

What is the legal procedure in case the company court fails to deliberate our request for company registration or registration of change?

Many people might remember that nearly all business companies were compelled to announce various data – among others, their tax identification number – to the company court until 1 February, 2013, which presented quite a challenge for both the participants of business life and the legal representatives thereof, but mostly for the company courts. Many complained that although they observed the deadline, they have not received the decision on change registration to date, the expert of Kovács Réti Szegheő Attorneys at Law called the attention of [origo] to the evolved situation.

Dr. Arvid Hauck elaborated that pursuant to Act V of 2006 on Public Company Information, Company registration and Winding Up Proceedings, the company court shall, as a general rule, decide on registration or refusal of registration within 15 working days following the receipt of request for company or change registration.

This means, the company court shall initiate serving the decision ordering the registration of the company (registration of change) or refusal thereof to the legal representative within a deadline of 15 working days.

On account of the abundance of requests, the capacity of company courts was insufficient to process the requests as it could have been predicted and the company court, in most cases missed the statutory deadline, the expert of Kovács Réti Szegheő pointed out.

Multiplicity of the general caseload

The caseload received is aptly demonstrated by the fact that over 80.000 submissions were received by the Company Court of the Metropolitan Court of Justice in connection with the mandatory data announcement out of that, 50,000 in January 2013, which represents a multiplication of caseload compared to the general monthly amount.

Pursuant to the Companies Act, in the event that the company court fails to fulfil its decision-making obligation on deadline, the head of the company court shall, latest by three working days following the deadline take action to pass a decision regarding the registration (change registration) request and likewise, on the statutory data announcement as they have been formally filed as change registration request.

In case the head of company court fails to comply with such request, the company registration (change registration) shall, upon expiry of the three-working-day deadline, take place by operation of the law with immediate effect.

Order on supplementing data within eight working days at the latest

According to Dr. Arvid Hauck, it is worthy of noting that in case the company failed to enclose the documents stipulated by the law, or in case the request for company registration or its



annexes failed to comply with the statutory provisions, the company court issues an order of supplementation with a view to refusal which shall be issued latest on the eighth working day following the receipt of request. However, there is a special provision in the act that in the proceeding conducted by the head of company court, no order of supplementation shall be issued.

As consequence of the above statutory provisions, the company court, provided that it detects after the elapse of the deadline that the request fails to comply with the statutory provisions, is no longer able to call upon the party filing the request for supplementation. That is, in such cases, when a company fails to meet not only the mandatory data announcement free of duty and costs but, for instance, has amended its founding deed without payment of the proceedings fee without the company court noticing it on time, the companies may not be compelled to pay such costs subsequently.

The unprecedented caseload on the company courts has one further implication that is, requests of company and change registration filed after 1 February, 2013 are deliberated more slowly than usually, as the company courts are continuously processing the filed mandatory data announcement – concluded the expert of Kovács Réti Szegheő.

Preceding events

Previously, the events have been covered on several occasions by[origo], at that time the head of the department for press of the Ministry for Public Administration and Justice informed us that the amendment to law had been promulgated on 30 December, 2011. Pursuant to the amendment, companies that were registered in Hungary before 1 March, 2012 shall fulfil their data announcement obligation at the time of the first modification of their data recorded in the company register in absence of such, latest by 1 February, 2013.

The expert of Microsec supervising the company courts information system revealed that they were exposed to 5 to 10 times of the regular caseload so they had installed a new server for admitting the e-files in order that the attorneys continue to receive the electronic certificate of receipt from the company court system within a few minutes after sending such files.