FROM THE IUSTORIA BLOG

The Other Parent Won't Hand Over the Child: Police, a Fine or the Court?

> *You have a judgment, but the other parent won't hand over the child. The police can do little; enforcement, fines from CZK 5,000 and substitute contact can.*

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Friday, 5 p.m., the agreed handover. You have a judgment saying the weekend is yours. The door stays shut and nobody answers the phone, or a message arrives: "Not today." For the third weekend in a row.

Most parents call the police at that point. And most then find out that the police will not hand the child over to them. The way forward lies elsewhere, and it pays to know it before missed handovers become a habit.

If the reason is that the child does not want to go, read When a child refuses to visit the other parent first. This article is about situations where it is the parent who stands in the way of the handover.

What the police will and won't do

In 2017 the Czech Police put it clearly: failure to hand over a child for contact set by a final judgment is a civil matter, and the police have no power to intervene in its substance. They act when a report suggests that the child or another protected interest is at risk, for example where there is violence, or where the parent who is due to drive the child home is under the influence of alcohol.

Nor does the law recognise a minor offence of failing to hand over a child. The general minor offence of disturbing civil co-existence (roughly, a breach of the peace between individuals) applies to such conduct only exceptionally, and between close relatives or partners only with the consent of the person affected.

So call the police when you fear for the child's safety. When the problem is "only" that the child is not being handed over, what counts are the steps you take in court. But keep a record of every frustrated handover: the date, the time, what you wrote, what reply you got, any witnesses. You will need it.

An application for enforcement

The tool to use is an application for enforcement of the decision on care or contact, which you file with the custody court (the division of the district court that deals with children). Since January 2026:

- the court decides on ordering enforcement **without undue delay, as a rule within two months at the latest** (Section 502(5) of the Act on Special Court Proceedings),
- it can impose **fines of CZK 5,000 to 50,000 (roughly EUR 200 to EUR 2,000)**, and do so repeatedly (Section 502(3)); the fines go to the state, not to you,
- it can order a three-hour **first meeting with a registered mediator**, a **plan for gradually getting the child used to contact**, **contact supervised by the child welfare authority** (known in the Czech Republic as OSPOD) or a meeting with a child psychologist (Section 503(1)),
- it can order the other parent to **allow you substitute care or contact to the extent they frustrated it**, or to reimburse **costs reasonably incurred** in connection with the frustrated contact, such as a wasted journey (Section 503(1)(e)),
- if that does not help, or it is clear that it would not help, it orders **removal of the child** and the child's handover; where only contact is concerned, it does so only in exceptional cases (Section 504).

OSPOD is required to assist the court in these proceedings and to encourage the parent to comply with the decision voluntarily.

The court may not wait

A common objection runs: "But there are proceedings under way to change custody, so the court won't deal with enforcement for now." The Constitutional Court rejected that in finding file no. I. ÚS 1940/26 of 12 August 2026 (a finding, or *nález*, is a Constitutional Court ruling on the merits of a constitutional complaint).

The mother had a final judgment placing the child in her care. After she was admitted to hospital, the father kept the child and applied for a change of custody. The mother applied for enforcement, and for five months the district court did nothing at all with her application, because it had doubts about her ability to look after the child. The Constitutional Court found a breach of the right to have the case heard without undue delay and ordered the court to decide on the application without delay.

Note what the finding does not say. It does not say the court must order enforcement. If circumstances have changed so much that enforcement is not in the child's interests, the court can turn the application down or make a temporary arrangement in the meantime. But it must decide, so that the parent can defend themselves. Doing nothing is not a way of arranging a child's situation.

If the court is inactive, file an application to set a time limit for a procedural step (Section 174a of the Act on Courts and Judges). Only after that can you lodge a constitutional complaint about the delays.

Why time matters so much was shown this year by the European Court of Human Rights in Novák v. Czech Republic (no. 6656/24). After the children had been unlawfully relocated, the Czech courts let the situation drift for months. According to the ECtHR, the later fines and criminal prosecution of the mother came too late, because the new situation had become entrenched in the meantime. More on this in How far apart can parents live and still share care?

A fine is not automatic

A parent who does not hand over a child will not always be fined. In finding file no. IV. ÚS 2966/25 of 21 January 2026, a mother went on holiday with her daughter during the father's contact time. Beforehand she had tried without success to reach agreement with the father, and a court had issued an interim measure allowing her to go. The appeal court later described that measure as unlawful, and the courts fined the mother for the frustrated contact. The Constitutional Court quashed those decisions: a parent who acts in reliance on a court decision issued in their favour must not be penalised because a court later changed its mind. Fines are not to be imposed mechanically, nor are they meant as a vehicle for parents to get back at each other.

The flip side applies to you as well. If you want to go away with the child during the other parent's time, agree it in writing or get a court decision. Taking matters into your own hands is penalised.

When it becomes a criminal offence

Obstructing the enforcement of a decision on the upbringing of children can be a criminal offence under Section 337(4) of the Criminal Code, punishable by up to one year's imprisonment. But only for a person against whom measures in civil enforcement of the same decision have already been used without success. It is not enough that they were fined for breaching a different decision, such as an earlier interim measure (Supreme Court order file no. 5 Tdo 2/2025).

So the order of steps is fixed: enforcement at the custody court comes first, and a criminal complaint only after that. In the Novák case, the mother received a suspended sentence after repeated fines for frustrating contact more than twenty times.

Step by step

1. Document each frustrated handover and tell the other parent in writing that you insist on the judgment being complied with.
2. Contact OSPOD. It can talk to the other parent, and its report will be useful to the court.
3. File an application for enforcement. Ask for a fine, substitute contact and reimbursement of your costs.
4. If the court has said nothing for two months, apply for a time limit to be set.
5. If even fines do not help, consider removal of the child and a criminal complaint under Section 337(4).

Throughout, be punctual and civil yourself. A parent who turns up on time and does not add to the conflict comes across very differently in court from one who turns every handover into a battle.

> **Does the other parent keep refusing to hand over your child?** I specialise in family law and will prepare the application for enforcement so that the court can act quickly, including on substitute contact and costs. Get in touch.

This article describes the law and case law as at 17 September 2026. It is for information only and does not replace legal advice on a specific matter.

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