

An Instance of Interrupting the Statute of Limitations

In a recent decision, the Curia (the Hungarian Supreme Court) addressed the question of whether a request for the issuance of an enforcement clause on a notarial deed constitutes an act that interrupts the statute of limitations for a claim.

In the case at hand, the creditor submitted the request for the enforcement clause within the general five-year limitation period. Based on this request, the notary ordered enforcement. However, the enforcement was actually ordered after the five-year period had expired.

The core issue was whether the debtor's request in this context could be considered an enforcement act that would interrupt the statute of limitations for the enforcement right.

The right to enforcement refers to the creditor's legal entitlement to have a claim fulfilled through official, compulsory means. This is distinct from the enforcement procedure itself, which is a non-litigious process related to the ordering and execution of enforcement.

According to the enforcement law, the most significant consequence of the expiration of the enforcement right is that the creditor can no longer request court enforcement of an otherwise enforceable claim, and any enforcement already ordered must be terminated.

As a general rule, the enforcement right expires concurrently with the underlying claim.

Claims that are directly enforceable on the basis of notarial deeds become not only due but also enforceable after the deadline specified in the deed has passed.

Once enforcement has been initiated, only enforcement acts can interrupt the statute of limitations for the enforcement right.

The Curia's consistent case law holds that the initiation of the enforcement procedure qualifies as the first enforcement act. After the enforcement process has commenced, only further steps that advance the enforcement can be considered enforcement acts (e.g., Pfv.I.21.637/2016, published in BH2017.183).

Accordingly, the Curia held that the creditor's request for the issuance of the enforcement clause qualifies as an enforcement act, thereby interrupting the statute of limitations for the enforcement right.