

# E-procedure before the Czech Supreme Administrative Court

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Ladies and gentlemen, I am pleased to provide you with information on the e-procedure before the Czech administrative courts and especially before the Supreme Administrative Court in brief, following up the previous presentations of my colleagues from Belgium and France.

In fact there is no single and uniform legislative framework governing the “e-procedure” but there are several rather inconsistent regulations on different levels dealing with particular questions of “e-procedure” (laws, bylaws, or internal regulations of the Ministry of Justice or even of particular courts).

## **Transmission of electronic documents**

First, let me tell you something about the transmission of documents between the courts and the parties. Apart from submissions made in the traditional “paper form” either personally or via post, there are two different ways, how the parties and the court may communicate in the electronic form.

The first one is e-mail. Each court is obliged to establish so called “electronic point of acceptance”, which is simply a single e-mail address used by the court for official correspondence with parties. For authorisation of the documents sent via e-mail the parties have to use secured electronic signature issued by certified provider under Directive 1999/93/EC on a Community framework for electronic signatures implemented in the Czech Republic by the law No. 227/2000 Coll., on electronic signature. However, the secured electronic signature is only required for qualified submissions by the parties such as filing action, withdrawal of an action, filing or withdrawal of cassation complaint which is remedy against decisions of regional courts dealing as administrative courts of the first instance. Other submissions of parties may be sent via e-mail even without secured electronic signature effectively. The Code of Civil Procedure also regulates the possibility of the service of documents of the court to the parties via e-mail. If the party wishes to be served with the documents in this way it has to apply for this at the court and it has to confirm a successful service of each document by an own message signed with secured electronic signature in three days. Such a request of a party of the proceeding occurs quite rarely.

The other way for electronic communication between the parties and the courts is using the data boxes as set in the law No. 300/2008 Coll. on Electronic Transactions and Authorised Conversion of Documents. A data box is an electronic storage site, intended for delivery of official documents and for communication with public authority bodies. Data boxes are established and managed by the Ministry of Interior and they are obligatory for all public bodies, for attorneys at law, notaries, enforcement agents and for all legal entities registered by the Commercial Register, i.e. all sorts of business companies. Any other person may apply for establishing their own data box voluntarily. The courts are primarily obliged to inquire whether a party has its data box and if so, to deliver any documents including judgments to the data box electronically. The documents are considered to be delivered at the moment of inserting it to the

data box of public bodies including courts. The service of documents to other persons is considered to be finished successfully by opening the data box or on the tenth day from inserting the document to their data box even if the party did not open their data box and read the document in fact. The documents submitted by the parties in the data box of the court need not to be signed with secured electronic signature (they are authorised by the usage of the data box of the party concerned). Documents served by the court in data box of the party have to be signed by the competent servant of the court. After the court decision has been served to the parties, it can be electronically certified as final upon request of a party, either.

The Law on Electronic Transactions and Authorised Conversion of Documents also enables an authorised conversion of documents. It means conversion of an original document from paper form into data form with authorisation effecting that the data form is considered to be equivalent with the original document on paper. The conversion is also possible backwards. For instance if a party is served with a judgment to their data box and they need to have original judgment on paper they ask for authorised conversion of judgment they have in the data form. There are several offices competent to provide authorised conversion, such as post offices, municipal authorities, notaries etc.

On the next slide we can see how the extent of the documents submitted by the parties to the Supreme Administrative Court has increased in last five years: from less than 10% up to almost half of all documents received by the court. The reasons are following. The parties learned how to use the data boxes gradually. Although the parties have choice whether they use electronic means of communication with the court or they stay at the traditional “paper” form, they can appreciate practical advantages of the data form. The electronic communication is faster and cheaper (on the other hand using the data box is not for free). A big advantage is that you can submit any document from your own computer anytime and you needn't to visit the post office having restricted opening time.

The percentage of documents sent by the court to the parties has increased even more: from less than 10% to almost 90%. Typically, in the proceedings before the Supreme Administrative Court the defendant party is a public body having a data box obligatorily. The complainants have to be represented by an attorney at law in most proceedings before the Supreme Administrative Court. The attorneys at law must possess the data box too. As said before any correspondence of the court with participants having data boxes is to be performed via these data boxes excluding special deliveries such as administrative files. Hence, on paper, the Supreme Administrative Court communicates only with natural persons which are not complainants.

Concerning the technical aspects of electronic communication between the Court and parties they are governed only by instruction of the Ministry of Justice from 23<sup>rd</sup> July (No. 2013 133/2012-OD-ST) on uniform process of the courts receiving the electronic documents. According to this instruction the courts are obliged to accept only documents in following data formats: PDF, PDF/A, DOC, DOCX, XLS, XLSX, ZFO, TXT and RTF.

## **Electronic documentation**

Czech Courts do not have electronic dossiers. The dossiers of the courts are maintained only on paper. However the courts do use computers of course. They have software helping them to proceed as quickly and effectively as possible. The software and the documents maintained in electronic form are only considered as technical support. Even if the parties are submitting documents in electronic form, the courts have to print the documents and to insert them into the paper dossier. There is no uniform software equipment at the courts (even the different sections of one regional court dealing with administrative, civil or bankrupt cases use different software). There is also generally no data sharing between the courts.

Anyway, the Supreme Administrative Court is a sort of forerunner in the Czech judiciary. It has developed an own software including electronic dossier containing any documents maintained in the paper file even those documents submitted by the parties only on paper. Recently upgrade of the software has been developing that shall enable the regional courts (their administrative sections) to work with the software too. In future also the sharing of the electronic dossier between the regional courts and the Supreme Administrative Court will be possible.

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