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**Council for Trade-Related Aspects of
Intellectual Property Rights**

Original: English

**NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLE 63.2 OF THE TRIPS AGREEMENT**

HUNGARY: ACT LVIII OF 2020 ON TRANSITIONAL RULES RELATED TO THE TERMINATION OF
STATE OF DANGER AND ON EPIDEMIOLOGICAL PREPAREDNESS

Notifying Member	HUNGARY
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Details of the notified legal text

Title	Act LVIII of 2020 on Transitional Rules related to the Termination of State of Danger and on Epidemiological Preparedness
Subject matter	Patents (including plant variety protection)
Nature of notification	<input type="checkbox"/> Main dedicated intellectual property law or regulation <input checked="" type="checkbox"/> Other law or regulation
Link to legal text*	https://ip-documents.info/2020/IP/HUN/20_4136_00_x.pdf
Notification status	<input type="checkbox"/> First notification <input checked="" type="checkbox"/> Amendment or revision to notified legal text <input type="checkbox"/> Replacement or consolidation of notified legal text(s)
Previous notification(s) referred to	IP/N/1/HUN/P/1

Brief description of the notified legal text

In connection with the COVID-19 pandemic, the Hungarian Government declared special legal order (State of Danger). During this period, the Government may adopt decrees by means of which it may, as provided for by a cardinal Act, suspend the application of certain Acts, derogate from the provisions of Acts and take other extraordinary measures.

The Government Decree 212/2020 (16 May) on public health compulsory licences for exploitation within Hungary (hereinafter mentioned as Government Decree 212/2020), based on Art 31 of the TRIPS Agreement, created a public health compulsory licence for exploitation within Hungary.

The special legal order (State of Danger) was terminated on 18th of June 2020, and thus Government Decree 212/2020 ceased to have effect on that day.

Act LVIII of 2020 on Transitional Rules related to the Termination of State of Danger and on Epidemiological Preparedness amended necessary modifications regarding the termination of the special legal order, including the modification of the Hungarian Patent Act (Law No. XXXIII of 1995 on the Protection of Inventions by Patents, hereinafter mentioned as HPA), which came into force on 18th of June 2020. This modification enacted the public health compulsory licence to the HPA, with slight modifications compared to Government Decree 212/2020.

The main difference between Government Decree 212/2020 and the HPA's compulsory licence is that under HPA it is possible to acquire a licence for uses in connection with export, if the invention is not protected by patent or supplementary protection certificate in the destination country, or the destination country also issued a compulsory licence regarding the invention.

With a view to satisfying the needs arising in connection with the health crisis, the Hungarian Intellectual Property Office (hereinafter "HIPO") shall issue a public health compulsory licence for the exploitation of

- (a) a medicinal product or an active substance under patent or supplementary protection, or a medical device or an investigational medicinal product under patent protection (hereinafter jointly "healthcare product"), or
- (b) a procedure, equipment or tool under patent protection that is required for the production of a healthcare product.

On the basis of a public health compulsory licence, the compulsory licence holder shall be entitled to exploit the healthcare product, procedure, equipment or tool solely for satisfying the needs arising in connection with pandemic situations.

The public health compulsory licence shall not confer exclusive right of exploitation; on the basis of the public health compulsory licence, the public health compulsory licence holder may not grant any licence for exploitation.

The period and fees of the compulsory licence is determined by HIPO.

Healthcare products produced on the basis of a public health compulsory licence shall be distinguished from products produced by the patent holder by a unique marking. The fact that a healthcare product was produced on the basis of a public health compulsory licence granted by the HIPO for the sole purpose of placing it into market in Hungary or a specific destination country shall be clearly indicated on the packaging and any related documents.

Language(s) of notified legal text	Hungarian
Entry into force	18 June 2020
Other date	Publication: 17 June 2020

Notification details

Submission date of notification	8 July 2020
Other information	Law No. XXXIII of 1995 on the Protection of Inventions by Patents (in Hungarian) https://ip-documents.info/2020/IP/HUN/20_4136_01_x.pdf
Agency or authority responsible	Ministry of Justice of Hungary 1055 Budapest, Kossuth Lajos tér 4. Department of Competition Law, Consumer Protection and IP Law vfsztfo@im.gov.hu

* Links are provided to texts of laws and regulations notified under the TRIPS Agreement in the form supplied by the Member concerned; the WTO Secretariat does not endorse or revise their content.