Which country's court is responsible?

Chéquia

1 Should I apply to an ordinary civil court or to a specialised court (for example an employment labour court)?

Czech civil law has no procedural rules designating specialised courts to deal with specific types of cases. In civil cases the general court has, in principle, jurisdiction to resolve disputes in all civil law matters. These are materially defined in such a way that in civil judicial proceedings, the courts shall hear and decide on disputes and other legal cases following from private law relationships (Section 7(1) of Act No. 99/1963 Coll., the Civil Procedure Code, as amended). Further, a new law has come into force in the Czech Republic from 1.1. 2014, Act No. 292/2013 Coll., on special judicial proceedings. Under this Act, courts deal with and decide on the legal matters set out in this Act.

In certain cases special legislation confers the power to decide on civil law matters to administrative authorities. However, in this case the decision by the administrative authority may always be subsequently reviewed by a civil court in proceedings pursuant to Part Five of Act No. 99/1963 Coll., the Civil Procedure Code, as amended (Section 244 et seq.).

2 Where the ordinary civil courts have jurisdiction (i.e. these are the courts which have responsibility for such cases) how can I find out which one I should apply to?

2.1 Is there a distinction between lower and higher ordinary civil courts (for example district courts as lower courts and regional courts as higher courts) and if so which one is competent for my case?

In the Czech Republic, the civil courts of first instance are district courts (*okresní soud*) and regional courts (*krajský soud*) and, in rare cases, the Supreme Court of the Czech Republic (*Nejvyšší soud České republiky*).

1. The district courts have jurisdiction to hear proceedings in the first instance, unless the law expressly provides that the jurisdiction lies with the regional courts or the Supreme Court of the Czech Republic.

2.

a) According to Act No. 99/1963 Coll., regional courts have jurisdiction over the following cases in the first instance:

in disputes concerning 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 benefits,

in disputes concerning the illegality of a strike or lock-out,

in disputes concerning a foreign state or persons enjoying diplomatic immunities and privileges if these disputes fall within the jurisdiction of the Czech courts,

in disputes concerning the annulment of an arbitrator's decision regarding the enforcement of obligations arising from a collective agreement,

in cases following from legal relationships connected with establishing commercial corporations, foundations, endowments and endowment funds and in disputes between commercial corporations, their partners or members as well as in disputes between partners or members arising from their participation in the commercial corporation,

in disputes between business corporations, their partners or members and members of the statutory bodies thereof or liquidators, if the disputes concern the exercise of the office of members of the statutory bodies or liquidation,

in disputes following from copyright law,

in disputes concerning the protection of rights infringed on or threatened by unfair competition or unlawful restrictions on competition,

in matters concerning the protection of the name and reputation of a legal person,

in disputes concerning financial security and disputes relating to bills of exchange, cheques and investment instruments,

in disputes arising from commodity exchange trades,

in matters relating to Owners' Association General Assemblies and disputes arising therefrom,

in matters relating to the transformation of companies and cooperatives, including any compensation proceedings, pursuant to a special legal regulation,

in disputes concerning the purchase of a plant, the lease of a plant or a part thereof,

in disputes concerning contracts for building work which are above-limit public contracts, including the supplies necessary to execute such contracts.

b) According to Act No. 292/2013 Coll. regional courts have jurisdiction over the following cases at first instance:

concerning the status of legal entities, including their dissolution and liquidation, the appointment and removal of members of their statutory bodies or the liquidator, their transformation and issues concerning their generally beneficial status,

in matters of custodianship of legal entities,

concerning deposits to meet obligations to provide consideration or compensation to more than one person on the basis of a court decision under the Commercial Corporation Act or the Companies and Cooperatives Transformation Act (hereinafter referred to as "mandatory deposit"),

in matters concerning the capital market,

concerning preliminary consent to carry out investigations in matters of protection of competition,

concerning replacement of the consent of a representative of the Czech Bar Association or the Chamber of Tax Advisers for access to the contents of documents.

3. The Supreme Court of the Czech Republic has jurisdiction in the first and only instance in proceedings to recognise foreign judgements on divorce, legal separation, annulment of a marriage and determining whether the marriage exists or not, if at least one of the parties is a citizen of the Czech Republic, pursuant to Section 51 of Act No. 91/2012 Coll., on private international law. However, this procedure is not followed when recognising judgements from other EU member states in cases where Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 applies, or where a bilateral or multilateral treaty providing for a procedure other than Czech law applies.

The Supreme Court also has jurisdiction over matters concerning the recognition of a foreign judgement determining and denying parenthood, pursuant to Section 55 of Act No. 91/2012 Coll., on private international law.

2.2 Territorial jurisdiction (is the court of city/town A or of city/town B competent for my case?)

The circumstances existing at the time proceedings are initiated are decisive for determining subject-matter jurisdiction (see question 2.1) and territorial jurisdiction. Any subsequent change to these circumstances (e.g. a change in the place of residence of the defendant) are, with a few exceptions (transfer of jurisdiction for cases concerning care of minors, custody and legal capacity proceedings) irrelevant.
According to Section 105 paragraph 1 of Act No. 99/1963, the Code of Civil Procedure, the court is as a rule authorised to examine territorial jurisdiction only at the beginning of the proceedings – until the end of the preparatory proceedings or, if no preparatory proceedings are held, before starting to hear the merits of the case, i.e. until such time as it calls on the plaintiff to bring an action during initial proceedings, or until it issues a decision in the event it rules without a hearing. Subsequently, territorial jurisdiction may only be examined if preparatory proceedings have not taken place and a party has raised an objection to local jurisdiction on the first occasion it was entitled to do so. It is possible that, in certain cases, a number of courts will have territorial jurisdiction. The plaintiff may choose between the general court and the courts designated in Section 87 of Act No. 99/1963 Coll., the Code of Civil Procedure (e.g. according to workplace, in cases of compensation according to the place where the damage occurred). The plaintiff must choose at the latest when the action is brought – the court where the proceedings were first initiated will have jurisdiction.
For specific legal matters, territorial jurisdiction is determined by Act No. 292/2013 Coll., on special judicial proceedings.

2.2.1 The basic rule of territorial jurisdiction

The basic rules of territorial jurisdiction are set out in Sections 84 to 86 of Act No. 99/1963 Coll., the Code of Civil Procedure and in Section 4 of Act No. 292 /2013 Coll. However, it should be borne in mind that in certain cases territorial jurisdiction may be regulated by a directly applicable EU law, which takes precedence over national legislation (see certain provisions of Regulation No 44/2001, 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 basic rule in Act No. 99/1963 Coll., the Code of Civil Procedure is that the court of general jurisdiction is the general court of the defendant. The general court is always the 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 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 Coll., 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 (petition for commencement of 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.
The provisions of Section 4 of Act No. 292/2013 Coll., on special judicial proceedings state that jurisdiction for proceedings lies with the general court of a person in whose interest the proceedings are taking place, unless otherwise provided for in that Act. The general court of a minor who does not have full legal capacity is the court in whose district the minor has his/her residence as determined by an agreement between the parents or a court decision or by other deciding circumstances.

2.2.2 Exceptions to the basic rule

Besides the territorial jurisdiction of the general court of the defendant, another special territorial jurisdiction exists, which is (a) special territorial jurisdiction by choice (see question 2.2.2.1 below) and (b) exclusive special territorial jurisdiction (see question 2.2.2.2 below). A prorogation agreement is also possible for commercial matters (see question 2.2.2.3 below).
Furthermore, according to Section 5 of Act No. 292/2013 Coll., on special judicial proceedings, should the circumstances determining jurisdiction change in proceedings on court custody of a minor, in custody matters and in proceedings on legal capacity, the court is entitled to transfer its jurisdiction to another court, if this is in the interest of the minor, the guardian or the person whose legal capacity is being decided. However, the transfer of jurisdiction pursuant to this paragraph is always dependent on the consideration of the court.

2.2.2.1 When can I choose between the court in the place where the defendant lives (court determined by the application of the basic rule) and another court?

This is the so-called "special territorial jurisdiction by choice" which is regulated by Section 87 of Act No. 99/1963 Coll., the Code of Civil Procedure. The plaintiff may choose whether to bring an action at the general court of the defendant or at another court with territorial jurisdiction. However the rules of territorial jurisdiction must be respected – if a regional court has jurisdiction in the first instance, the plaintiff must bring an action at the regional court. As soon as the action has been delivered to the court, the plaintiff may not change his/her choice. If territorial jurisdiction is regulated by a directly applicable EU regulation, which has precedence over national legislation (see certain provisions of Regulation No 44/2001, which regulates not only international, but also territorial jurisdiction), rules on territorial jurisdiction based on choice under Czech law may not be applied.
Instead of the general court of the defendant, the plaintiff may choose a court in whose district:
the defendant has his/her permanent place of work;
circumstances that give rise to a right to compensation have occurred;
the organisational unit of the plant of a natural or legal person, who is the defendant, is located, if the dispute concern this unit;
a person who organises a regulated market or operates a multilateral trading system has his/her registered office, in the case of a commercial dispute concerning a regulated market organised by this person, or the settlement of such business, or
in a multilateral trading system operated by this person, or the settlement of such trade,
the place of payment is located, where a right arising from a bill of exchange, promissory note or other security is exercised;
the registered office of a commodity exchange is located, in the case of a dispute concerning a commodity exchange trade.

2.2.2.2 When do I have to choose a court other than that in the place where the defendant lives (court determined by the application of the basic rule)?

This is the so-called “exclusive special territorial jurisdiction”, which is regulated by Section 88 of Act No. 99/1963 Coll., the Code of Civil Procedure, and certain provisions of Act No. 292/2013 Coll., on special judicial proceedings. If exclusive territorial jurisdiction has been imposed for certain matters, territorial jurisdiction may not be determined according to the defendant’s general court or according to the court of choice.
If territorial jurisdiction is regulated by a directly applicable EU regulation, which has precedence over the national legislation (see certain provisions of Regulation (EC) 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), the rules of exclusive territorial jurisdiction under Czech law may not be applied.
According to Section 88 of Act No. 99/1963 Coll., the Code of Civil Procedure, exclusive territorial jurisdiction is primarily imposed for the following proceedings:
settlement of common property of spouses or other assets or cancellation of joint tenancy of a flat after divorce – the court that decided on the divorce has territorial jurisdiction
proceedings on the right to immovable property (the proceedings must directly concern the right to the property – this mainly concerns rights in rem or tenancy rights) – the court in whose district the property is located has territorial jurisdiction, provided that these are not proceedings to settle common property of spouses or other assets or cancellation of joint tenancy of a flat after divorce (in these cases the court that decided on the divorce would have territorial jurisdiction – see above)
proceedings to decide a dispute relating to probate proceedings – the court in which the probate proceedings are taking place has territorial jurisdiction
Act No 292/2013 Coll., on special judicial proceedings, provides for special territorial jurisdiction for the following proceedings in particular:
divorce proceedings, proceedings to determine whether the marriage exists or not and on the invalidity of marriage – according to Sections 373 and 383 this is the court in whose district the spouses had their last common place of residence in the Czech Republic, provided at least one of the spouses lives in that district; if such a court does not exist, the general court of the spouse who did not file an application to initiate proceedings has jurisdiction and if even this court does not exist, the general court of the spouse who filed an application to initiate proceedings
probate proceedings – according to Section 98 this is the place of registered permanent residence of the deceased, his/her last place of residence or the place where he/she stayed, where the immovable property of the deceased is located or where he/she died (these are hierarchical criteria)
proceedings in matters of international child abduction (return of a child) – according to Section 479, the court that has territorial jurisdiction is the court in whose district the Office for the International Legal Protection of Children has its registered office – i.e. the Municipal Court in Brno.

2.2.2.3 Can the parties themselves attribute jurisdiction to a court that would not be competent otherwise?

Parties only have the option to agree on a different territorial jurisdiction to the one provided for by law (a so-called prorogation agreement) under Section 89a of Act No. 99/1963 Coll., the Code of Civil Procedure in matters concerning relations between enterprises arising from business activities and only on the condition that no exclusive territorial jurisdiction pursuant to Section 88 of Act No. 99/1963 Coll., the Code of Civil Procedure, has been established for the given case (see above). A prorogation agreement must be in written form. If the plaintiff files a claim to the selected court and the prorogation agreement is invoked, the agreement (in a credible form – preferably the original or a certified copy) should be attached to the claim, although this is not a precondition under the current legislation.

3 Where specialised courts have jurisdiction how can I find out which one I have to address?

There are no specialised courts in the Czech Republic (see the response to question 1).

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