

Government Decree 176/2020 (4 May)
on diverging measures relating to contact rights and restraining orders during the
period of state of danger

The Government,
acting within its original legislative power laid down in Article 53 (2) of the Fundamental Law, having regard to the provisions of Act XII of 2020 on the containment of coronavirus,
acting, with respect to section 11, within its original legislative power laid down in Article 53 (3) of the Fundamental Law, on the basis of authorisation by the National Assembly under section 3 (1) of Act XII of 2020 on the containment of coronavirus,
acting within its function laid down in Article 15 (1) of the Fundamental Law,
decrees as follows:

1. Derogations relating to contact rights

Section 1 (1) During the period of state of danger, a decision on contact under section 22/A (1) of Act CXVIII of 2017 on the rules applicable in non-contentious civil court procedures and on certain non-contentious court procedures shall be construed to also mean an agreement on contact that is concluded in a mediation procedure between the parents or that is drawn up as a private deed of full probative value or as a public deed between separated parents. In such a case, the deed containing the agreement shall also be attached to an application for the enforcement of the decision on contact.

(2) During the period of state of danger, by way of derogation from section 6 (3) of Government Decree 57/2020 (23 March) on the enforcement measures to be taken during the period of state of danger declared for the prevention of the human epidemic endangering life and property and causing massive disease outbreaks, for the elimination of its consequences, and for the protection of the health and lives of Hungarian citizens [hereinafter “Government Decree 57/2020 (23 March)”], in the course of the enforcement of a decision concerning the receiving of a child for the purpose of keeping contact under section 180/B of Act LIII of 1994 on judicial enforcement, the bailiff may continue to carry out a procedural act or measure after the epidemiological measure is lifted, with the proviso that the relevant time limit shall recommence on the day following the date of lifting the epidemiological measure concerned.

2. Rules on the enforcement of temporary preventive restraining orders, preventive restraining orders and restraining orders during the period of state of danger

Section 2 (1) During the period of state of danger, the provisions pertaining to restraining orders and criminal supervision of Act LXXII of 2009 on restraining orders applicable because of violence between relatives (hereinafter “Act LXXII of 2009”) and Act XC of 2017 on the Code of Criminal Procedure (hereinafter “Be.”) shall apply subject to the derogations laid down in this Decree.

(2) An epidemiological measure shall not be an obstacle to adopting or enforcing a temporary preventive restraining order or preventive restraining order under Act LXXII of 2009 or a restraining order under the Be.

Section 3 When ordering a temporary preventive restraining order under Act LXXII of 2009, the police shall examine, on-site and *ex officio*, whether

- a) the abuser obliged to leave the customary place of residence or
- b) the abused person who wishes to leave the customary place of residence voluntarily

is subject to any epidemiological measure.

Section 4 (1) If an abuser obliged to leave the customary place of residence is subject to an epidemiological measure and

a) is capable of providing accommodation for him- or herself on his or her own, the police shall record a statement by the abuser concerning his or her new place of residence,

b) is incapable of providing accommodation for him- or herself on his or her own, the police shall offer the abuser an accommodation suitable for enforcing epidemiological measures that is reserved for abusers only,

c) is incapable of providing accommodation for him- or herself on his or her own, and refuses to accept the accommodation offered in accordance with point *b)*, the police shall place the abuser in a designated quarantine facility.

(2) Having regard to the provisions of paragraph (1), the police

a) shall provide for registering the new place of residence to promote the performance of monitoring tasks related to compliance with epidemiological measures, and

b) shall inform

ba) the epidemiological authority of the new place of residence, accommodation or designated quarantine facility, and

bb) the settlement local government of the previous customary place of residence

[points *a)* and *b)* hereinafter jointly “epidemiological follow-up”].

Section 5 (1) When ordering a preventive restraining order under Act LXXII of 2009, the court shall examine *ex officio* whether the abuser or the abused person is subject to any epidemiological measure. To this end, the court

a) shall obtain a statement from both the abuser and the abused person on being subject to any epidemiological measure, or

b) may use the assistance of the police.

(2) If the place of residence of an abuser leaving the customary place of residence and subject to an epidemiological measure changes due to ordering a preventive restraining order, the court shall determine the new place of residence of the person concerned in accordance with section 4 (1) and may use the assistance of the police to do so.

(3) For the purpose of epidemiological follow-up, the court shall inform the police accordingly.

(4) If it is established in the course of adjudicating an application for preventive restraining order that an abused person subject to an epidemiological measure wishes to leave the customary place of residence voluntarily, or that the abuser may not be obliged to leave the place of residence in accordance with section 5 (3) of Act LXXII of 2009, the court shall inform the police accordingly.

Section 6 (1) If an abused person subject to an epidemiological measure wishes to leave the customary place of residence voluntarily, or the abuser may not be obliged to leave the place of residence in accordance with section 5 (3) of Act LXXII of 2009, and the abused person

a) is capable of providing accommodation for him- or herself on his or her own, the police shall record a statement by the abused person concerning his or her new place of residence,

b) is incapable of providing accommodation for him- or herself on his or her own, the police shall offer the abused person accommodation that is suitable for receiving abused persons only and for enforcing epidemiological measures.

(2) After taking a measure specified in paragraph (1), the police shall provide for epidemiological follow-up.

Section 7 (1) If the court orders a restraining order under the Be. against a defendant subject to an epidemiological measure whose place of residence is the same as the place of residence of the person protected by the restraining order, the court shall determine the new place of

residence of the defendant in accordance with section 4 (1) and may use the assistance of the police to do so.

(2) For the purpose of epidemiological follow-up, the court shall inform the police accordingly.

Section 8 If in the course of monitoring compliance with a temporary preventive restraining order or preventive restraining order under Act LXXII of 2009 or a restraining order or criminal supervision under the Be., the police becomes aware that the place of residence of a person subject to an epidemiological measure has changed, or that such change is requested, it shall provide for determining a new place of residence in accordance with section 4 (1) and for epidemiological follow-up, provided that no other coercive measure affecting personal freedom may be imposed.

3. Final provisions

Section For the purpose of this Decree, epidemiological measure shall be construed to mean also an official home quarantine or an epidemiological isolation, observation or quarantine.

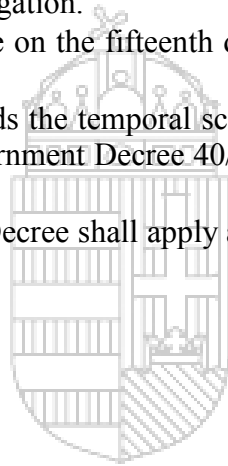
Section 10 (1) With the exception specified in paragraph (2), this Decree shall enter into force on the day following its promulgation.

(2) Section 11 shall enter into force on the fifteenth day following the promulgation of this Decree.

Section 11 The Government extends the temporal scope of this Decree until the end of the period of state of danger under Government Decree 40/2020 (11 March) on the declaration of state of danger.

Section 12 The provisions of this Decree shall apply also to proceedings pending on the day of the entry into force of this Decree.

Section 13



MINISTRY OF JUSTICE
HUNGARY