How to bring a case to court

Czechia

1 Do I have to go to court or is there another alternative?

Everyone has the right to apply to court for protection of a right that has been threatened or violated. It is always advisable first to try to resolve the dispute amicably. Alternative disputeresolution methods may also be used. In certain areas of civil law, the State enables the parties to the legal relationship concerned to entrust a legal dispute to another private body. In the Czech Republic this takes place through arbitration, regulated by Act No 216/1994 on arbitration proceedings and on enforcement of arbitration awards, as amended. Arbitration proceedings result in an arbitration award, which is binding on both parties to the dispute and which bears the weight of an enforceable judgement. Mediation in non-criminal matters is regulated by Act No 202/2012 on mediation and amending certain Acts (the Mediation Act). For further details, please refer to “Alternative Dispute-Resolution – Czech Republic”.

Even after you have applied to the court, it is possible, depending on the nature of the case, to propose that the court should seek an amicable settlement (see Sections 67- 69 and Section 99 of Act No 99/1963 – the Code of Civil Procedure – as amended). Approved judicial settlement has the same effect as a final judgement. It is also a title for the execution of a judicial decision (execution). Approved judicial settlement constitutes an obstacle to a decided case.

2 Is there any time limit to bring a court action?

Time limits vary according to individual cases, which is why it is preferable to ask for legal advice as early as possible. An action must be brought before the competent court before the limitation period has expired (the action must be served before the court within the limitation period).

In the case of a time-bar resulting from expiry of the statutory period, a debtor’s obligation is not deleted, but is weakened. This means that it cannot be redeemed if the debtor invokes the statute of limitations. The statute of limitations is regulated in general in Sections 609 – 653 of Act No 89/2012 (the Civil Code). The general limitation period is three years and begins on the day upon which the right could first be exercised. The length of individual special limitation periods depends on the nature of the right exercised.

3 Should I go to a court in this Member State?

See “Jurisdiction – Czech Republic”.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

Jurisdiction of the courts is determined by the rules of territorial, subject-matter and functional jurisdiction.

Territorial jurisdiction defines the scope of jurisdiction of individual courts of the same type. It determines which specific court of the first instance is to hear and decide on a specific case. The basic rules of territorial jurisdiction are set out in Sections 84 to 89a of Act No 99/1963 (the Code of Civil Procedure, as amended). However, it should be borne in mind that in certain cases territorial jurisdiction may be regulated by directly applicable EU law, which takes precedence over national legislation (see certain provisions of Regulation No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which not only regulates international, but also territorial jurisdiction), which means that the rules of territorial jurisdiction under Czech law do not always apply.

The court with territorial jurisdiction is the general court of the party against whom the claim is made (the defendant), unless otherwise provided for in the Act. The general court is always a district court. Where a regional court has jurisdiction in the first instance (see question 2.1), the regional court in whose district the party’s general (district) court is located has territorial jurisdiction. Where a claim is made against several defendants, the general court of any of them has territorial jurisdiction.

The general court of a natural person is the district court in whose district he/she has his/her residence, residence and if the party has none, then the court in whose district he/she is staying. A residence is understood to mean the place where an individual lives with the intention of staying there permanently (it is possible that there are a number of such places, in which case all such courts are the general court).

The general court of a natural person involved in business is, for cases arising from business activities, the district court in whose district he/she has his/her place of business (the place of business is the address entered in the public register); if he/she has no place of business, the district court in whose district he /she has his/her residence, and if the party has none, the district court in whose district he/she is staying.

The criterion for determining the general court of a legal entity is its registered office – see Sections 136–137 of Act No 89/2012 (the Civil Code).

The general court of an insolvency trustee during the performance of his/her office is the district court in whose district he/she has a registered office.

Special rules apply to the general court of the State (the court in whose district the organisational unit of the state with jurisdiction under a special legal regulation has its registered office, and, if the court with territorial jurisdiction cannot be determined in this way, the court in whose district the circumstances giving rise to the right claimed took place), a municipality (the court in whose district the municipality is located) and a higher territorial self-governing unit (the court in whose district its administrative bodies have their registered offices).

If the defendant, being a citizen of the Czech Republic, has no general court, or has no general court in the Czech Republic, the court in whose district he /she had his/her last known residence in the Czech Republic has jurisdiction. Property rights may be exercised against someone who has no other competent court in the Czech Republic by the court in whose district his/her assets are located.

An action (motion to initiate proceedings) against a foreign person may also be brought before a court in whose district in the Czech Republic its plant, or an organisational unit of its plant, are located.

Subject-matter jurisdiction defines the scope of jurisdiction between individual types of court by determining which court will hear the case at the first instance. In civil-court proceedings, subject-matter jurisdiction of courts holds that district courts have jurisdiction over proceedings in the first instance, unless the law expressly states that regional courts or the Supreme Court of the Czech Republic have subject-matter jurisdiction.

Functional jurisdiction defines the scope of jurisdiction of courts of different types involved in hearing the same cases in succession in situations that involve the lodging of ordinary and extraordinary appeals (in other words, it defines which court will decide on ordinary and extraordinary appeals).

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

As has already been pointed out above (see the response to question 4) the subject-matter jurisdiction of courts in civil-court proceedings holds that proceedings in the first instance are essentially under the jurisdiction of district courts.

Exceptions have been made to this principle in favour of the regional courts, which hear and decide on cases listed in the provisions of Section 9(2) of Act No 99/196 (the Code of Civil Procedure, as amended). This primarily concerns decisions on matters that, because of their nature, require a certain level of specialisation and on matters that are factually and legally more complex. Regional courts decide as courts of first instance in the following cases:
a) in disputes between the employer and the recipient concerning the mutual settlement of overpayments of a pension-insurance allowance, sickness insurance, state social support and material-need assistance and in disputes concerning the mutual settlement of regressive compensation paid as a result of entitlement to sickness insurance benefit,
b) in disputes concerning the illegality of a strike or lock-out,
c) in disputes concerning a foreign state or persons enjoying diplomatic immunities and privileges if these disputes fall within the jurisdiction of the Czech courts,
d) in disputes concerning the annulment of the arbitrator's decision on the enforcement of obligations arising from a collective agreement,
e) in cases following from legal relationships connected with establishing business companies, generally beneficial companies, endowments and endowment funds and in disputes between business corporations, their partners or members as well as in mutual disputes between the partners and members, arising from their participation in the business corporation,
f) in disputes between business corporations, their partners or members and members of the statutory bodies thereof or liquidators, as for relationships concerning the execution of the office of members of the statutory bodies or liquidation,
g) in disputes arising from copyright law,
h in disputes concerning the protection of rights infringed or threatened by unfair competition or unlawful restrictions on competition,
i) in matters concerning the protection of the name and reputation of a legal person,
j) in disputes concerning financial security and disputes relating to bills of exchange, promissory notes and investment instruments,
k) in disputes arising from commodity exchange trades,
l) in matters relating to Owners' Association General Assemblies and disputes arising therefrom, with the exception of disputes concerning contributions by members of the Association for the management of the house and grounds, disputes concerning downpayments for services and the method of distributing the cost of services,
m) in matters relating to the transformation of companies and cooperatives (including any compensation proceedings), pursuant to a special legal regulation,
n) in disputes concerning the purchase of a plant, the lease of a plant or a part thereof,
o) in disputes concerning contracts for building work which are above-limit public contracts, including the supplies necessary to execute such contracts,
p) in matters of legal liability where a party has failed to act with due diligence,
q) in disputes stemming from the rules governing business groupings,
r) in disputes concerning the safeguarding of creditors' claims where a company's share capital has been reduced or where the basic investment by a cooperative's members has been reduced.
The Supreme Court of the Czech Republic has jurisdiction in the first and only instance in proceedings to recognise foreign judgements on matrimonial matters (this does not apply to the recognition of judgements from other EU member states if Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility, repealing Regulation (EC) No 1347/2000 applies) and in matters determining and denying parenthood pursuant to Sections 51 and 55 para. 1 of Act No 91/2012 on private international law.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

There is no general obligation in Czech civil law proceedings to be represented by a lawyer.
Capacity to sue and capability of being sued
Everyone may act independently before the court as a party to legal proceedings within the scope of his/her legal capacity (Section 20(1) of Act No 99/1963 [the Code of Civil Procedure, as amended]). A natural person acquires full capacity to sue when he/she is of legal age. Legal age is reached when he/she becomes eighteen years old. Before reaching this age, legal age can be reached through the grant of an application for legal capacity – see Section 37 of Act No 89/2012 (the Civil Code) – or by entering into marriage. In the event a party to proceedings does not have full capacity to sue, he/she can be represented in proceedings. A person of legal age who has restricted legal capacity may also lack the capacity to sue and capability of being sued.
Representation arises on the basis of the law or a decision by a government agency (statutory representation) or on the basis of a power of attorney. Anyone who attends proceedings as a party's representative must provide evidence of such representation.
A natural person who is not able to act independently before the court must be represented by his/her legal guardian or a curator (Sections 22-23 and Section 29an. of Act No 99/1963 [the Code of Civil Procedure, as amended]).
Parties to proceedings (with legal capacity) may also be represented by a person of their choice on the basis of a power of attorney (Sections 24-28a of Act No 99/1963 [the Code of Civil Procedure, as amended]).

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

An action (motion to initiate proceedings) is filed with the court that has subject-matter, territorial and functional jurisdiction. The addresses of the individual Czech courts can be found on the Czech Ministry of Justice webpage: http://portal.justice.cz/Justice2/Uvod/Soudy.aspx

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

All parties have equal status in civil-court proceedings and have the right to a court hearing in their mother tongue (see Section 18 of Act No 99/1963 [the Code of Civil Procedure, as amended]). The right to a court hearing in one's mother tongue is restricted to oral court proceedings and does not apply to written communication between the court and the parties (and vice versa) – hence a motion must be submitted in the Czech language.
A motion to initiate proceedings may be made in writing – see Section 42 of Act No 99/1963 (the Code of Civil Procedure, as amended). A written filing is made on paper or in electronic form via a public data network or by fax. A written filing containing a motion on the merits submitted via fax or in electronic form should be followed within three days at the latest by the submission of the original or a written submission of the identical text. Where the filing is made in electronic form with a certified electronic signature (pursuant to Act No 227/2000 on electronic signature, as amended) or a filing in electronic form pursuant to a special legal regulation (Act No 300/2008 on electronic acts and authorised document conversion) no subsequent submission of the original documents is required.
A motion to initiate proceedings and a request for an order to execute may only be made orally and recorded (see Section 14 of Act No 292/2013 on special judicial proceedings, as amended) in the case of proceedings that may also be initiated without a motion or proceedings for authorisation to marry, proceedings for protection against domestic violence, proceedings to determine or to deny parenthood and adoption proceedings. Each district court is required to enter the filing in the records and to forward it without delay to the competent court. This type of filing has the same effect as if it were made to the competent court.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

There are no prescribed forms for bringing an action (motion to initiate proceedings). An action (motion to initiate proceedings) must contain general particulars (see Section 42(4) of Act No 99/1963 [the Code of Civil Procedure, as amended]) and special particulars (see Section 79(1) of the Code of Civil Procedure).
The general particulars include the designation of the court to which the motion is addressed and the designation of the person bringing the action. It must also be clear from the action what case it concerns and what it is seeking and it must be signed and dated.
The special particulars include the name, surname and address of the parties, or the birth numbers or identification numbers of the parties (the business name or name and registered office of a legal person, identification number, name of the country and relevant organisational unit of the State which is appearing before the court on its behalf), if necessary also its representatives, a description of the main facts and a description of the evidence relied on by the appellant, and it must clearly indicate what is being sought by the appellant.
If the motion does not contain the necessary particulars, or if they are incomprehensible or unclear, the court will call on the party to remedy these defects within a certain period. If this is not done and proceedings cannot continue as a result, the court will reject the motion to initiate proceedings. The court will disregard any other filings until they have been properly corrected or completed – see Section 43 of Act No 99/1963 (the Code of Civil Procedure, as amended). The motion must be submitted in the required number of counterparts to ensure that one counterpart is retained by the court and that each party receives one counterpart, if required – see Section 42 para. 4 of Act No 99/1963 (the Code of Civil Procedure, as amended).

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

Court charges are levied for proceedings held before courts in the Czech Republic, for acts listed in the Tariff of Charges and for individual acts performed by courts and acts performed by the court administration. The amounts of these charges are set out in Act No 549/1991 on court fees, as amended. Court charges are either set as a fixed sum or determined as a percentage rate based on the value of the subject matter of the judicial proceedings.
A number of cases (primarily those that are not disputed) are exempt from these charges. Cases that are “materially exempt” included issues concerning guardianship, adoption, maintenance obligations between parents and children, etc. These proceedings are completely exempt from charges.
Appellants in proceedings to determine maintenance payments, compensation for damage to health, work injuries and occupational illnesses etc. are personally exempt from charges. If the claimant in a particular proceeding is personally exempt from charges and the court upholds his/her claim, the defendant is liable for the fee.
It is also possible to admit so-called individual exemptions that relate to the financial and social situation of the parties to the proceedings and the specific circumstances of the case being heard. If the claimant is in material need as a result of long-term unemployment, a serious illness, etc., he/she may apply to the court for full or partial exemption from the charges. The relevant application should preferably be attached to the original action. When deciding on exemptions from payment of charges, the court will take into account the applicant’s overall property, financial and social circumstances, the amount of the court fee, the nature of the claim submitted, etc. However, this should not be an arbitrary or clearly hopeless exercise or obstruction of rights. See also “Legal aid – Czech Republic”.
The fee is payable once the motion is brought to initiate proceedings. If it has not been paid at the same time as the motion, the court will call on the party to pay the fee and instruct him/her that, if the fee is not paid within the time allocated, the proceedings will be suspended.

11 Can I claim legal aid?

See “Legal Aid – Czech Republic”.

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

Judicial proceedings commence on the day the petition is delivered to the court (see Section 82 of Act No 99/1963 [the Code of Civil Procedure, as amended]) or when a ruling on commencement of the proceedings without a petition was issued by the court (see Section 13 para. 2 of Act No 292/2013 on special judicial proceedings, as amended). The fact that the action (motion to initiate proceedings) is delivered to the court commences the proceedings and the court does not issue any special confirmation that the proceedings have commenced. If an action (motion to initiate proceedings) is delivered in person to the court registry it can be confirmed by having a copy of the action stamped.
If the motion has deficiencies (does not contain the prescribed particulars, or is unclear or incomprehensible), the court will call on the party to remove them. If these deficiencies are not removed within the period set by the court and the proceedings cannot continue for this reason, the court will reject the motion to initiate proceedings and suspend the proceedings.

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

As soon as the proceedings have commenced, the court will proceed without further applications to ensure that the case is heard and decided as quickly as possible – see Section 100(1) of Act No 99/1963 (the Code of Civil Procedure, as amended). The court is required to deliver the action (motion to initiate proceedings) to the other parties to the proceedings in person (see Section 79(3) of the Code of Civil Procedure). During the proceedings, the court will instruct the parties in their various rights and obligations. In the event a specific procedural act has to be performed, the court will set a time limit for its performance.
The parties and their representatives have the right to inspect the court file, with the exception of the voting record, and to make extracts and copies of it. The presiding judge will allow anyone who has a legitimate interest or who has valid reasons for doing so to inspect the file and to make extracts and copies of it, unless it is a file whose contents are required by law to be kept confidential – see Section 44 of Act No 99/1963 (the Code of Civil Procedure, as amended).

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