

Dispute Resolution

Next summer amendments to the Polish civil procedural rules – Polish courts go online

Yesterday, on 13 September 2023, next summer amendments to the Polish civil procedural rules were published in Polish Journal of Laws. The majority of changes will enter into force after 6 months; however, some of them will become binding already after two weeks. To some extent, this novelty introduces to the Polish Code of Civil Procedure the regulations present under the COVID-19 laws.

- As a rule, court papers will be served upon the professional attorneys online (through the court system). This will not apply to papers that are delivered with hard copies unless the court will have their electronic version.
- Under the court's decision, the hearings will be held online. This will not be possible if the nature of the actions to be undertaken will not allow for online hearings or an online hearing will not guarantee the full protection of the procedural rights of the parties or proper course of the proceedings.
- The parties will have an option to indicate in the evidentiary motion whether they request for taking the evidence at an online hearing. The party will be entitled to object to hearing a witness at an online hearing. The court will order to undertake actions in the presence of an expert opinion at an ordinary hearing upon the party's substantiated motion or should the credibility of the opinion rendered at an online hearing raise doubts.
- Online hearings will allow for the presence of court audience.
- As a rule, one-judge panel will review appeals submitted in the second instance proceedings.
- The court fees for court calls for the settlement attempt will be lower (in property cases with the value in dispute not exceeding approx. EUR 4,400, the court fee will amount to less than EUR 27, and in cases with higher value it will go to approx. EUR 67). The court fee for the written justification of the decisions other than those as to the merits of the case will amount to less than EUR 7.

The changes are introduced under the law of 7 July 2023 r. on the amendments to the Polish Code of Civil Procedure, the law on the state court system, the Polish Code of Criminal Procedure and other laws, Polish Journal of Laws item 1860.

Our comment:

- The COVID-19 laws regulating online hearings will expire and the on-line hearing rules will be implemented to the Polish Code of Civil Procedure. Nevertheless, it seems that the lawmaker still does not resolve the issues which raised doubts under the COVID-19 provisions, and some part of the new rules occurs to be more of a wishful thinking that might not fit to the reality of a courtroom.
- The regulations as to the online hearings have been extended when compared with the COVID-19 laws and have been formulated with general imprecise terms. This leaves a room for interpretation whether a party might successfully challenge a judgment because of the setting the online hearing (instead of the traditional one).
- Some practical matters have not been addressed as well. This includes whether it is possible to conclude a settlement at an online hearing or how to submit a party's enclosure to the court minutes, or in what manner the court might be provided with the document proving the authorization to represent the parties.
- It seems that the evidentiary proceedings rules have not been properly answered either, in particular those governing the witness testimony or actions undertaken with the presence of the court expert.
- In our opinion, there are also doubts whether court audience will have in practice the chance to be present at an online hearing.

CONTACT

Lidia Węclawowicz, Partner
lidia.weclawowicz@ngllegal.com

Przemysław Tacij, Counsel
przemyslaw.tacij@ngllegal.com

Stanisław Wocial, Junior Associate
stanislaw.wocial@ngllegal.com