of the person entering and (ii) the classification of the country from which they departed (classified as a green/yellow/red zone).

	<b>Hungarian citizens and non-citizens with equal status <sup>1</sup></b>	<b>Other entering persons</b>
<b>Green-zone countries</b>	Those who arrive from a green-zone country can enter Hungary without any restrictions.	Those who arrive from a green-zone country can enter Hungary without any restrictions.
<b>Yellow-zone countries</b>	Those who enter from a yellow-zone country must undergo a mandatory health check (i.e. body temperature measurement).  (α) If there is no symptom of coronavirus infection, based on the mandatory health check: official home quarantine for an	Those who enter from a yellow zone country must undergo a mandatory health check (i.e. body temperature measurement).  (α) Based on the mandatory health check: home quarantine for an aggregated 14-day period is required.

<sup>1</sup> Pursuant to Section 1 (2) of the Government Decree, citizens who (i) are entitled to permanent residence in Hungary and their family member, provided that they proves their entitlement with an appropriate document, (ii) who are entitled to stay in Hungary for more than 90 days are subject to the same treatment as Hungarian citizens.

	<p>aggregated 14-day period is required.</p> <p>(b) In the case of any symptom: quarantine takes place at a hospital or at the given person's home, depending on the degree of epidemiological risk.</p>	<p>(b) In the case of any symptom: the entry is refused.</p>
	<p><i>Exceptions:</i></p> <p>(a) <i>Before entering Hungary: Quarantine is not required, if the given person provides his/her negative tests which meet the Hungarian legislation<sup>2</sup> (2 tests, made within 5 days prior to the entry, the time difference between the negative tests shall be a minimum of 48 hours).</i></p> <p>(b) <i>After entering Hungary: Upon the affected person's request home quarantine shall be withdrawn, provided that he/she can provide 2 negative COVID-19 tests. If the first test result is negative, and the National Center for Public Health (Nemzeti Népegészségügyi Központ) is notified about the result, the home quarantine shall be conditionally withdrawn. Regardless the result of the first test, the second one is mandatory as well and must be carried out within at least 48 hours. If the result is still negative, the authority confirms its first result, otherwise, the given person is instructed to go back to official home quarantine again.</i></p> <p><i>[The main rules about the procedure of the withdrawal is specified below].</i></p>	<p><i>Exceptions:</i></p> <p>(a) <i>Before entering Hungary: Quarantine is not required, if the given person provides his/her negative tests which meet the Hungarian legislation (2 tests, made within 5 days prior to the entry, the time difference between the negative tests shall be a minimum of 48 hours).</i></p> <p>(b) <i>After entering Hungary: Based on 2 negative COVID-19 tests the home quarantine shall be withdrawn, based on the affected person's request [the main rules about the procedure of the withdrawal is specified below in the footnote]. If the first test result is negative, and the National Center for Public Health (Nemzeti Népegészségügyi Központ) is notified about the result, the home quarantine shall be conditionally withdrawn. Regardless the result of the first test, the second one is mandatory as well and must be carried out within at least 48 hours. If the result is still negative, the authority confirms its first result, otherwise, the given person is instructed to go back to home quarantine again.</i></p>

<sup>2</sup> PCR test applies, carried out by a throat sample and pharyngeal secretion.

<p><b>Red-zone countries</b></p>	<p>Those, who enter from a yellow zone country, undergo a mandatory health check (i.e. body temperature measurement).</p> <p>(a) If there is no symptom of coronavirus infection, based on the mandatory health check: home quarantine for an aggregated 14-day period is triggered.</p> <p>(b) In case of any symptom: quarantine takes place at a hospital or at the given person's home, depending on the degree of epidemiological risk.</p>	<p>Entry from a red zone country is not permitted.</p>
	<p><i>Exceptions:</i></p> <p>(a) <i>Before entering Hungary: Quarantine is not required, if the given person provides his/her negative tests which meet the Hungarian legislation (2 tests, made within 5 days prior to the entry, the time difference between the negative tests shall be minimum 48 hours).</i></p> <p>(b) <i>After entering Hungary: Based on 2 negative COVID-19 tests the home quarantine shall be withdrawn, upon the affected person's request. In contrast to the provisions linked to yellow zone countries, the rules of conditional withdrawal is not applicable, and the given person can be released from home quarantine after 2 negative tests.</i></p>	

As per the government communication, the lists of the classification of the countries will be updated on a weekly basis, on each Wednesday.

In connection with the interpretation of the Government Decree and the government communication, there are some unclear provisions.

## 1. THE ENTRY OF EU CITIZENS

As per the Government Decree, those who have the right of (i) permanent residence and their family members, and (ii) residence in Hungary for a period exceeding 90 days are subject to the same rules as the Hungarians.

Relating to the scope of the persons with the right of permanent residence some uncertainty arises, as on the one hand the wording can be interpreted as applying exclusively to EEA/EU citizens with permanent residence status (Section 16 of Act I of 2007). On the other hand, it can be interpreted as applying to all EU citizens, since they have the right of free movement and residence, i.e. can remain in Hungary permanently. As Hungary is a member state of the EU, it is obliged to grant the right of free movement to EU citizens under the same terms and conditions as the Hungarian citizens. Accordingly, our understanding is that EU citizens fall into the category of persons with the right of permanent residence.<sup>3</sup>

## 2. RULES OF SPECIAL APPRECIATION

Pursuant to Section 7 of the Government Decree, the police, upon request, have the power to grant exemptions from the imposed restrictions in the category of "Other Entrants". The given discretionary power is most likely restricted by Section 8 (3) of the Government Decree, as for persons in the category of "Other Entrants", a mandatory health check applies when they are crossing the Hungarian border, and in the case of any COVID-19 symptom, entry is refused. Accordingly, the wording of the provision is vague, and practice is not yet available in connection with the new regulation.

## 3. EXEMPTION FROM OFFICIAL HOME QUARANTINE

As of 31 July 2020, those who are subject to an official home quarantine can initiate a PCR test at their General Practitioner. Upon their request, the General Practitioner will notify the National Ambulance Service to carry out the PCR test. If the test is negative, and this fact is registered in the records of the National Center for Public Health, the given person can leave the official home quarantine. We note that not the General Practitioner, but the patient should notify the authorities about the negative test result. As the state undertakes the costs of the PCR test until 1 August 2020, the detailed procedure is available until 31 July 2020. However, the procedure to be followed from 1 August 2020 is currently uncertain, as rules are not available yet whether patients can initiate the PCR test at the General Practitioner, or exclusively at private service providers. What is certain, is that if the chosen provider carries out the test only at its seat, the patient should apply for an exemption from the official home quarantine for the duration of the test at the National Center for Public Health.

### ACTION PLAN

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<sup>3</sup> Our understanding in connection with the scope of permanent resident status has been confirmed by the competent authority.

If employees are placed into home quarantine, they are not permitted to work in home quarantine, i.e. they cannot be required to work even if they have not been diagnosed with COVID-19. Accordingly, if an employee spends his or her vacation in a yellow zone country, the employer should count on a loss of capacity. In order to avoid this negative effect, we suggest introducing a private trip reporting obligation for employees and imposing restrictions due to the travel destination in compliance with data protection legislation.

### About WOLF THEISS

Wolf Theiss is one of the leading law firms in Central, Eastern and Southeastern Europe (CEE/SEE). We have built our reputation on a combination of unrivalled local knowledge and strong international capability. We opened our first office in Vienna over 60 years ago. Our team now brings together over 340 lawyers from a diverse range of backgrounds, working in offices in 13 countries throughout the CEE/SEE region.

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