How to enforce a court decision

Chequia

1 What does enforcement mean in civil and commercial matters?

It means enforcing compliance with an obligation imposed through an enforceable title, even against the will of the person on whom the duty was imposed. If he/she fails to comply voluntarily with what the enforceable judgment imposes on him/her, the creditor may apply to a court or a bailiff for judicial enforcement or execution.

The court will order and perform enforcement with the exception of titles that are performed in administrative or tax proceedings. Thus, in civil matters, the creditor may always go to court.

The judgment creditor may also turn to a bailiff. A bailiff will enforce a judgment with authorisation from a court, with the exception of the following judgments:
judgments about the care of a minor;
judgments in cases of protection against domestic violence;
judgments by institutions of the European Union;
foreign judgments.

An application for execution may, however, be submitted if the execution is to be run in accordance with a judgment on the maintenance of a minor or in accordance with a foreign judgment, where a declaration of enforceability was issued in accordance with directly applicable European Union legislation, an international treaty, or a decision on recognition.

The enforcement of a judgment through a court is regulated in Sections 251-351a of Act No 99/1963 (the Civil Procedure Code, as amended). However, Sections 492-513 of Act No 292/2013 on special court proceedings (as amended) apply to the enforcement of judgments in matters of family law.

The enforcement of a judgment through a bailiff is regulated primarily by Sections 35-73 of Act No 120/2001 on court bailiffs and enforcement activities (the Enforcement Code, as amended). A court bailiff also proceeds, in particular as regards the regulation of individual methods of enforcing a judgment, in accordance with the Civil Procedure Code.

2 Which authority or authorities are competent for enforcement?

In general, the general court of the defendant has jurisdiction to order and perform **the enforcement of a judgment** (Section 252(1) of Act No 99/1963 [the Civil Procedure Code, as amended]). Exceptions from this rule are determined in Section 252 of the Civil Procedure Code.

For details on the general court of the defendant, see “Basic rules for local jurisdiction” (part 2.2.1. of the information sheet “Jurisdiction – the Czech Republic”).

Execution can be performed by courts and court-appointed bailiffs. The execution court with subject-matter jurisdiction is – in accordance with Section 45 of Act No 120/2001 on court bailiffs and enforcement activities (the Enforcement Code, as amended) – the district court. The execution court with local jurisdiction is the court in whose district the defendant has his/her permanent residence, place of residence in the Czech Republic in accordance with the type of stay for a foreigner, registered office and so on. The issue of jurisdiction is elaborated in more detail in the aforementioned provision of the Enforcement Code.

For more details, also see the question “What does enforcement mean in civil and commercial matters?”

3 What are the conditions under which an enforceable title or decision may be issued?

3.1 The procedure

Enforcement of a judgment

Proceedings may be initiated only upon application of the creditor, if the defendant fails to comply voluntarily with what an enforceable judgment imposes on him/her. Even without an application in accordance with Act No 292/2013 on special court proceedings (as amended), a court will order the performance of some preliminary rulings, e.g. in the matter of protection against domestic violence.

The enforcement of a judgment may be ordered only if the judgment includes the identification of the creditor and the defendant, a definition of the scope and content of the obligation for fulfilment of which the motion for enforcement was lodged, and a determination of the deadline for compliance with the obligation. If the court judgment does not contain a determination of the deadline for compliance with the obligation, it is understood that the obligation imposed through the judgment must be complied with within three days and, in the case of eviction, within fifteen days of the judgment becoming final. If, in accordance with the judgment, the obligation should be complied with by more than one defendant, and if it is divisible, the obligation – unless the judgment determines otherwise – must be complied with by all the defendants equally.

When applying for enforcement, the creditor need not be represented by a lawyer.

An application for enforcement of a judgment imposing the payment of a financial sum must be labelled with the specific method of enforcement and other prerequisites determined by law. An application for enforcement must be accompanied by a copy of the judgment furnished with confirmation of its enforceability. The court that decided on the matter as the court of first instance will furnish the judgment with this confirmation. A copy of the judgment need not be attached if the application for enforcement is submitted to the court that decided on the matter as the court of first instance.

Decisions are always made in the form of resolutions in enforcement proceedings.

A court will, as a rule, order enforcement without hearing the defendant.

Court proceedings in the Czech Republic are subject to a court fee (see Act No 549/1991 on court fees, as amended). In justified cases the Act allows exemptions from court fees.

Execution proceedings

Execution will be performed by the bailiff indicated by the creditor in the execution application. Acts by a bailiff are considered to be acts of an execution court.

Execution proceedings are initiated on an application by the creditor or on an application by a person who demonstrates that an entitlement from a judgment passed or was transferred to him/her. They are initiated on the date when such application is delivered to the bailiff. The bailiff may begin to identify and secure the assets of the defendant only after a court issues him/her with authorisation and orders the execution.

An execution application must contain:

the identification of the bailiff who should lead the execution, identifying his/her registered office (a list of bailiffs is available on the website of the Chamber of Bailiffs of the Czech Republic (*Exekutorská komora České republiky*) http://www.ekcr.cz/seznam-exekutoru.php&w; bailiffs do not have locally defined jurisdiction – every bailiff may operate throughout the Czech Republic);
the identification of the matter the application applies to and its aim;
the identification of the participants, meaning the creditor, or the person who has the entitlement from the judgment, and the defendant; for natural persons this means the first name, surname, the permanent residence of the participants, or place of residence in the Czech Republic in accordance with the type of stay for a foreigner, and where applicable the birth ID number or date of birth of the participants, or for legal entities the corporate name or business name, registered office and identification number;
the exact identification of the enforceable title;
the obligation to be enforced by the execution, and information about whether – and, where applicable, to what extent – the defendant has complied with the enforced obligation;
where applicable, the identification of the evidence on which the creditor based his/her entitlement;
signature;
The original or a certified copy of the enforceable title must be attached to the execution application, furnished with confirmation of its enforceability or a copy of the notarial record with permission for enforcement, unless the enforceable title was issued by the execution court. The authority that issued the enforceable title provides confirmation of enforceability, while for settlements and agreements it is provided by the authority that approved them.

3.2 The main conditions

The enforcement of a judgment (execution) can be ordered on the basis of an enforceable title, if an imposed obligation was not voluntarily complied with.

An enforceable title is:
an enforceable decision of a court or bailiff, if it recognises an entitlement, imposes an obligation or affects assets;
an enforceable judgment of a court or other investigative, prosecuting and adjudicating body, if it recognises an entitlement or affects assets;
an enforceable arbitration award (note: the Czech Republic's Supreme Court has repeatedly held that, although arbitral awards issued under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards may serve as a basis for the judicial enforcement of a decision without a special procedure, they cannot be used as an enforceable title in their own right – see Court Ruling ref. 20 Cdo 754/2018 of 12 June 2018, Court Ruling ref. 20 Cdo 5882/2016 of 16 August 2017 and Court Ruling ref. 20 Cdo 1165/2016 of 3 November 2016);
a notarial record with permission to enforce prepared in accordance with special legislation;
an enforceable judgment and other enforceable title from a public authority;
other enforceable decisions and approved settlements and documents whose enforcement is allowed by law.
If an enforceable title does not determine the deadline for compliance with an obligation, it is understood that the obligation imposed by the enforceable title must be complied with within three days and, in the case of eviction, within fifteen days of the judgment becoming final.

Judicial enforcement

The general court of the defendant has jurisdiction to impose and enforce a judgment, to perform the activity of a court before ordering enforcement and for declarations on assets, unless Section 252 of Act No 99/1963 (the Civil Procedure Code, as amended) determines otherwise.
Enforcement may be ordered only to the extent applied for by the creditor and which, in accordance with the judgment, is sufficient for his/her satisfaction (Section 263(1) of Act No 99/1963, [the Civil Procedure Code, as amended]).
A court will reject an enforcement application if it is already clear from the application that the proceeds that would be achieved would not be sufficient even to cover the costs of the enforcement (Section 264(2) of Act No 99/1963 [the Civil Procedure Code, as amended]).

Execution proceedings

A bailiff will carry out enforcement through authorisation by a court, with the exception of the judgments indicated above (point No 1).
A bailiff who receives an execution application will request the execution court – at the latest within fifteen days from the date of delivery of the application – for authorisation and to order the execution. The court will issue the authorisation within fifteen days, if all the legally determined prerequisites are complied with. If all the legally determined prerequisites for the performance of execution are not complied with, the court will instruct the bailiff to partially or fully reject or refuse the execution application, or to stop the execution proceedings. The bailiff is bound by such instruction.
The execution court with subject-matter jurisdiction is the district court.
The execution court with local jurisdiction is the court in whose district the defendant has, if a natural person, his/her permanent residence, or place of residence in the Czech Republic in accordance with the type of stay for a foreigner. If the defendant is a legal entity, the court with local jurisdiction is that in whose district the defendant has its registered office. If a defendant who is a natural person does not have a permanent residence or place of residence in the Czech Republic, or if a defendant who is a legal entity does not have a registered office in the Czech Republic, the court with local jurisdiction is that in whose district the defendant has assets.
Some exemptions in local jurisdiction arise from Act No 292/2013 on special court proceedings (as amended) – e.g. Section 511.

4 Object and nature of enforcement measures

4.1 What types of assets can be subject to enforcement?

Enforcement action may be taken against both movable and immovable assets, entitlements and other assets, with some exceptions.
Enforcement action may not be taken against the following in particular, in accordance with Sections 321-322 of Act No 99/1963 (the Civil Procedure Code, as amended):
items whose sale is prohibited in accordance with special legislation, or which are not subject to enforcement in accordance with special legislation;
items owned by the defendant that the defendant requires in order to satisfy his/her material needs and those of his/her family, or to perform his/her job, as well as other items whose sale would be contrary to moral rules (in particular, this means ordinary items of clothing, usual household equipment, wedding rings, and other items of a similar nature, medical supplies and other items that the defendant needs as a result of his/her illness or physical defect, cash up to the amount of twice the subsistence level for an individual in accordance with special legislation, animals not kept mainly for economic purposes and that serve as pets);
if the defendant is an entrepreneur, items he/she owns that he/she requires to perform his/her business activities (this does not apply if they are subject to a lien and if the lien is intended to recover a claim from the creditor);
technical equipment on which, in accordance with special legislation, he/she keeps records of investment instruments or stores documents relating to data in these records, and also technical equipment serving to provide data about the owners of investment instruments in accordance with special legislation;
items that the defendant acquired as replacement assets (this does not apply if the defendant has the entitlement to freely dispose of these items or if enforcement involves the recovery of a deceased person's debts or debts related to the trusteeship of items acquired as replacement assets).

The creditor may also always apply for impairment of the items listed above, if they were acquired by a defendant who - through a deliberate criminal act - caused damage through unjust enrichment through such criminal offence, if the creditor is the injured party in this criminal offence.
The following are also not subject to enforcement:
claims against a settlement which, in accordance with an insurance policy, is paid out by an insurance company, if the settlement is to be used to build a new or repair an existing building;
social care cash benefits, subsistence benefits, state social support, housing allowance, and one-off state social support and foster care benefits;
claims that the defendant acquired as replacement assets; this does not apply if the defendant has the entitlement to freely dispose of the claim or if enforcement involves the recovery of a testator's debts or debts related to the trusteeship of items acquired as replacement assets;
only two-fifths of claims from natural persons who are entrepreneurs that arise during their business activities are subject to enforcement; if, however, there is an application for enforcement of any preferential claims, three fifths thereof are subject to enforcement;
only two-fifths of royalties claims are subject to enforcement if the defendant is the author; if, however, there is an application for enforcement of any preferential claims, three fifths thereof are subject to enforcement (the same applies for claims from rights of performing artists and from the rights of the originators of industrial property).
This list represents the fundamental limitations on impairing assets through enforcement or execution. The Civil Procedure Code contains some additional specific limitations, e.g. in Section 267b.
The method of impairing matrimonial assets is enshrined in Section 262a(1) and (2) of Act No 99/1963 (the Civil Procedure Code, as amended) and in Section 42 of Act No 120/2001 (the Enforcement Code, as amended). Enforcement on assets that are part of matrimonial assets can also be ordered for the recovery of a debt that was incurred by only one of the spouses during marriage or prior to marriage. For the purposes of the enforcement order, assets that are not part of matrimonial assets only because a court decision cancelled the matrimonial assets, or reduced their existing scope, or because the scope of the matrimonial assets was contractually reduced, or a separate assets mode was arranged, or the origin of matrimonial assets was contractually determined as of the date of termination of the marriage are also considered part of the matrimonial assets of the defendant and his/her spouse.
Enforcement through deductions from wages or other income of the spouse of the defendant, through seizure from the spouse of the defendant from an account at a financial institution, the seizure of other monetary claims from the spouse of the defendant or the seizure of other assets from the spouse of the defendant, can be ordered in the case of the recovery of a debt that is part of the matrimonial assets.

4.2 What are the effects of enforcement measures?

Judicial enforcement:
The payment of a financial sum can be performed through deductions from wages, seizure, the administration of immovable assets, the sale of movable assets and immovable assets, the seizure of a manufacturing plant, and the creation of a judicial lien on immovable assets (Section 258(1) of Act No 99 /1963, the Civil Procedure Code, as amended).
Enforcement imposing an obligation other than the payment of a financial amount depends on the nature of the imposed obligation. It can be performed through eviction, removing items, splitting common items, the completion of work and other performances (Section 258(2) of Act No 99/1963 [the Civil Procedure Code, as amended]).
Enforcement **through the sale of a pledge** can be performed for a seized claim through the sale of pledged movable and immovable assets, common items and sets of items, through the seizure of a pledged financial claim and the seizure of other pledged proprietary rights (Section 258(3) of Act No 99/1963 [the Civil Procedure Code, as amended]).
A bailiff, after the execution has been entered into the register of commenced executions, will assess how the execution will be performed, and will issue or cancel an execution order relating to the assets that should be affected by the execution. An execution order means an order to perform an execution in one of the ways determined by Act No 120/2001 (the Enforcement Code, as amended). In the execution order, the bailiff must choose an execution method that is not obviously inappropriate, in particular in terms of disproportion regarding the amount of the debts of the defendant and the price of the object from which the fulfilment of the debt of the defendant is to be achieved.
An execution imposing the payment of a financial amount can be performed through deductions from wages and other income, through seizure, the sale of movable and immovable assets, the seizure of a manufacturing plant, and the creation of a bailiff's lien on immovable assets, the administration of immovable assets, or through the suspension of a driving licence.
An execution method imposing an obligation other than the payment of a financial amount depends on the nature of the imposed obligation. It can be performed through eviction, removing items, splitting common items, the completion of work and other performances.
Execution through the **sale of a pledge** can be performed for a seized claim through the sale of pledged movable and immovable assets.
A ban on the disposal of assets is regulated in Section 44a and Section 47(5) of Act No 120/2001 (the Enforcement Code, as amended). Unless the bailiff decides otherwise, after the delivery of notice of the initiation of execution the defendant may not dispose of his/her assets, including real estate and assets included in the matrimonial assets, with the exception of normal business and operating activities, the satisfaction of his/her own basic maintenance needs and those of persons for whom he/she has a maintenance obligation, and the maintenance and management of assets. Any legal act through which the defendant violates this obligation is invalid. A legal act will, however, be considered valid if no objection to its validity is raised by the bailiff, the creditor, or a registered creditor in order to ensure the satisfaction of an enforced claim. The legal effects of an objection against validity will commence from the moment of effect of the legal act, if the execution order or other manifestation of the will of the bailiff, creditor or registered creditor is delivered to all participants in the legal act against which the bailiff, judgment creditor or registered creditor raised the objection of invalidity.
The defendant may not transfer assets subject to an execution order to another person, or burden or dispose of them in any other way. Any legal act through which the defendant violates this obligation is invalid.

4.3 What is the validity of such measures?

These measures last until the execution is halted, the claim, its ancillary elements and the costs of the execution have been recovered, etc. The ban on disposing of assets is terminated by decision, if the defendant deposits with the bailiff an amount equal to the claim being recovered, the costs of the execution and the costs of the creditor.

5 Is there a possibility of appeal against the decision granting such a measure?

Opravné prostředky při soudním výkonu rozhodnutí:
During judicial enforcement of a judgment, it is possible to submit an appeal in accordance with the general provisions of the Civil Procedure Code on appeals. The defendant must submit such appeal within 15 days from the delivery of the written copy of the judgment at the court against whose decision it is targeted. If it is submitted by a person entitled to do so, within the time allowed for appeal, the judgment will not come into force until an appeals court makes a final decision on the appeal (see also Section 254 of Act No 99/1963 [the Civil Procedure Code, as amended]).
During the enforcement of a judgment it is not possible, for statutory reasons, to suspend the proceedings and waive observance of the deadline. Nor is it possible to submit an action to recommence enforcement; it is, however, possible to submit an action for nullity, but only if this action attacks a final

resolution of the appeals court through which an appeal was rejected or appeal proceedings terminated, as well as the final resolution of the appeals court through which the resolution of a court of first instance on the rejection of an appeal or appellate review was confirmed or changed due to delay (see also Section 229(4) and Section 254(2) of the Civil Procedure Code, as amended).
A right to assets that does not permit enforcement can be exercised against the creditor through an application to exclude such assets from the enforcement in accordance with Section 267(1) of the Civil Procedure Code.
A right to assets that form part of the matrimonial assets or, for the purposes of the enforcement order, are considered as assets forming part of the matrimonial assets of the defendant and his/her spouse, although the claim being recovered cannot be satisfied from these assets, can be exercised *mutatis mutandis* through such an application (Section 267(2) of the Civil Procedure Code).
Denial of the authenticity, amount, group or order of any of the claims registered for the distribution of proceeds or otherwise satisfied during the enforcement of the judgment must also be exercised against a creditor through an application, in statutorily defined methods of impairing assets (Section 267a of the Civil Procedure Code).
A participant may submit objections against some judicial resolutions. These are, for example, objections by the defendant relating to the inventory of assets, objections against the report on the management of a manufacturing plant, or objections to an award.
Last but not least, the defendant may, during enforcement and execution proceedings, submit an application to defer or to suspend enforcement of the judgment (execution). Deferment and suspension of the enforcement of the judgment (execution) are regulated in the Civil Procedure Code as well as in the Enforcement Code (in particular in Sections 266, 268 and 269 of Act No 99/1963 [the Civil Procedure Code, as amended] and Sections 54, 55 and 55a of Act No 120/2001 [the Enforcement Code, as amended]).

Appeal in execution proceedings:

It is possible to appeal against a decision by a bailiff in cases allowed by the Enforcement Code (cf. Section 55c).
It is possible to apply for the exclusion of an item against a decision by a bailiff on an application for the removal of an item from a list in accordance with Section 267 of the Civil Procedure Code at the execution court within 30 days from the delivery of the decision of the bailiff through which the bailiff did not comply, even in part, with the application for the removal of the item from the list. It is not possible to sell the listed movable assets between the submission of the application for the removal of the item from the list and the expiry of this deadline, and for the duration of the proceedings on the action.
A participant may submit objections against an order to pay the costs of the proceedings within 8 days from delivery of the order.
Regarding an application for the deferment or halting of execution, see the “Opravné prostředky při soudním výkonu rozhodnutí” above.

6 Are there any limitations on enforcement, in particular related to debtor protection or time limits?

Following an execution order (Section 44 ff. of the Enforcement Code) the ban on disposal of assets does not apply to normal business and operating activities of the defendant, the satisfaction of his/her own basic maintenance needs and those of persons for whom he/she has a maintenance duty, and the maintenance and management of assets. The defendant may further apply to the bailiff for the ban on disposal to not apply to part of his/her assets; in this application, the defendant must demonstrate that his/her remaining assets are clearly and undoubtedly sufficient to cover the claim being recovered, including the costs of the creditor and the costs of the execution.
The defendant also has the possibility, after a call from a court bailiff, which must contain information as to the deadline for payment and the potential consequences of failure to pay, to pay the claim being recovered as well as the deposit at reduced costs. The ban on disposing of assets (Section 44a(1) and Section 46(6) of the Enforcement Code) will terminate with compliance with the claim being recovered and the payment of the deposit. Otherwise, the bailiff will carry out the execution.
The defendant is protected especially in a situation of eviction from an apartment or other real estate in which he/she lives, in accordance with Section 65 of Czech Ministry of Justice Decree No 37/1992 of 23 December 1991 on the rules of procedure for district and regional courts (as amended). This is because if the executor, when performing eviction from real estate, a structure, an apartment or a room, finds that the person to be evicted is confined to bed through illness, or is a woman in the postnatal period or in an advanced stage of pregnancy, and that the eviction could seriously endanger the health of such person, such enforcement is not permitted; if confirmation from a physician is not submitted or if he/she is in doubt as to the correctness of such confirmation, the bailiff will seek the opinion of a medical specialist.
Some items belonging to a debtor are exempt in accordance with the Civil Procedure Code, see also the question “Jaký druh majetku může být předmětem výkonu soudních rozhodnutí?”

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