FROM THE IUSTORIA BLOG

A Loved One Has Been Remanded in Custody. What Can the Family Do?

> *A family member has been remanded in custody. Who will notify you, how to get a defence lawyer, when you can visit, what you can send and how to help get them released.*

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The phone usually rings in the evening. It's a friend or a neighbour, sometimes the arrested person themselves calling from the police station, and the call lasts a minute. Then nothing for a long time. The police tell you they don't give out information, and two days later you learn that the court has remanded your husband, son or father in custody (*vazba*, pre-trial detention).

In my practice, it is almost always the family who call me first, not the accused. And they keep asking the same things: what are we allowed to do, what should we do, and how do we avoid making things worse for them?

The first three days

The police may arrest an accused person and, in urgent cases, also a suspect. Within 48 hours of the arrest, the public prosecutor must bring them before the court with an application to remand them in custody; otherwise they must be released. The judge then hears them and, within 24 hours of receiving the application, decides whether to remand them in custody or release them (Sections 75 to 77 of the Czech Code of Criminal Procedure). That makes 72 hours at most. If they were arrested on a court warrant, the time is even shorter (Section 69(5) and (6)).

The court may remand an accused person in custody only on one of three grounds (Section 67), which Czech lawyers refer to by short names:

- **flight-risk custody** (*útěková vazba*): the concern that they will abscond or go into hiding, typically when they have no permanent address or face a heavy sentence,
- **collusion custody** (*koluzní vazba*), custody to prevent interference with witnesses: the concern that they will influence witnesses or co-accused who have not yet been questioned, or otherwise obstruct the investigation,
- **custody to prevent reoffending** (*předstižná vazba*): the concern that they will reoffend, complete an offence they attempted, or carry out what they threatened to do.

In every case it must also be true that the purpose of custody cannot be achieved by a milder measure. The ground the court relied on is stated in the custody order (*usnesení o vazbě*). For the family, this is the most important detail in the whole document: it determines whether the accused may phone you, how long letters will take and whether a surety is an option at all.

If you learn of the arrest before the court has decided, act at once. Choose a defence lawyer: if the lawyer can be reached and the arrested person asks for them, the lawyer may attend the hearing before the judge (Section 77(2)). Send the lawyer proof of accommodation and work and an offer of a surety. The court can then accept the surety straight away instead of remanding them in custody (Section 73(1)).

Who will notify you, and why you won't be told anything

A family member or another person named by the accused, as well as the accused's employer, must be notified without delay that the accused has been remanded in custody. If the accused does not agree to this, no one is notified, unless the accused is a juvenile, in which case the family is notified regardless (Section 70(1)).

The notification tells you only that they are in custody. The case file may be inspected by the accused, the injured party and their lawyers and representatives; other people only with consent and only where needed to exercise their own rights (Section 65(1)). As a rule, the family is not among them; the exception is the parents of an accused minor, as their legal representatives. The defence lawyer is bound by confidentiality (Section 21 of the Czech Legal Profession Act), so it is a good idea for the accused to tell the lawyer at their very first visit what the lawyer may pass on to the family.

A further exception: anyone offering to stand surety for the accused, or wishing to pay bail for them, will be told by the court or the public prosecutor the substance of the charge and what they see as the ground for custody (Sections 73(2) and 73a(1)).

They must have a lawyer, and you can choose one

An accused person in custody must have a defence lawyer; this is known as mandatory defence (Section 36(1)(a)). If they do not choose one, they are given a deadline, after which the court appoints a lawyer for them from its rota of lawyers (Sections 38(1) and 39).

You can also choose the lawyer yourself. The Code of Criminal Procedure allows this for relatives in the direct line (parents, children, grandparents, grandchildren), siblings, adoptive parents, adopted children, spouses, registered partners and cohabiting partners, but only if the accused has not chosen a lawyer themselves. Against the accused's will, this is possible only where the accused's legal capacity has been restricted (Section 37(1)).

The state pays the court-appointed lawyer. The accused has to reimburse the fees only if they are finally found guilty and the court has not granted them a defence free of charge (Sections 151(2) and 152(1)(b)). You, too, can apply for a defence free of charge or at a reduced fee (Section 33(2) and (3)).

For the family, the defence lawyer is the main line of contact: the lawyer may see the accused at any time, talks to them without a third person present, and their correspondence is not checked (Section 33(1) of the Code of Criminal Procedure, Sections 13(3) and 14(9) of the Czech Act on the Execution of Custody, Section 47 of the Custody Rules, Ministry of Justice Decree No. 109/1994 Coll.).

Visits, letters and phone calls

Visits. The accused may receive visits from no more than four people once every two weeks, for ninety minutes (Section 14(1) of the Act on the Execution of Custody). Children count towards the limit and may only come with an adult; visitors prove their identity with an identity card or passport (Section 44 of the Custody Rules).

The accused must request the visit themselves and, once it is approved, will let you know the details; other rules are set by the prison's internal rules (*vnitřní řád věznice*).

In collusion custody, the conditions for visits are set by the public prosecutor during the pre-trial stage and later by the judge: the date, who may come and whether a police officer or other law enforcement official will be present. Until they have been set, the prison will not allow the visit, and the official present may end it as soon as they find that the investigation is being obstructed (Section 14(2), (7) and (8)).

Letters. You may write without restriction, but only by post. The letters are read, though. In collusion custody they are read by the authority conducting the proceedings, which has 14 days to do so. A letter whose content gives rise to a suspicion of criminal activity, or which could defeat the purpose of custody, is withheld and placed in the criminal case file (Section 13(2)).

Phone calls. Unless the custody is collusion custody, the accused may phone a close person (*osoba blízká*) at times set by the prison's internal rules, at their own expense and from a prison phone. Only the accused can make the call, and only to approved numbers. The Prison Service of the Czech Republic (*Vězeňská služba ČR*) records the calls (Section 13a). In collusion custody, calls with the family are not allowed unless the law enforcement authority decides otherwise (Section 43a(2) of the Custody Rules).

Parcels, clothes and money

Once every three months, the accused may receive a parcel of up to 5 kg containing food and personal items, by post or during a visit. Changes of clothes, books, newspapers and toiletries do not count towards the limit (Section 16(2) of the Act on the Execution of Custody). Among other things, the parcel must not contain money, medicines, electronics, alcohol, anything in glass or perishable food (Section 48 of the Custody Rules).

They may not hold cash. Money is sent to the accused's special account at the prison, from which they make cashless purchases (Sections 16(1), 21(6) and 21f of the Act); they cannot use CZK 1,000 of it for as long as they are in custody (Section 7 of Decree No. 360/2024 Coll.). Send it by postal order to the prison's address, giving the accused's first name, surname and date of birth, or by bank transfer; the account number and payment reference (*variabilní symbol*) are listed in the prison's profile on vs.gov.cz. If the accused has debts being enforced, the money you send may end up with the bailiff. Money that you expressly designate for medicines and healthcare when sending it is protected from enforcement, but may only be used for that purpose (Sections 21f(2) and (5) and 21h(2) of the Act).

How to get out of custody

Appeal. An appeal (*stížnost*) against the order remanding the accused in custody can be lodged within three days of being notified of it (Sections 74(1) and 143(1) of the Code of Criminal Procedure). The order is announced at the custody hearing itself (Section 73g(5)), and the accused often appeals on the spot, so find out whether they did. You can also lodge one in the accused's favour if you are one of the close relatives listed above who may

choose a lawyer; your deadline, however, ends on the same day as theirs (Sections 142(2), 143(2) and 247(2)). An appeal by the accused does not have suspensive effect, so they remain in custody until it is decided (Section 74(2)).

I'll be frank: in practice, appeals against being remanded in custody often fail. The court decides at the very start, when the investigation is still under way and the concerns are fresh. People far more often get out of custody later, once the ground for it falls away, for example after the witnesses have been questioned.

Application for release. Once the custody decision has become final, the accused may apply for release at any time; a proposal to replace custody also counts as such an application. If it is rejected, they can repeat it on the same grounds only after 30 days (Section 71a). If the public prosecutor does not grant it, the prosecutor must refer it to a judge within five working days (Section 73b(2)).

Regular review. At least every three months, a judge must decide whether the accused is to remain in custody; otherwise they must be released (Section 72(1)). Collusion custody may last no more than three months, unless the accused has already influenced witnesses (Section 72a(3)). Overall, custody may not exceed one year for a lesser offence (*přečin*), two years for a serious offence (*zločin*) and three years for a particularly serious offence (*zvlášť závažný zločin*), or four years for offences that carry an exceptional sentence (Section 72a(1)).

Replacing custody. In flight-risk custody and custody to prevent reoffending, the court may release the accused and replace custody with (Sections 73(1) and 73a):

- a surety from a trustworthy person or an association for the accused's conduct, for their appearing when summoned and for their reporting in advance any absence from their place of residence,
- a written promise by the accused to lead a law-abiding life and to fulfil the obligations imposed on them,
- supervision by a probation officer, possibly combined with an obligation to stay at home at set times,
- a preliminary measure (*předběžné opatření*), a restriction on the accused's conduct imposed by the court,
- bail (a financial guarantee) of at least CZK 10,000, which, with the accused's consent, someone else may also pay.

Bail is forfeited to the state if the accused absconds, culpably fails to appear for a procedural step, reoffends or evades their sentence (Section 73a(4)). Even if they behave properly, it may not all come back: if the convicted person does not pay a fine or the costs of the proceedings, these are paid from the bail, and at the injured party's request so is the compensation awarded in the judgment (Section 73a(6) and (7)). In custody to prevent reoffending, the court may not accept bail at all for the most serious offences, such as murder or serious drug offences (Section 73a(1)). In collusion custody, the law allows none of these alternatives.

This is where the family can do the most. The court needs to see that the accused has somewhere to go, something to live on and someone to keep an eye on them:

- proof of accommodation, such as a tenancy agreement or the consent of the flat's owner,
- confirmation from the employer that they will take the accused back, or an offer of a new job,
- a signed offer of a surety from a trustworthy person, describing their relationship to the accused,

- for bail, documents on the assets of the person paying it; the court sets the amount on that basis (Section 73a(2)).

Send everything through the defence lawyer, who will attach it to the application for release or to the appeal.

How you can make things worse

Do not contact witnesses, injured parties or co-accused, not even to "just explain what really happened". If it turns out that the accused has influenced witnesses, for example through you, that is precisely the ground for collusion custody, which can then last beyond the three-month limit (Sections 67(b) and 72a(3) of the Code of Criminal Procedure).

Do not send messages through fellow inmates or their families. The accused must not establish unauthorised contacts (Section 21(2) of the Act on the Execution of Custody), and a message that bypasses the checks looks exactly like what custody is meant to prevent.

Do not talk about the case on the phone or write about it in letters. If a recording of a call gives rise to a suspicion or undermines the ground for custody, the Prison Service passes it on to the law enforcement authorities (Section 43a(3) of the Custody Rules). Write about the children, about home, about what they need. The case is something they discuss with their lawyer.

And if the police get in touch with you too: as a relative in the direct line, a sibling, an adoptive parent, an adopted child, a spouse, a registered partner or a cohabiting partner, you have the right to refuse to testify (Section 100(1) of the Code of Criminal Procedure). You must still answer the summons, and you refuse there, after being advised of your rights (Sections 97 and 101(1)); when merely giving an explanation to the police, the right is narrower (Section 158(8)). Consult a lawyer beforehand.

What to do in the first few days

1. Find out whether the court has already decided on custody. If not, choose a lawyer straight away and send them the documents and an offer of a surety.
2. If it has, obtain the order through the lawyer and find out the ground for custody and whether an appeal has been lodged. The deadline is three days.
3. Agree with the lawyer what they may tell you.
4. Send money and a change of clothes.
5. Write a letter about everyday things, without a single mention of the charge.
6. Prepare the documents for an application for release.

I give families these rules in writing. Under stress they are easily forgotten, and the authorities will not volunteer them to the family.

If the case began with a criminal complaint, the article Criminal Complaint: What Happens When Someone Files One Against You will help.

Has someone in your family been remanded in custody and you don't know what you're allowed to do? I will take on the defence, prepare an appeal or an application for release, and write down for the family what they may and may not do. Call me on +420 732 464 372 or email bartonkova@iustoria.cz.

This article describes the law as at 3 November 2026. It is for information only and does not replace legal advice on a specific matter.

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