

## COURT SYSTEM AND CIVIL PROCEDURE IN POLAND

### I. Overview

The Polish court system and civil procedure vary significantly from the procedures in countries whose legal systems follow common law patterns. If one was looking for similarities with foreign legal systems, the German and Austrian civil procedures would need to be indicated as influencing Polish law in this regard, both historically and presently.

The main body of laws related to the civil procedure is included in a single statute – the Code of Civil Procedure of 1964 that was subsequently amended more than 170 times. The administration of justice and the court system on the other hand traditionally followed the French model with the Ministry of Justice responsible for bureaucratic matters of the courts and three-level state court system supervised by the Supreme Court.

Since Poland is not a federal state, the court system and the civil procedure are identical in the entire territory of the country. Although precedent is not regarded constitutionally as a source of law in Poland, the Supreme and Appeal Court verdicts are generally followed by lower instances even if their interpretation of law is distant from the wording of the statutes.

Polish civil procedure covers areas that in many countries are not handled by courts at all. Polish courts keep various registers like the National Court Register for corporations or land and mortgage registers for real properties. They handle various disputes between individuals and/or corporations ranging from contract performance and tort disputes to questions of ownership and liens on real property as well as numerous family and inheritance matters. Also, insolvency procedure is treated in Poland as a branch of the civil procedure.

After joining the EU in 2004, the Polish courts form a part of the European court network in civil matters and apply the respective provisions of the EU laws related to civil procedure that have priority over the domestic Code of Civil Procedure. Poland is also a party to numerous bilateral and multilateral international treaties related to civil procedure which will be discussed below in “I was sued in Poland” and “I intend to sue in Poland” sections.

### II. Courts

The court system in Poland is based on professional judges with almost no elements of layman participation in the administration of justice. In civil and commercial matters the first instance courts sit in single-judge panels, the courts handling the appeals sit in three-judges panels. The majority of disputes is handled in first instance by 390 District Courts (Polish: Sąd Rejonowy). When the value of the dispute exceeds 75,000.00 zloty (around 18,000 Euro or 24,000 US dollars) or the subject matter requires more expertise like in intellectual property or copyright matters – the Circuit Courts (Polish: Sąd Okręgowy) serve as first instance courts. Circuit Courts also handle appeals from District Court verdicts. Courts of Appeal [Polish (sing.): Sąd Apelacyjny] handle appeals from verdicts of Circuit Courts as well as generally supervise the courts of the area they operate on.

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The Supreme Court's role is currently mainly of a supervisory nature. The Supreme Court handles extraordinary appeals (cassations) from the final and binding verdicts of Circuit Courts or Courts of Appeal. Cassations will be admitted only if the applicant is able to evidence the legal issue behind the case. Additionally, the Supreme Court responds to questions of second instance courts in matters in which there is no cassation at all. The chart below illustrates the whole system.

### **III. Procedure**

As indicated in the introduction, Polish civil procedure is regulated in a single statute – the Code of Civil Procedure of 1964. It is a voluminous book with well over 1000 articles regulating contentious and non-contentious procedures, the enforcement proceedings and the domestic rules regarding arbitration [for details see our description of arbitration proceedings in Poland ([link](#))].

The procedure is based on written pleadings followed by the oral part of the procedure under which the parties present their positions to the judge, review evidence contained in the files of the matter and examine witnesses and experts. The trial phase is a standard feature of the proceedings.

The main pleading is a statement of claim that should contain all the claims, their justification and motions related to pieces of evidence to be produced in front of the judge. There are no statutory limitations of the available evidence. Public and private documents, witnesses as well as experts might serve as sources of information for the court. Polish civil procedure does not recognize depositions. All witnesses and experts testify only in front of the judge during the court's session. Despite a broad discussion, only the opinions of the court – appointed expert witnesses are recognized as evidence.

Substantiating your position in civil or commercial disputes is however limited in time. In principle, the plaintiff must present all the available evidence in the initial statement of claim. The same applies to the response of the defendant. Presenting additional evidence at further stages of the proceedings is allowed only if the party is able to justify that the need to refer to those pieces of evidence arose later or the evidence itself was not available earlier.

Verdicts are issued in written form and are subject to the appellate proceedings described in section II above. Polish civil procedure also recognizes a collection of simplified proceedings related to claims documented by 'official' documents or documents in which the debtor recognized the claim.

Court verdicts are enforceable after they are affixed with the so-called enforcement clause (an official statement that the verdict is final, binding and may be enforced). Enforcement proceedings are conducted by bailiffs under the supervision of the judges. The effectiveness of the enforcement depends mainly on the financial standing of the debtor and the presence of easily accessible assets like funds kept on bank accounts. Foreclosures on real properties is particularly time consuming and frequently ineffective.

## **IV. I was sued in Poland**

EU provisions on service of judicial documents apply. With respect to other countries Polish courts apply the Hague Convention of 1965 on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters or bilateral agreements (click here to access the list of bilateral agreements on judicial cooperation in civil matters that bind Poland).

If you fail to react on a properly served statement of claim you may face an in absentia verdict. Litigation with foreign defendants except for language issues is generally conducted according to the same principles as domestic litigation. The only obligation of the foreign defendant is to appoint an agent for service in Poland. We obviously recommend using the services of a legal professional when litigating in Poland, but this is not a legal requirement in most cases (see also V below).

Foreign citizens and corporations sued in Poland enjoy equal status to domestic defendants in civil and commercial disputes. Unfortunately, it also applies to all deadlines resulting from the provisions of law or imposed by the judge in a particular matter.

## **V. I intend to sue in Poland**

Except for the proceedings in the Supreme Court or directly preceding the filing of the extraordinary appeal measures addressed to the Supreme Court, you do not have to be formally represented by a legal professional – advocate (Polish: adwokat) or legal counselor (Polish: radca prawny). However, it is highly recommended, not only in relation to the language issue, to hire a legal professional.

The duration of the proceedings varies across the country. The courts in Warsaw are traditionally burdened with the largest number of matters including those more complicated and involving international element. An average commercial dispute that is not suitable for any kind of simplified proceedings is likely to last around 12 – 18 in the first instance court in Warsaw, less than half of that period outside Warsaw.

When filing the initial statement of claim, one must evidence the payment of the court fee. Court fees generally equal 5% of the claimed amount. In numerous specific matters covering mainly non-pecuniary claims, the fees are fixed – the fees generally range between 50 zloty and 2000 zloty. Courts fees are recoverable from the defendant if the plaintiff wins the case. If you are not an EU (EEA) resident or corporation the defendant may demand that you provide financial collateral to secure the reimbursement of the costs of the proceedings in the event you lose the case. However, numerous international or bilateral agreements negate this requirement. If not, the reciprocity principle applies.

All pleadings must be filed in Polish and no second language has hitherto been accepted in judicial matters. The oral part of the proceedings is also conducted only in Polish. The presence of a certified court translator is required if the parties, witnesses or experts do not speak fluent Polish. All documents provided with the court must be accompanied by their Polish version. Although the Code of Civil Procedure requires the translations of documents to be done by certified translators, only on request of the judge will foreign plaintiffs usually be requested to present certified translations.

**COURT SYSTEM IN POLAND**

