

## RANDA HAVEL ■ LEGAL

### Impact of the COVID-19 Epidemic on Dispute Resolution

The epidemic of COVID-19 disease and the government emergency measures are already affecting the functioning of courts in the Czech Republic. In recent weeks, the courts have adjourned most of the hearings that did not have to be scheduled without delay. [1] An adjournment is likely in particular in proceedings involving a large number of participants or witnesses. In practice, this means that under the current conditions, it is not possible to expect an early ruling, especially of those disputes before courts that require an oral hearing being scheduled.

**Current restrictions on the functioning of courts.** In addition, courts have reduced physical contacts with members of the public, which is manifested, for example, by limitations to the possibility to inspect the court file or the complete closure of the court building. Inspection of the file can only be carried out at most courts in urgent cases and urgency must be demonstrated in each case. The buildings of the Constitutional Court and of the Supreme Court are completely closed to visitors. In addition, some courts have introduced special makeshift mailboxes to minimize contact with visitors and have stopped accepting cash at the court cash register.

No rapid improvement in scheduling hearings in individual proceedings can be expected after the state of emergency is over. The courts are preparing for a sudden increase in the bailiff and insolvency agenda. It is also likely that there will be an increase in claims (in particular against the state for compensation of damages caused by the emergency measures, as described in another newsletter issued by our law firm). The expected outcome will be an increased caseload of Czech courts and ensuing extension of the duration of court proceedings in the Czech Republic. However, this can be a serious problem in a situation where at least one of the parties to the dispute has an interest in a quick decision of the matter.

**Be careful, all deadlines apply regardless of emergency!** Nevertheless, the chairmen of regional courts have asked the Ministry of Justice to set rules governing the suspension and discontinuation of time limits during the period of the state of emergency (possibly even retroactively as of the date of the declaration of the state of emergency).[2] The chairmen of regional courts propose the suspension and discontinuation of time limits in all areas of law, namely the following time limits:

- substantive time limits (e.g. statutes of limitation);
- procedural time limits (e.g. time limits for replying to a motion);
- time limits for issuing a decision or another measure.

The Czech Bar Association also supported the request of the chairmen of regional courts.[3] However, the standpoint of the Ministry of Justice to this request is not yet known.

**What is the alternative to court proceedings during the state of emergency?** Also under state of emergency, there is an alternative to the standard legal process, namely online dispute resolution (also referred to as "ODR"). Generally, the advantage of online dispute resolution is the speed of such proceedings [4] and lower costs associated with raising a claim.[5] Currently, an undisputed advantage is that online dispute resolution does not require parties to the dispute to meet in person. Thus, unlike usual court proceedings, online dispute resolution can also take place under the current extraordinary conditions.

**What are the forms of online dispute resolution?** On the Internet, disputes can be resolved both in arbitration and by mediation. Procedures for online dispute resolution may be determined by the parties to a certain extent, in an arbitration agreement or in a mediation contract. In the case of proceedings before the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic, the Rules for Online Arbitration issued by the Arbitration Court shall apply. [6]

**When it is suitable to choose online dispute resolution?** Online dispute resolution can be recommended especially for disputes between entrepreneurs. As mentioned above, online dispute resolution is particularly useful in cases where the dispute needs to be decided quickly and it is not suitable to wait for an end to the state of emergency. Additionally, online dispute resolution is also possible in disputes among entrepreneurs and consumers, which can however only be initiated by the consumer in certain cases. [7]

**How can we help you?** Our law firm has extensive experience in representing clients in alternative dispute resolution. Our team of attorneys-at-law also includes (i) mediators registered in the list of mediators maintained by the Ministry of Justice and (ii) arbitrators registered in the list of arbitrators maintained by the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic. If you wish, we will be pleased to assist you in the above alternative ways of online dispute resolution.

Mgr.Ing. Jan Havel, Partner  
[jan.havel\(at\)randalegal.com](mailto:jan.havel@randalegal.com)

JUDr. Jan Ožana, Senior Associate  
[jan.ozana\(at\)randalegal.com](mailto:jan.ozana@randalegal.com)

[1] Courts postpone hearings to May, measure temperature of visitors or don't allow members of the public to enter their buildings [online]. Česká justice [cit. March 25, 2020]. Available at: <https://www.ceska-justice.cz/2020/03/soudy-odrocuji-jednani-na-kveten-meri-lidem-teplotu-nebo-do-budov-nepousti-verejnost/>

[2] Procedural deadlines need to be urgently addressed, the chairmen agree. They are also preparing for quarantine [online]. Česká justice [cit. March 25, 2020]. Available at: <https://www.ceska-justice.cz/2020/03/lhuty-rizeni-se-musi-urychlene-resit-shodli-se-predsedove-pripravuji-se-i-karantenu/>

[3] The Czech Bar Association supports the suggestion of the chairmen of the courts for a speedy resolution regarding the time limits [online]. Česká justice [cit. March 27, 2020]. Available at: <https://www.ceska-justice.cz/2020/03/cak-podporila-vyzvu-predsedu-soudu-k-urychlenemu-reseni-lhut-rizeni/>

[4] For on-line arbitration, the whole procedure usually takes a maximum of 35 days - see JANKŮ, Martin. Rozhodčí řízení před Rozhodčím soudem při HK ČR a AK ČR [online]. Bulletin advokacie [cit. March 25, 2020]. Available at: <http://www.bulletin-advokacie.cz/rozhodci-rizeni-pred-rozhodcim-soudem-pri-hk-cr-a-ak-cr?browser=mobi>

[5] Eg. the fee for on-line arbitration before the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic is 3% of value of the object of the dispute. - cf. <https://www.soud.cz/sazebniky#online-spory>

[6] Available here: <https://www.soud.cz/rady/zvlastni-dodatek-radu-pro-rozhodci-rizeni-online-2017>

[7] cf. Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online consumer dispute resolution. Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R0524>

