



**GETTING BACK THE
90% MINING FEE &
LOSSES SUFFERED FROM
EXPORT RESTRICTION**



**GRAVEL, SAND, CEMENT & OTHER
CONSTRUCTION MATERIALS**

27 MAY 2022

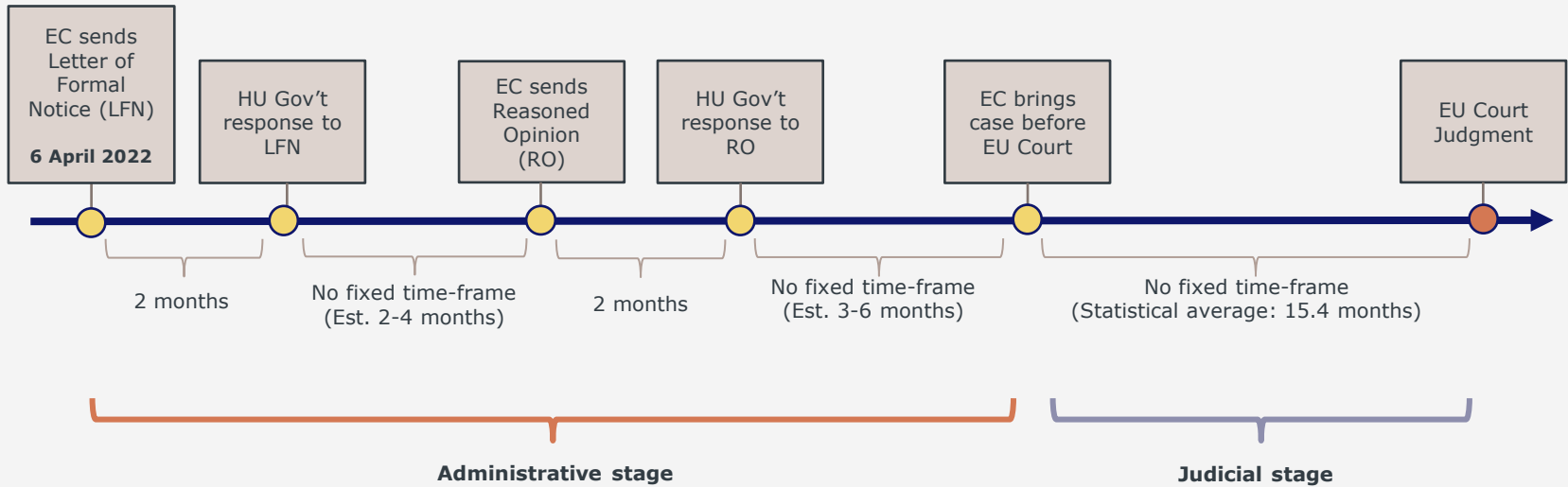
THE 90% MINING FEE

- On 8 July 2021, the Hungarian gov't adopted Decree 404/2021. Under the decree, the government seizes 90% of the turnover from sale of certain construction materials to the extent the turnover is realized through prices set above certain prices (the **90% Mining Fee**).
- The 90% Mining Fee applies to gravel, sand & cement.
- On 17 December 2021, the Hungarian Parliament passed an amendment to the Mining Act that, in essence, incorporates the 90% Mining Fee into permanent legislation. The amendment takes full effect from 1 June 2022.

THE 90% MINING FEE IS CONTRARY TO EU LAW

- In our opinion, the 90% Mining Fee is contrary to EU law on several grounds including Article 49 TEUF guaranteeing freedom of Establishment and the TRIS Directive.
- Following the adoption of the 90% Mining Fee, we lodged a complaint requesting the European Commission (**EC**) to start Treaty infringement proceedings against Hungary.
- The EC agrees with our assessment and brought infringement proceedings against Hungary on 6 April 2022. We have illustrated the time-frame for these proceedings on the next slide.

ANTICIPATED TIME-FRAME FOR TREATY INFRINGEMENT PROCEEDINGS



GETTING BACK 90% MINING FEE ALREADY PAID

- If the EU Court holds that the 90% Mining Fee is contrary to EU law, the 90% Mining Fee has been collected on an illegal basis. This means that gravel/sand & cement companies can require the HU gov't to repay any & all 90% Mining Fee already paid.
- Such claims must – at least at first instance – be brought in Hungarian courts and observing the Statute of limitations.
- We can assist you in bringing action for repayment.

LOSS SUFFERED DUE TO EXPORT RESTRICTION

- The Hungarian gov't also adopted an export restriction on a wide range of construction materials in decree 402/2021.
- Like the 90% Mining Fee, the European Commission has launched a Treaty infringement proceeding against the export restriction.
- The export restriction may have meant that suppliers of construction materials (e.g. cement) may have suffered a loss because they can only sell to Hungarian customers at a lower price.
- We can assist you in reviewing whether you have a claim for damages.



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