FROM THE IUSTORIA BLOG

The Appeal Is Written at First Instance: What You Can Still Do on Appeal and What You Can't

An appeal is not a second round. Why new facts and evidence rarely get in, what can still be added after the deadline, what an appeal costs and why its outcome is decided at the first hearing.

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When a client has lost a case, I almost always hear the same thing: “We'll appeal and explain it to the court there.” The client pictures the appellate court as a second round, where you can say what you didn't get round to saying the first time and produce a document that has turned up in the meantime. That is not how Czech civil procedure works. Appeal proceedings review how the court of first instance decided, and they let in new facts and evidence only exceptionally. That is why I say an appeal is really written at first instance: in the facts you managed to allege there and the evidence you managed to put forward.

I will go through what still works on appeal, what no longer does and what to watch out for in the fifteen days you have to lodge it.

Fifteen days, and what has to go into them

An appeal must be lodged within 15 days of service of the written copy of the decision, with the court that decided at first instance (Section 204(1) of the Czech Code of Civil Procedure). The period runs from service, not from the day the judgment was pronounced in the courtroom. When a judgment counts as served if you never collect it, or if it lands in your data box (*datová schránka*, the Czech state electronic mailbox), is something I cover in Missed a court deadline.

If the judgment contains no instructions on the right to appeal, on the deadline or on the court with which the appeal is lodged, or if the instructions wrongly state that no appeal is available, you can appeal within three months of service. If the appellant followed some other incorrect instruction, for example one giving a longer deadline, the appeal is in time even after fifteen days (Section 204(2)). An appeal lodged with the appellate court directly by mistake is not late (Section 208(2)); even so, lodge it with the court that decided. Don't rely on a mistake in the instructions: it is an exception, not a strategy.

Besides the general requirements of any filing, an appeal must state which decision it is directed against, to what extent you are challenging it, in what respect you believe it is wrong and what you are asking for (Section 205(1)). This is where I see the first trap for people who appeal without a lawyer.

You can change the grounds of appeal and the relief sought even after the deadline has passed, and without the court's consent (Section 205(3)). The extent of your challenge, however, can be changed only until the appeal deadline expires (Section 205(4)). If within the fifteen days you appeal “only against costs”, you will not be able to challenge the ruling on the merits later.
In practice, then, even a short appeal that is to be supplemented later must state precisely from the outset which rulings you are challenging. The extent of the appeal is the one thing that cannot be fixed after the deadline. If the court decided on several separate claims, the rulings on those you do not challenge, and on which the challenged ruling does not depend, become final (Section 206(2)).

An appeal without grounds, a so-called blank appeal (*blanketní odvolání*), is acceptable as a first step, but it must not stay that way. The court of first instance will ask you to supplement it and set a time limit. If you do not add the grounds, the appellate court will reject the appeal (Sections 209, 211 and 43(2)) and will not review the case on the merits (Section 212a(2)).

What you can't get into an appeal: new facts and evidence

In contentious cases, Czech appeal proceedings rest on what is known as the incomplete appeal system (*neúplná apelace*). Facts and evidence that you did not raise before the court of first instance are a ground of appeal against a decision on the merits only in the cases listed in the statute (Section 205a). In simplified terms, these are the cases where:

- the facts or evidence concern the procedural prerequisites, the court's subject-matter jurisdiction, the disqualification of a judge or the composition of the court,
- they are meant to prove a procedural defect that may have led to an incorrect decision,
- they are meant to cast doubt on the credibility of the evidence on which the judgment rests,
- the court of first instance did not properly instruct you under Section 118a(1) to (3) that you needed to add allegations or evidence, and you lost because of that,
- the court did not properly instruct you under Section 119a(1) before the end of the hearing,
- the facts occurred or the evidence came into existence only after the first-instance decision was pronounced.

The appellate court disregards any other new matter (Section 213(5)). This applies to the other side too (Section 211a). Things are different in proceedings under the Czech Act on Special Court Proceedings, typically in cases concerning the care of children: there, new facts and evidence can be raised on appeal as well (Section 28(1) of that Act).

Closely linked to this is the concentration of proceedings (*koncentrace řízení*). Facts and evidence relevant to the decision can be put forward only until the end of the preparatory hearing or, if none was held, until the end of the first hearing, or by the end of any period the court allowed for supplementing them (Section 118b(1)). Concentration and the incomplete appeal system work as one: what is not said in time at first instance will, as a rule, not get into the appeal. At a preparatory hearing, however, concentration does not take effect if the court did not properly instruct you of its consequences (Section 114c(5) and Section 118b(3)).

How strictly this applies is shown by the Constitutional Court's finding of 8 January 2025, file no. I. ÚS 2901/23. In that case the appellate court instructed the plaintiff again, although the court of first instance had already instructed her properly, and then heard evidence from an accountant whose examination she had proposed only in the appeal proceedings. The Constitutional Court found this to be a breach of the equality of the parties. In its view, guidance on appeal is appropriate only where the court of first instance failed to fulfil its duty to give guidance, or where the appellate court changes its legal view (paragraph 49). Nothing had prevented the plaintiff from proposing the accountant's examination in time, and it was up to her and her lawyer alone to do so (paragraph 57).

Did you lose because you “pleaded too little” or “proved too little”? Read the record of the hearing. If the guidance under Section 118a or Section 119a is missing from it or is only general, Section 205a(d) and (e) opens the way for new allegations and evidence on appeal. After a preparatory hearing, also check the guidance on concentration; without it, concentration did not take effect.

If the guidance is in the record, there is practically no second chance on appeal. It then makes sense to focus on the legal assessment and on procedural defects, not on new facts.

What the appellate court can do

The incomplete appeal system does not mean that the appellate court only reads the file. It can supplement the evidence with evidence you proposed in time that the court of first instance did not take, provided this would not mean extensive additional evidence-taking (Section 213(4)). If it wants to reach different findings of fact from those of the court of first instance, it must repeat the evidence itself (Section 213(2)). Above all, it is in principle not bound by the grounds of appeal; it is bound only by the extent of the appeal (Section 212 and Section 212a(1)).

The duty to give guidance applies in appeal proceedings too (Section 213b(1)). If the appellate court takes a different legal view from the court of first instance, and as a result allegations or evidence need to be supplemented, it must instruct you and give you the opportunity to do so (Section 118a(2)). You can then bring new allegations under Section 205a(d). If extensive additional evidence is needed, the appellate court is more likely to set the judgment aside and remit the case to the court of first instance (Section 219a(2)). If the appellate court springs a change of legal view on you without any guidance, that is a defect worth challenging further.

When you cannot appeal

Under Section 202(2), no appeal lies against a judgment deciding on a sum of money not exceeding CZK 10,000, excluding interest and other ancillary amounts (*příslušenství*). What counts is the value of the subject matter at the time the judgment is given, not the amount you originally claimed. The exceptions are a judgment on admission and a default judgment, which can be appealed even in a small-value case. Even with these, however, the grounds of appeal are limited: you can only object to defects under Section 205(2)(a), meaning the procedural prerequisites, subject-matter jurisdiction, disqualification of a judge and composition of the court, and argue that the conditions for giving such a judgment were not met (Section 205b).

Nor can you appeal only against the reasons for a decision (Section 202(3)). If you dislike what the court wrote in its reasoning but the operative part is in your favour, an appeal won't help.

By contrast, the ruling on the costs of the proceedings can be appealed on its own. The other rulings then become final (Section 206(3)), and the appellate court does not have to order a hearing (Section 214(2)(e)). With costs this matters, because no extraordinary appeal lies against cost orders (Section 238(1)(h)). Appeal proceedings are therefore the last place where you can put them right.

What an appeal costs

The court fee for an appeal on the merits is charged at the same rate as the fee for the claim, but only on the amount that is the subject of the appeal (item 22 of the schedule of fees and Section 6(8) of the Czech Court Fees Act). For a sum of money above CZK 20,000 and up to CZK 40 million, this means 5% of the amount challenged; for amounts up to CZK 20,000 the fee is a flat CZK 1,000. It falls due as soon as the appeal is lodged (Section 4(1)(b) and Section 7(1)). If you don't pay, the court will ask you to, and if the time limit it sets, which must not be shorter than 15 days, expires without payment, it will discontinue the appeal proceedings; a fee paid only after that time limit is disregarded (Section 9(1) and (2)). Anyone who cannot afford the fee can apply for an exemption (Section 138 of the Code of Civil Procedure).

An appeal only against costs, or against decisions of a purely procedural nature, is not subject to a fee (item 22, point 15 of the schedule of fees). If you withdraw the appeal before the first hearing, the court will refund the fee paid less 20%, with at least CZK 1,000 deducted (Section 10(3)). Our guide to debt recovery offers an indicative calculation of the costs of the whole dispute in its chapter “Is it worth it?” (in Czech).

On top of the fee comes the costs risk. If you lose, you will also pay the other side's costs of the appeal proceedings. An appeal is an investment just like the dispute itself, and you do the sums the same way; I describe how in the article Litigation as an investment.

After the appeal: an extraordinary appeal is a different discipline

An extraordinary appeal (*dovolání*) to the Supreme Court must be lodged within two months of service of the appellate court's decision, with the court of first instance. Missing this deadline cannot be excused (Section 240). The appellant must be represented by a lawyer, or by a notary within the limits of the notary's authority, unless the appellant has a legal education (Section 241). Above all, though, an extraordinary appeal is not available against every decision: it must concern a question of law on which the appellate court departed from the settled case law of the Supreme Court, or which has not yet been resolved, is decided inconsistently or should be assessed differently (Section 237). In cases up to CZK 50,000 an extraordinary appeal is in principle excluded, except for consumer contracts and employment relationships (Section 238(1)(c)).

Unlike with an appeal, the extent of an extraordinary appeal, the explanation of why it is admissible and the definition of its ground can be supplemented only within the time limit for lodging it (Section 241b(3)). So start preparing an extraordinary appeal the moment you receive the appellate court's judgment, not in the last week.

Overview: what works on appeal and what doesn't

Question	Answer	Provision
Appeal deadline	15 days from service of the written copy of the decision	Section 204(1), Code of Civil Procedure
Widening the extent of the challenge after the deadline	Not possible	Section 205(4), Code of Civil Procedure
Changing the grounds of appeal after the deadline	Possible, without the court's consent	Section 205(3), Code of Civil Procedure
New facts and evidence	Only in the listed exceptions, typically where guidance was missing	Section 205a, Code of Civil Procedure
Small-value case	Up to CZK 10,000 excluding ancillary amounts, no appeal lies (except against a judgment on admission or a default judgment)	Section 202(2), Code of Civil Procedure
Appeal against costs alone	Possible, with no court fee	Section 206(3), Code of Civil Procedure; item 22, point 15 of the schedule of fees
Fee for an appeal on the merits	As for the claim, on the amount challenged; due on lodging	Item 22 of the schedule of fees; Sections 6(8) and 7(1), Court Fees Act

Received a judgment, with the appeal deadline already running? Send it to us as soon as possible, together with the records of the hearings. We will assess whether the court fulfilled its duty to give guidance, where the judgment is weak and whether an appeal is worth it. We handle disputes as part of our dispute resolution practice. Get in touch.

Conclusion

An appeal is not a second chance to say what you forgot the first time. It is a review of how the court decided, and its outcome is largely settled before you start writing it: at the first hearing, in what you managed to allege and propose, and in whether the court gave you proper guidance. That is why I run a dispute from the very first filing as if it were going to end up before the appellate court: with complete allegations, with evidence proposed in time and with every instruction in the hearing record checked.

Sources

- Act No. 99/1963 Coll., the Code of Civil Procedure, Sections 43, 114c, 118a, 118b, 119a, 138, 202, 204 to 206, 208, 209, 211 to 214, 219a, 237, 238, 240, 241 and 241b (as in force on 1 November 2026).
- Act No. 292/2013 Coll., on Special Court Proceedings, Section 28(1).
- Act No. 549/1991 Coll., on Court Fees, Sections 4, 6(8), 7, 9 and 10 and item 22 of the schedule of fees.
- Constitutional Court finding of 8 January 2025, file no. I. ÚS 2901/23.

This article is for information only and does not constitute legal advice. It describes the law as at 4 November 2026; how to proceed in a specific dispute always depends on its circumstances and on what has happened in the proceedings so far.

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