

LEGAL ALERT



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Major changes to civil procedure rules

A major amendment to the Code of Civil Procedure has been signed by the President on 24 July 2019 and is now awaiting publication.

The incoming changes are wide ranging and aim to increase efficiency of court proceedings through a range of instruments such as:

- joint planning of proceedings by the parties and the court,
- faster hearing dates,
- increased importance of documentary evidence,
- tools for concentration of hearing of witnesses.

Litigation under the revised rules will also require the parties to be much more precise in their submissions, objections and evidentiary motions.

The effects of those changes should not be underestimated. Past experience shows that when provisions on commercial proceedings were introduced for the first time, underestimation of the related procedural pitfalls often led to cases being lost on procedural grounds.

Over the next months we will be discussing with our clients the details of those amendments and their impact. Selected major issues that need to be taken notice of include:

1. **A very short transition time.** Most of the revised provisions will enter into force within **3 months** of publication, subject to limited exceptions. The provisions on court fees will enter into force within **14 days** of publication.
2. **No grandfathering of pending cases.** A substantial part of the amended provisions of the Code of Civil Procedure will apply also to already pending cases.
3. **New rules on service of process.** Service of process will be substantially revised with a view to improve its effectiveness. The changes include service of certain pleadings and court notices by bailiffs and direct service between legal counsel of submissions in electronic form.
4. **Calls for settlement made more difficult.** So far a popular solution to interrupt the statute of limitations, calls for settlement will now have to satisfy a number of new requirements, such as setting out specific settlement proposals, under the sanction of the court returning the request. The related court fee will also dramatically increase.

5. **Faster court proceedings.** A number of changes aim to speed up court proceedings, such as the ability to dismiss claims for manifest lack of merit, stricter time limits on pleading new facts and submitting new evidence, as well as new methods for organizing hearings.
6. **Set-off claims made more difficult.** The revised rules limit the ability to claim set-off during litigation.
7. **Revised organization of proceedings.** The organization of proceedings is substantially reworked with new deadlines for submitting pleadings and invoking evidence, as well as new instruments such as case management hearings and trial schedules.
8. **Revised evidentiary proceedings.** New solutions are introduced such as the court's **power to** disregard evidence requested by a party in certain cases, as well as the possibility to submit written witness statements (subject to the court's permission).
9. **Reintroduction of separate proceedings in commercial matters.** Proceedings in commercial matters will be procedurally much more demanding than ordinary proceedings. In particular, they will impose strict cut-off dates for evidence. For instance, all supporting evidence will have to be invoked in the statement of claim and the statement of defence, respectively, under the sanction of being disregarded by the court. The parties will gain the ability to conclude so-called evidentiary agreements excluding certain evidence from the proceedings. In addition, the admissibility of witness evidence will be considerably limited. In principle, demonstrating that a contract (or other legal action) was made will only be possible on the basis of documents. The new rules also provide for a maximum deadline to complete pending proceedings, i.e. 6 months from the submission of the statement of defence, which will affect the range of tactics available for counsel in the proceedings.
10. **Higher court fees in civil matters.** Overall, all court fees will be increased, sometimes by **several thousand per cent**; the maximum fee will be increased to **PLN 200,000**. The amendment will also introduce certain new court fees.



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