

ACCESSING JUDICIAL DECISIONS WITH ELECTRONIC SOURCES

by

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This paper is based on research conducted for a diploma thesis focusing on the accessibility of electronic sources of judicature in the Czech Republic. The paper deals with publicly as well as commercially accessible sources. Publicly accessible sources include NALUS administered by the Constitutional Court, the retrieval system of the Supreme Court and the retrieval system of the Supreme Administrative Court. Commercially accessible sources include Beck online, ASPI, and CODEXIS. All of these sources were evaluated on the basis of content range and search engine and user interface quality. This paper argues that the quality of public sources is generally comparable to commercial ones, in some cases even exceeding their quality (e. g. the NALUS system). The narrower specialization of the public sources makes them more user-friendly in terms of accessing judicature. On the other hand, judicature only constitutes one part of the services provided by the commercial systems: their search engines are shared by other services, which makes them more difficult to navigate. However this also enables them to provide judicature in the context of other relevant information such as legislation or literature.

KEYWORDS

law, justice, judicial organization, legal information, legal information system, judicial decision, constitutional, court, NALUS, Beck online, ASPI, CODEXIS Academia

1. INTRODUCTION

Although the role of judicial decisions in the Czech Republic is not as essential as it is in the USA or in the United Kingdom, it remains very important

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source of knowledge in the field of law; it is the real “law in action”. Without judicial decisions, the law would remain a mere theoretical concept without the ability to interfere with the reality around us. In view of this, a number of questions arise, perhaps most importantly the issue of access to judicial decisions.

Such decisions should be easily accessible to anyone who wishes to participate. Better access means higher legal certainty and better control over the functioning of the courts.

Previously, it was possible to find the outcome of judicial decisions in journals. However only a small amount - less than 5% - was published. The relevance of published decisions is naturally higher and more binding. In general, there are two major ways of accessing judicial decisions: the first option is to use a commercial legal retrieval systems such as ASPI or CO-DEXIS. Judicial decisions form an integral part of these systems, along with legislation or relevant literature. The second option is to utilize systems managed by the courts themselves. Both options are discussed in detail below including the differences, advantages and disadvantages of each system. First, however, it is essential to briefly describe a judicial decision as a standardized document with a range of distinctive requirements.

1. 1 JUDICIAL DECISION AS A DOCUMENT

There are three main types of judicial decisions in the Czech Republic:

1. Judgment
2. Resolution
3. Payment order

A judgment may be considered the most important decision. A judgment may be defined as “the legal reasoning and official decision of a court of justice upon the respective rights and claims of the parties to a case brought before it” (CHROMÁ, 2008). Most decisions found in retrieval systems are in fact judgments. All judgments include the following five parts:

1. Introduction
2. Verdict
3. Reasoning
4. Advice
5. Day and place of pronouncement

The most significant parts of the judgment are the verdict and the reasoning. The verdict constitutes the core of the decision and is generally very

brief, usually consisting of only a few sentences. When an appeal is made, it is always made protesting the verdict. The reasoning is much longer and it details the reasons leading up to the court's decision. The reasoning also includes a description of all allegations and presented evidence.

1. 2 FILE REFERENCE

A simple method of identifying a judgment is a file reference, i.e. a combination of letters and numbers which differs from court to court. The general model of a file reference is as follows:

number of the senate/case type/sequence number/year of submission

a. number of the senate

A court case is usually decided by a team composed of one chairman and two judges. In the event of labor law cases, no other option is possible while other cases may be decided by a single judge. Special proceedings of the Constitutional Court require all judges to decide in a so-called *plénum*.

In administrative law cases, the teams are generally composed of five to seven judges.

b. case type

The first letter denotes the case type. *C* is the most frequent, denoting civil and company law cases, while *T* refers to crime law cases. Non-administrative courts use approximately 17 kinds of such indicators while administrative courts utilize an even more detailed system.

Other letters are used to designate appeal (*O*) or appeal review (*Do*). For example, *Cdo* refers to an appeals review in a civil case and *To* denotes an appeal in a criminal case.

c. sequence number

The sequence number of the case from the beginning of the year. The Constitutional Court and Supreme Court usually deal with approximately 5,000 cases each year.

d. year of submission

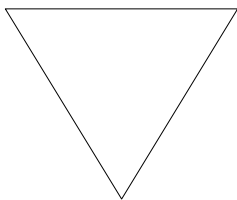
The year of submission refers to the year when the case was submitted to the court and proceedings began. Non-commercial systems usually contain only decisions from recent years, while commercial systems also include older cases. Virtually no decisions from the 1938–1989 period are to be found due to their low legal relevance. However, some of the commercial systems do provide decisions from the 1918–1938 period, e.g. the Vážný collection.

Czech courts produce over 700,000 decisions each year, of which nearly 600,000 are civil cases.¹

2. NON-COMMERCIAL RETRIEVAL SYSTEMS

To date, there is no central system which would include the decisions of all Czech courts. There is an upcoming project designed to include the decisions of regional and first instance courts, but it is still running in a trial version.² It would indeed be a great benefit to have all court decisions accessible via one retrieval system.

Currently, the higher the court, the higher the possibility of locating the relevant court decisions. First instance courts judgments are thus almost impossible to find:



The Constitutional Court, The Supreme Court

Regional Courts

First Instance Courts

There are three separate retrieval systems accessing decisions made by Czech courts. They are accessible via official court websites and only list decisions made by the individual courts. These retrieval systems shall be analyzed separately and evaluated in terms of range and user interface quality.

¹ according to data from 2010

² <http://portal.justice.cz>

2.1 NALUS

NALUS, accessing judicial decisions of the Constitutional Court, is the only retrieval system independent of an official court website.³ The used color schemes are different and there is no visual connection between official court sites and the NALUS system. NALUS is also the oldest retrieval system – it was created in 2006. The oldest fully processed decisions date to 1997.

NALUS contains a total of 43,816 documents including 3,321 judgments. The most frequent document type is the resolution; resolutions decide approximately 2,500 cases per year. All decisions are fully anonymous and no names of individuals are included. No other court is included in NALUS.

As documented above, the visual quality of the interface of the retrieval system is not very high. Apart from this shortcoming, the user interface is managed very well. It contains 17 search fields, some of which are tailored to the needs of constitutional law, e.g. the ‘popular name’ field classifies cases by names which they became known for in the past.

³ www.concourt.cz

Another specific search field not included anywhere else is the 'dissenting opinion' field, which enables users to locate minor opinions of judges which were not able to find major support. In some cases, these dissenting opinions provide very interesting alternate views of a given case, at times even more convincing than the major opinion.

The system has no simple/advanced search function, there is only one interface. In view of the complexity of the search fields, a simple search would be a great help for users. Fortunately, a very good search manual is included.

NALUS enables a range of advanced operations with the located results: saving, classifying, adding or removing additional results. NALUS also remembers the last five search requests, so it is simply possible to reuse these in future use. NALUS uses the following operators: AND, OR, NOT, NEAR, PARAGRAPH and *.

It is also possible to submit a specific act which is in violation of Constitutional law. It may be an act such as the Civil Code or a court decision or internal instruction. Selection is enumerative. The solution employed by NALUS is possible to use, but is not user-friendly and submitting an act is not an easy task. Better solutions exist, as evidenced further on.

Overall, NALUS is a complex and well-constructed retrieval system, with a capacity to help users. It is well-suited for the field of constitutional law. Only a simple search is missing and the visual solution could be better and more compatible with the official website of the Constitutional Court.

2. 2 RETRIEVAL SYSTEM OF SUPREME COURT

The retrieval system of Supreme Court contains over 60,000 decisions. The oldest decisions are from the year 1998. The system has been overhauled in 2010 and the current interface is considerably better than the previous version. In addition to Supreme Court decisions, the decisions of other courts are available as well, though they account for less than 1 % of the overall content. However, an expansion is being planned for the future. All decisions are fully anonymous.

The screenshot shows a web form titled "Rozšířené vyhledávání" (Advanced Search). The form is organized into several sections:

- Spisová (senátní) zn.:** A text input field for the case file number.
- Datum zveřejnění od:** A date range selector with "od" (from) and "do" (to) fields.
- Datum rozhodnutí od:** Another date range selector for the decision date.
- Hesla:** Radio buttons for "civilní" (civil) and "trestní" (criminal), followed by a "Vyberte heslo" (Select keyword) dropdown menu.
- Soud:** A "Vyberte soud" (Select court) dropdown menu and radio buttons for "trestní kolegium" (criminal chamber) and "Občanskoprávní a obchodní kolegium" (civil and commercial chamber).
- Název judikátu:** A text input field for the name of the judgment.
- Dotčené předpisy:** Radio buttons for "Sb." (Collection), "Sb. m. s." (Collection of laws), "Nařízení EU" (EU Regulation), and "Směrnice EU" (EU Directive).
- Vyberte předpis:** A dropdown menu for selecting the act, followed by fields for "Čl." (Article), "§" (Section), "odst." (Paragraph), and "předpisu §." (Act §).
- Typ rozhodnutí:** Radio buttons for "Rozsudek" (Judgment) and "Uknesení" (Order).
- Kategorie rozhodnutí:** A grid of checkboxes for categories: A, B, C, D, E, P, EU.
- Sbírka:** Fields for "Číslo" (Number), "Ročník" (Year), and "Číslo sekce" (Section number).
- Právní věta:** A large text area for entering the specific legal sentence.
- Výsledné zobrazení:** A dropdown menu for "Právní věta (méně položek)" (Legal sentence (fewer items)).
- Počet zobr. výsledků:** A dropdown menu set to "15".
- Buttons:** "Přihlášení" (Login), "Vymažte formulář" (Clear form), and "Hledat" (Search).

At the bottom of the page, there is a copyright notice: "© 2010 Nejvyšší soud - Prohlášení o přístupnosti - Kontakt - Bezpečnostní přístup" and a link: "Tisk stránky - Mapa stránek".

The simple search interface is integrated into the official court website. It contains five search fields, including file reference, full-text and keyword search. Although keywords are selected precisely, it is not possible to submit more than one keyword per search. Keywords selection is different in the simple and in the advanced search interface. The retrieval system of the Supreme Court employs the following operators: AND, OR, NOT and ACCRUE. The infrequent operator ACCRUE differs from OR in that A ACCRUE B provides documents which contain only A or only B.

The advanced search interface includes 15 search fields, including the 'related acts' field which searches for judicial decisions related to a specific act – it is even possible to search for a specific section or subsection. For example, submitting Civil Code (40/1964 Coll.) and section No. 463 returns judicial decisions dealing with inheritance refusing.

There are 10 pre-selected acts (Civil Code, Criminal Code etc.), but it is also possible to search any other act, an EU directive or International treaty. The system also includes an integrated help system.

Issues associated with this retrieval system include results limitation: it is not possible to display more than 1,000 results. This is clearly a shortcoming which makes statistical research rather difficult.

Overall, with its 60,000 decisions, the retrieval system of Supreme Court is the most extensive non-commercial system in the Czech Republic. It has recently undergone a successful overhaul and now contains fitting ‘related act’ solution as well as an integrated help system. Except for two shortcomings (absence of keyword combinations and results limitation), it is an suitable system facilitating access to civil and crime court decision.

2. 3 RETRIEVAL SYSTEM OF SUPREME ADMINISTRATIVE COURT

The smallest non-commercial retrieval system (containing 41,000 decision) has also been overhauled recently (2011). Visually, it is well-integrated into the official court website. This system contains the largest percentage of the decisions made by other courts: it contains administrative cases from regional courts. All decisions are also fully anonymous.

There are three separate search engine interfaces. The simple interface only contains file references. There is also a basic/advanced interface. The file reference search field is constructed skillfully. The case type is pre-selected – administrative cases contain a larger variety of cases than civil law and all 41 types are pre-selected.

Rozhodnutí: rozlišeného senátu
 neuplatní se jen publikované nepublikované, ale opatřené právní větou bez právní věty

Dovsd neskončese věci:

Identifikace ve Sbírce rozhodnutí NSS: / -- vše --

Vyhledání dle hesel

Dle hesel lze vyhledávat pouze ta rozhodnutí, která jsou opatřena právní větou.

použít AND mezi hesly použít OR mezi hesly

Prejudikatura

Čís. rozhodnutí: / -

Čís. rozhodnutí (veřejný):

Identifikace prejudikatury ve sbírkách: -- vše --

Porada prejudikatury: -- vše --

Druh prejudikatury: neuplatní se souladná rozporná

Forma rozhodnutí:

Kasační stížnost

Krajský (jiny) soud: -- vše --

Spisová značka rozhodnutí krajského soudu
napadeného kasační stížností:

Kasační stížnost: -- vše --

Rozhodnutí krajského soudu bylo zrušeno NSS: neuplatní se ano ne

Právní názor byl napaden v rozlišeném senátu: neuplatní se ano ne

Ústavní soud

Spisová značka ústavní stížnosti:

Rozhodnutí NSS bylo zrušeno Ústavním soudem: neuplatní se ano ne

Keywords are also well managed. They are listed in a four-level hierarchy and it is possible to combine any keywords. It is also possible to add an AND or OR operator between the keywords, which are fortunately very specific.

Unfortunately, there is no related act option – this search field is missing entirely. Instead, there is a 'prejudikatura' field, i.e. precedent, which enables the user to locate a past decision which the judgment is based on.

The system also includes an alternative interface which allows the user to search by year, month and day. It is thus very easy to locate a decision in case the date is known.

A note on decision records: they are accessed in .pdf format. It is possible to select several decisions and download them all in one .pdf document. Additionally, it is also possible to set aside selected decisions and return to them later – as very convenient solution.

Overall, the retrieval system of the Supreme Administrative Court offers modern interface for accessing judicial decisions. With the exception of the missing 'related act' function, there are no noticeable shortcomings; likewise, the record quality may be considered exemplary.

3. COMMERCIAL SYSTEMS

While court retrieval systems may be accessed freely from official websites and are associated mainly with the decisions of one court, the price of commercial systems is variable, but they provide access to decisions made by courts over a period of time, generally also providing users with access to important historical decisions from the past.

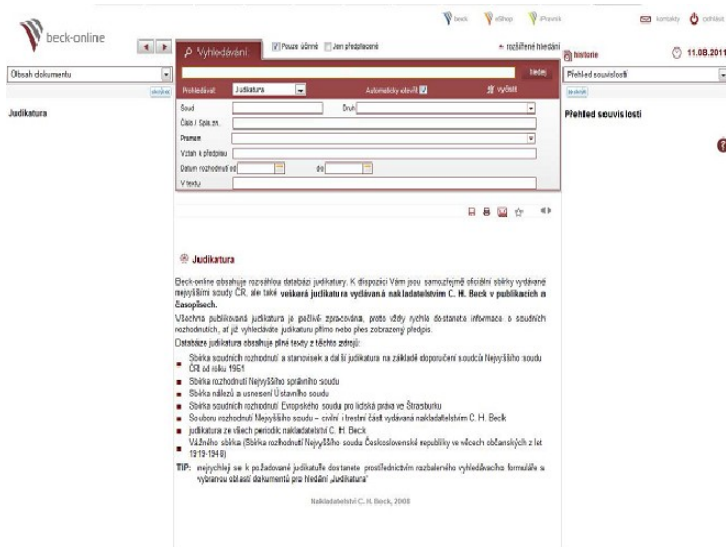
Judicial decisions form only one part of information provided by commercial systems. Their search engines are usually shared for all of the information they are able to access.

Three systems most used in the Czech Republic have been selected for comparison here. Almost every law office uses one of these commercial systems; in addition, these systems are also utilized by the Chamber of Deputies, Senate, courts or other offices.

3.1 BECK ONLINE

The producer of Beck Online, C. H. Beck, has been developing the system since 2002. As the name indicates, Beck Online is fully available online,

no installation is needed. To date, Beck Online contains over 165,000 decisions.



There are several forms of Beck Online with the Basic version available for 9,900 CZK per year. Modules according to various areas of law such as civil or corporate law are also available.

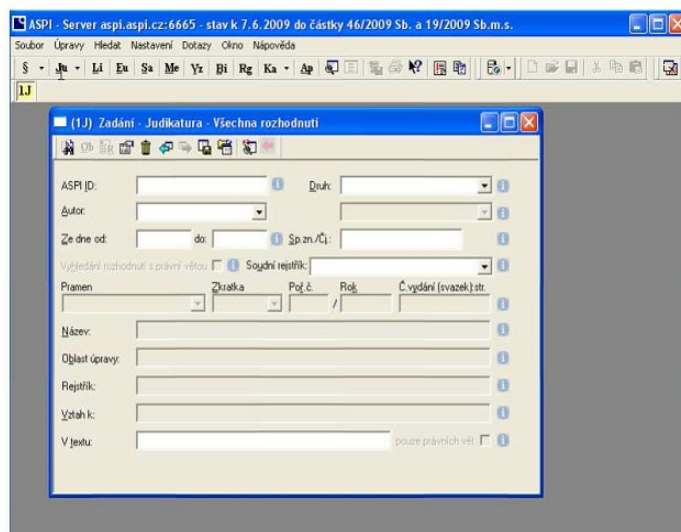
There are seven search fields associated with judicial decisions; the search engine of Beck Online is not shared. Three fields are thus difficult to submit correctly: 'court', 'related act' and especially 'file reference'. Submitted research tasks are saved and may be reused.

Beck Online accesses a large variety of courts and decisions from a substantial period of time – the oldest decisions come from 1950. Beck Online is primarily focused on sources of literature; judicial decisions are thus not its primary function.

3.2 ASPI

A traditional legal information system, ASPI has been available in the Czech Republic for over twenty years. Although it is the most expensive (prices start on 20,960 CZK/ year), it remains popular among Czech attorneys. ASPI is produced by Wolters Kluwer, who also produces a variety of legal literature. ASPI features a field which enables users to search all data including legislation and literature. Although this function is perfect for legislation, it unfortunately works less than well for judicial decisions.

The help system utilized by ASPI is one of the best available. The letter *i* indicates a help section for every search field; a complex help system is also accessible by pressing the F1 key.



The search engine contains 10 fields. ASPI generates ASPI ID for every document contained in the database, e.g. JUD28936CZ in the case of a decision. ASPI also generates a numerical code for every branch of law, e.g. 17 denotes administrative law, etc.

ASPI also uses complex Czech lemmatization: it works appropriately and is capable of dealing with Czech grammatical forms and synonyms. In some instances, the lemmatization may be too precise and complex, e.g. it is not possible to use thailand instead of Thailand, etc.

Not all court decisions have been processed completely and correspond to all search fields. Thus, although ASPI contains the greatest number of judicial decisions (over 170,000), only 52,000 have been completely processed.

ASPI makes use of its own keywords; 'field author' (court) is designed in a very practical way, allowing for the submission of a general type of court (e.g. First instance court) and subsequently calling for the specification of one particular court.

Users may also specify the type of judicial decision, such as civil appeal review, etc. This search field is helpful and does not appear in any other system.

ASPI is a complex system with extensive experience with legal information. It contains the highest number of judicial decisions, a proprietary document identification system and a complex help system.

3. 3 CODEXIS

CODEXIS is available in two different versions: ACADEMIA and ADVOKACIE. Though the two versions do differ, the search engine and the judicial decisions included remain the same. ACADEMIA is designed for law students, while ADVOKACIE contains additional legislation for attorneys. Prices start at 13,244 CZK per user per year.

CODEXIS is produced by Atlas Consulting, a Czech software company. CODEXIS contains more European legislation and judicial decisions than the other systems described here. While CODEXIS also uses lemmatization, it is not as precise as the system employed by ASPI.



The basic search engine is fully shared for legislation, literature and judicial decisions. The document filtration field provides users with standard judicial decision search fields such as 'related act', 'court' or 'file reference'.

CODEXIS also allows users to mark and comment on documents while a history feature provides a clear overview of all recently opened documents.

CODEXIS also allows users to link from judicial decisions to other documents, i.e. it is possible to navigate directly from the e.g. Civil Code section to relevant literature or issues associated with a given decision. This option makes CODEXIS more complex.

On the whole, CODEXIS is much more similar to ASPI than to Beck Online. CODEXIS is slightly easier to use, allows users to connect documents and improves sorting. User support is also well-managed. Although ASPI outperforms CODEXIS in terms of search engine quality and Czech lemmatization options, CODEXIS seems to be its most serious rival.

4. CONCLUSION

This study has considered six different systems designed to access judicial decisions. The conclusion addresses several categories and provides a comparison of commercial and non-commercial systems, indicating which solutions are better.

4.1 DATA REQUIREMENTS

All three non-commercial systems and Beck Online are online and have no data requirements. In view of the requirements of offline solutions –ASPI (8 GB) and CODEXIS (6.5 GB) – i.e. large size and troublesome installation, an online solution seems more appropriate. The increase in speed is only limited.

4.2 SEARCH ENGINES

Non-commercial systems generally contain more search fields and their search engines are specifically designed for judicial decisions. It is thus easier to locate judgments, no matter what kind of information we know. The search fields also tend to be more detailed and contain more pre-selection options. On the other hand, commercial systems frequently feature search engines shared with other documents, i.e. legislation or literature. Search fields labels are sometimes not designed correctly ('author' instead of 'court' in Beck Online).

4.3 CONTENTS

In terms of the number of documents included, commercial systems tend to be more extensive. While non-commercial systems contain 40–60 thousand decisions, commercial systems contain 150–170 thousand decisions. Com-

mercial systems also go deeper into history, sometimes including decisions dating to the 1920s or 30s. Non-commercial systems are generally limited to accessing relatively recent decisions, especially due to their newness.

In terms of court variability, commercial systems also have the upper hand: they access decisions made by a variety of courts, selecting decisions according to relevance, not according to which court made them.

Non-commercial systems access only the decisions of a given court, i.e. in order to access a decision made by the Constitutional or Supreme Court, a different search engine must be used. This is a considerable disadvantage, especially in view of the fact that the majority of search fields are very similar in all three non-commercial systems.

4. 4 CONNECTION

An advantage that non-commercial systems do not have is a connection between the decisions and other documents such as legislation or literature. While non-commercial systems do not facilitate literature sharing, it is probably possible to link to legislation.⁴

4. 5 USER COMFORT

User comfort quality is high level both in commercial and non-commercial systems. The NALUS system is a good example: it incorporates features including results addition or filtering and research requests saving as well as a history function. It is valuable for users.

⁴ At least server portal.gov.cz

SYSTEM	CONTEND thousand	Oldest decisions included	DATA	SEARCH FIELDS	OPERATORS	SPECIAL	PRICE
NALUS	43	1997	online	17	AND, OR, *, NOT, NEAR, SENT, PAR	Only ÚS	free
NS	60	1998	online	5/12	AND, OR, NOT, ACCRUE	Other courts 1%	free
NSS	41	2000	online	1/7/23	AND, OR	Other adm. courts	free
ASPI	17052	1918	from 8GB	16	*, +, AND, OR, = Lemm	Excelent Czech lemm	From 20960/year
CODEXIS	145	1950	6,5GB	10	+, *, (,), OR Lemm	EU judicature	From 13244/year
BECK online	165	1918	online	7	AND, OR, NOT	Vázaný collection	From 9900/year

TABLE COMMERCIAL / NON-COMMERCIAL SYSTEMS

The table summarizes the main differences. Non-commercial and commercial systems are not direct rivals, as commercial systems access more than just judicial decisions; however, non-commercial systems are evolving quickly and may one day be able to compete. There is a range of elements that commercial systems can imitate, as appropriate search fields and their pre-selected form, as well as precise keywords.

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