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Mgr. Daniela Pravá, attorney

Prague, 11 November 2026

Městský soud v Brně
(Municipal Court in Brno)
Polní 994/39
608 01 Brno
Data box ID: 7y7abii

Case file no. : **9 C 17/2026**

Defendant : **Kryštof Černý**, born 10 January 1997, residing at Rozvodová 1, Brno

legally represented by:
Mgr. Daniela Pravá, attorney, registered in the list of attorneys of the Czech Bar Association (*ČAK*)

Plaintiff : **Michaela Černá**, born 14 May 1995, residing at Rozvodová 1, Brno

legally represented by:
Mgr. Lukáš Milý, attorney, registered in the list of attorneys of the ČAK

Matter : **Wife's petition to commence proceedings for a contested divorce under § 756 of Act No. 89/2012 Sb., the Civil Code (*občanský zákoník*), as amended**

Re : **Statement of the defendant (husband) on the petition of the plaintiff (wife)**

I.
Introduction

The defendant (husband) hereby responds to the plaintiff's (wife's) petition of 10 October 2026. He does not agree with the plaintiff's petition. Firstly, he does not agree with the proposed joining of the proceedings on the arrangement of the circumstances of the minor child and the proceedings on the divorce into a single proceeding. Secondly, with regard to the proposed agreement on the arrangement of the circumstances of the minor son Jakub Černý, born 21 May 2018, the defendant agrees with the proposed scope of care, but fundamentally disagrees with the proposed amount of maintenance.

II.
Unlawfulness of joining the proceedings on the divorce and the proceedings on the arrangement of the circumstances of minor children

1. Under § 755 odst. 3 of Act No. 89/2012 Sb., the Civil Code (*občanský zákoník*; hereinafter the "**Civil Code**"), where spouses have a minor child who is not fully legally competent, the court shall not dissolve the marriage until it has decided on the child's circumstances for the period after the divorce.

2. The defendant infers from this that the circumstances of the minor son must first be decided in separate proceedings under § 466 et seq. of Act No. 292/2013 Sb., on Special Court

Proceedings (*zákon o zvláštních řízeních soudních*; hereinafter the "**ZŘS**"). Only then can the divorce proceedings be decided. The proceedings in matrimonial status matters governed by § 371 et seq. ZŘS and the proceedings in matters of court care of minors governed by § 466 et seq. ZŘS have different subject matters, and the ZŘS does not permit their joint hearing.

3. The defendant understands that the plaintiff wishes to get through the divorce proceedings as quickly as possible, given the psychological strain of the whole process. That is, after all, also in the defendant's interest. For this purpose, however, one cannot act contrary to the law, specifically to the provisions of the ZŘS, which nowhere permits joining the two proceedings mentioned above.

4. In the defendant's view, joining the two matters would be contrary to the law. The defendant therefore proposes that the court separate the proceedings on the arrangement of the minor's circumstances into separate proceedings, and that the divorce proceedings be commenced only after a decision has been issued in that matter.

III.

Disagreement with the proposal on the arrangement of the circumstances of the minor child as regards maintenance

5. In case the court decides on the minor's circumstances in these proceedings, the defendant states that he agrees with the proposed agreement on the arrangement of the minor's circumstances as regards the scope of care, and in this part of the agreement he joins the proposal in the wording put forward by the plaintiff.

6. The defendant also does not dispute the facts that the plaintiff stated in the grounds of her petition, namely that both parents have a net monthly income of approximately CZK 65,000 and that their property circumstances are therefore comparable. The defendant likewise does not dispute that each parent pays for the minor's food and ordinary consumption during his or her week.

7. The defendant, however, at the same time pays from his account all the minor's costs that are not tied to only one week of care, in particular the minor's share of the costs of the family flat, school meals and the after-school club, extracurricular activities, clothing, school supplies and health expenses. These payments amount on average to CZK 12,000 per month, and the plaintiff does not contribute to them.

8. Where the court decides on the scope of care under § 907 odst. 2 of the Civil Code, it also decides on the maintenance obligation under § 919 odst. 3 of the same Act. Under § 913 odst. 1 and 3, the child's justified needs, the parents' abilities, possibilities and property circumstances, and the extent of their personal care are decisive. Under § 914, the extent of the parents' obligation is measured by their property circumstances, abilities and possibilities, and under § 915 odst. 1 the child's standard of living should in principle be the same as that of the parents. Comparable incomes and the same extent of personal care therefore justify the same overall share of the parents in the child's maintenance, not automatically two equal monetary payments regardless of who pays the shared costs.

9. In the resolution of the Constitutional Court (*Ústavní soud*) of 2 November 2021, sp. zn. III. ÚS 2591/21, the setting of identical maintenance for both parents under symmetrical care withstood review after the courts had assessed the personal, social and property situation of both parents and their comparable earning capacity. The decision confirms that an identical amount can be the result of an overall assessment of the circumstances. It does not, however, address the situation where one of the parents, besides the same extent of personal care, himself pays all the shared costs of the child, as is the case here.

10. The significance of direct payments by one of the parents is evidenced by the resolution of the Constitutional Court of 10 May 2022, sp. zn. I. ÚS 561/22. In that matter the courts, under symmetrical care, took into account that the father solely paid for a private kindergarten in the amount of CZK 13,995 per month, of which CZK 7,000 was the mother's share. The courts thus decided that, given the high item for the private kindergarten, the father does not have to pay any further maintenance.

11. The judgment of the Supreme Court (*Nejvyšší soud*) of 29 April 2026, sp. zn. 24 Cdo 2849/2025 further proceeds from the premise that the recipient of maintenance is the child, not the parent, and that maintenance is to be paid directly to the child, to an account that the child designates. For this reason the defendant proposes that the plaintiff not pay maintenance into the defendant's hands, but directly to an account held in the name of the minor son.

12. With average shared costs of CZK 12,000 per month, an equal division of the overall financial burden corresponds to CZK 6,000. The defendant therefore proposes that the plaintiff be ordered to pay CZK 6,000 per month towards the minor's maintenance, due always by the 15th day of the month in advance, to the minor's account, which will be communicated to the court, and that no monetary maintenance be set for the defendant, because he fulfils his part of the maintenance obligation through personal care and direct payment of the minor's needs, in particular by paying for the private kindergarten.

13. The defendant proposes that the court separate the proceedings on the minor's circumstances into separate proceedings and decide on that matter first. In the event that the court decides on the minor's circumstances, the defendant proposes that it set the weekly scope of care described above and decide on maintenance in the manner stated in the preceding paragraph.

Mgr. Daniela Pravá, attorney
acting under the power of attorney of Kryštof Černý
sent via data box