Article 17 - Information made available to the public

1. Interim measures of protection against domestic violence under the Special Court Proceedings Act

1.1. Relevant legislation

Specific provisions to combat domestic violence are contained in Sections 751–753 of Act No 89/2012, the Civil Code, which is available here. The procedural rules governing interim proceedings on the protection against domestic violence are laid down in Sections 400–414 of Act No 292/2013, on special court proceedings, which is available here.

If it becomes unbearable for one of the spouses (still married or divorced) to share with the other spouse the house or flat where the family home is located, due to physical or mental violence against that spouse or another person living with the spouses in the family home, the court may, on application of the spouse concerned, limit or even exclude the right of the other spouse to reside in the house or flat for a set period of time.

Given its nature and content, as well as the conditions for its issuing, the interim measure of protection against domestic violence falls within the scope of Regulation (EU) No 606/2013 of the European Parliament and of the Council.

1.2 Entitled persons

(a) ***spouses***: the violence may not necessarily be directed only against the spouse, but also against another person living with the spouses in the family home;

(b) ***divorced spouses*** sharing a family home;

(c) ***other persons*** living in the family home with the spouses or divorced spouses, regardless of whether the violence is directed against these other persons or against still other co-habiting persons.

1.3. Content

The respondent may in particular be ordered to:

(a) leave the common household and its immediate surroundings and refrain from staying in or accessing the common household;

(b) refrain from approaching the common household or the applicant and from staying in the vicinity;

(c) refrain from meeting the applicant; or

(d) refrain from any sort of stalking and harassing the applicant.

1.4. Duration

The interim measure lasts for one month from its enforceability date. The relevant decision becomes enforceable once issued, i.e. its enforceability is not conditional on the decision being served or becoming final.

The decision may be enforced repeatedly during the time for which the interim measure was issued. If the obliged party violates his/her obligation to refrain from entering or staying in the common household after the decision pursuant to Section 493 of the Act on Special Court Proceedings was issued, the court will at any time and without any delay enforce the decision again by evicting the obliged party from the common household, doing so upon an application of the entitled party. In other cases, the court will proceed in accordance with Section 351 of the Code of Civil Procedure and impose a fine of up to CZK 100 000 on the obliged party for a violation of an obligation.

1.5. Extension

The interim measure is valid for one month from the decision's enforceability date and may be extended. The court will only do so upon application. Filing of the relevant application for an extension automatically extends the duration of the interim measure until the court has decided on the application. The maximum total duration of the interim measure is six months from its enforceability date.

1.6. Procedural rules

The jurisdiction lies with the applicant's ordinary court. The court will decide on the relevant application within 48 hours without holding a hearing. The decision is subject to appeal. There is no public register of interim measures in the Czech Republic.

1.6.1. Essential elements of the application

An application for an interim measure of protection against domestic violence must contain the general elements required in an application and a statement of the facts demonstrating that the applicant's and respondent's cohabitation in the house or flat where they share a household is unbearable for the applicant due to physical or mental violence directed against the applicant, or a statement of facts demonstrating that the applicant is being stalked or harassed.

1.6.2. Court fee

An applicant for protection against domestic violence is exempt from a court fee.

1.7. Violation

The body competent to receive complaints regarding the violation of an interim measure is the Police of the Czech Republic.

2. Interim measures under the Code of Civil Procedure

2.1. Relevant legislation

Sections 74–77a of Act No 99/1963, Code of Civil Procedure, which is available here. If the court grants an application for an interim measure, it must always order the applicant to file an application to initiate proceedings on the merits of the case within a set period of time, as the interim measure is only a temporary arrangement until the case is settled by a final decision on its merits.

2.2. Entitled persons

The parties to the proceedings on the application for an interim measure are in each case the applicant and those who would be parties to the proceedings on the merits of the case (Section 74(2) of the Code of Civil Procedure).

2.3. Content

Examples of obligations that the court may impose by way of an interim measure are set out in Section 76(1) of the Code of Civil Procedure. Section 76(1)(e) is particularly relevant for the purposes of issuing certificates pursuant to Regulation (EU) No 606/2013 of the European Parliament and of the Council, as it stipulates that by way of an interim measure a court may order a party to do something, refrain from doing something or tolerate something.

2.4. Duration

A resolution imposing an interim measure is enforceable upon its promulgation. If there is no promulgation, it is enforceable upon its service on the obliged person.

The interim measure expires if:

(a) the applicant fails to file an application to initiate proceedings on the merits of the case within the time limit laid down by law or prescribed by the court;

(b) the application on the merits of the case has not been granted;

(c) the application on the merits of the case has been granted and 15 days have elapsed since the enforcement of the decision on the matter;

(d) the duration of the measure has elapsed.

The duration of the interim measure may be extended by the court.

2.5 Procedural rules

In principle, the jurisdiction to grant an interim measure lies with the court having jurisdiction over the merits of the case. The court will decide on an application for an interim measure without delay and without holding a hearing, no longer than within seven days of filing. The decision is subject to appeal. There is no public register of interim measures in the Czech Republic.

2.5.1 Essential elements of an application

An application for an interim measure must contain the general elements required in an application, as well as the first names, surnames and residences of the parties and, where appropriate, their representatives, a statement of the facts showing that the relationship between the parties needs to be provisionally settled or that there is a concern that the enforcement of a court decision could be jeopardised, and a statement of the facts justifying the interim measure; the application must clearly indicate what kind of interim measure is the applicant seeking.

2.5.2 Court fee

The fee for filing an application is CZK 1 000.

2.6 Violation

Any legal act carried out by the person obliged under the operative part of an enforceable resolution granting an interim measure is void if it violates an obligation imposed by the enforceable resolution granting the interim measure. The court will take account of the nullity of its own motion.

3. Interim measures under the Code of Criminal Procedure

3.1. Relevant legislation

The legal provisions governing interim measures are contained in Section 88b–88o of Act No 141/1961, on criminal procedure (the Code of Criminal Procedure), which is available here.

Given their nature and content, interim measures pursuant to Section 88d of the Code of Criminal Procedure (*prohibition of contact with certain persons*) and under Section 88e of the Code of Criminal Procedure (*prohibition of accessing a home*) may be considered as falling within the scope of Regulation (EU) No 606/2013 of the European Parliament and of the Council.

3.2. Beneficiaries of protection

The victim, a close person or another person (e.g. a witness).

3.3. Content

3.3.1. Prohibition of contact with specific persons

The prohibition of contact with specific persons means that the obliged person may not in any way contact or seek out the victim, persons close to the victim or any other persons, in particular witnesses, including through an electronic communications network or other similar means.

3.3.2. Prohibition of accessing a home

Prohibition of accessing a home means that the accused person may not access, approach or stay in the common household shared with the victim.

3.4. Duration

The interim measure applies as long as its purpose so requires, but no longer than until the judgement or another decision terminating the proceedings becomes final.

If the reason for imposing the interim measure continues to exist and the accused person fails to comply with the conditions of the interim measure, the competent criminal law enforcement authority may decide to impose an administrative fine, issue another type of an interim measure, or place the accused person in custody.

3.5. Procedural rules

The relevant legal provisions are contained in Section 88b(2) of the Code of Criminal Procedure. The decision is subject to appeal. There is no public register of interim measures in the Czech Republic.

3.5.1. Essential elements of an application

The power to impose interim measures in criminal proceedings lies with the judge and sometimes with the public prosecutor, see Section 88m of the Code of Criminal Procedure.

3.5.2. Court fee

Applications for interim measures are not subject to a court fee.

3.6. Violation

The bodies competent to receive complaints concerning the violation of an interim measure are the criminal law enforcement authorities, in particular the Police of the Czech Republic.

Article 18 (a)(i) - the authorities which are competent to order protection measures and issue certificates in accordance with Article 5

District courts (*okresní soudy*)

Article 18 (a)(ii) - the authorities before which a protection measure ordered in another Member State is to be invoked and/or which are competent to enforce such a measure

District courts (*okresní soudy*) Under Section 513a(1) of Act No 292/2013, on Special Court Proceedings, territorial jurisdiction lies with the applicant's ordinary court; in cases where this does not apply, territorial jurisdiction lies with the court in whose territory the protection is to be granted. This is generally the district court in the area where the applicant resides.

Article 18 (a)(iii) - the authorities which are competent to effect the adjustment of protection measures in accordance with Article 11(1)

District courts (*okresní soudy*) Under Section 513a(2) of Act No 292/2013, on special court proceedings, territorial jurisdiction lies with the applicant's ordinary court; in cases where this does not apply, territorial jurisdiction lies with the court in whose territory the protection is to be granted. This is generally the district court in the area where the applicant resides.

Article 18 (a)(iv) - the courts to which the application for refusal of recognition and, where applicable, enforcement is to be submitted in accordance with Article 13

District courts (*okresní soudy*)

Article 18 (b) - the language or languages accepted for translations as referred to in Article 16(1)

Czech or Slovak

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