Online processing of cases and e-communication with courts

Polsko

1 Is it possible to initiate court proceedings via the internet?

It is possible to initiate a procedure known as an electronic procedure by writ of payment (*elektroniczne postępowanie upominawcze*, EPU) via the Internet. The first stage of this procedure is conducted without the participation of the defendant. Defendants may undertake defence only after the order for payment has been issued and served on them.

2 If so, for what types of cases is it available? Are any proceedings available exclusively via the internet?

Under Article 50528 § 2 of the Code of Civil Procedure, an order for payment may not be issued in an electronic procedure by writ of payment if the applicant is pursuing a claim other than a pecuniary claim and if service of the order on the defendant is to take place outside Poland. Further, in accordance with Article 50529a of the Code of Civil Procedure, claims which have fallen due in the three years prior to the date on which the statement of claim is lodged may be pursued in an electronic procedure by writ of payment.

3 Is the facility available at all times (i.e. 24 hours a day, 7 days a week) or just during specific hours? If so, what are those hours?

A statement of claim in an electronic procedure by writ of payment may be lodged with the e-court (*e-sąd*) at any time.

4 Should the details of the claim be provided in any particular format?

Specialised software created for the e-court automatically converts the text file containing the statement of claim into the format and data structure required by the e-court.

5 How is transmission and storage of data secured?

The data is secured by a number of advanced IT solutions, including the CAPTCHA (*Completely Automated Public Turing test to tell Computers and Humans Apart*). CAPTCHA is a type of technology used as a website security feature, which only allows data entered by humans to be transmitted. In this case, CAPTCHA protects the web portal against accounts being created by machines. The system verifies this by requiring the user to type in the text displayed in a picture. The text is intentionally distorted, so that it cannot be read using OCR (*Optical Character Recognition*, a set of technologies or software used to recognise characters and entire texts in a computer file in graphic or raster form computer file in graphic form in raster form), but is still sufficiently legible to humans. The code read from the picture is to be typed in the field using lowercase or capital letters.

6 Is it necessary to use any kind of electronic signature and/or time record?

An electronic signature must be used to sign statements of claim and pleadings in an electronic procedure by writ of payment. The following types of signature may be used:

(a) An ordinary electronic signature which can be obtained from the EPU website free of charge.

Before this is done, you must first create an account. Once the account has been activated, you have to apply for a certificate to be issued by the EPU Certification Centre and then wait for confirmation that the certificate has been issued (about 2 hours). Then, you have to download the certificate. For the certificate to be installed correctly in the operating system, you need a certificate password. The password is sent via e-mail. If you lose the certificate after downloading it, you must generate another application for a certificate. An ordinary electronic signature may be used only in e-procedures. The certificate for an ordinary electronic signature is valid for one year.

(b) A qualified electronic signature. After registering a user account, you will automatically be able to use a qualified electronic signature. However, you must first obtain a qualified electronic signature by yourself.

7 Are court fees payable? If so, how can they be paid and are they different to those for non-electronic procedures?

A court fee due in an electronic procedure by writ of payment can only be paid using electronic means, through a payment service provider. It amounts to ¼ of the fee payable in a traditional procedure by writ of payment.

8 Is it possible to withdraw a claim that has been initiated via the internet?

In an electronic procedure by writ of payment, the claimant may withdraw the statement of claim until the procedure is concluded by a final decision. A pleading must be filed for this purpose.

Such a pleading should contain the claimant's statement of withdrawal of the claim and specify the bank account number. The claimant may withdraw the statement of claim in its entirety – in this case, the claimant renounces the legal protection of all the claims (in their full amounts) raised in the statement of claim. A statement of claim may be withdrawn also in part only, which is known as the partial withdrawal of a claim. When withdrawing the statement of claim, the claimant may at the same time waive (renounce) the claim pursued. The pleading withdrawing the statement of claim must specify a bank account number for repayment of the court fee. The court fee will be repaid if the statement of claim is withdrawn before the order for payment is issued.

9 If the claimant initiates proceedings via the internet is it possible and/or compulsory for the defendant to respond using the internet as well?

In an electronic procedure by writ of payment, the defendant cannot reply via the Internet. The first document to be served on the defendant in an electronic procedure by writ of payment is an order for payment. The defendant may appeal against it by filing a statement of opposition (in traditional or electronic form).

10 In terms of the electronic procedure what happens if the defendant responds to the claim?

In an electronic procedure by writ of payment, the defendant cannot reply to the statement of claim. The only form of appeal against the order for payment is filing a statement of opposition with the court (in traditional or electronic form). In that case, the order for payment loses its force and has no legal effect. The matter is referred from the e-court to the court in the territorial jurisdiction of which the defendant is domiciled and is heard in other proceedings.

11 In terms of the electronic procedure what happens if the defendant does not respond to a claim?

An order for payment issued in an electronic procedure by writ of payment becomes final two weeks after being served on the defendant. A final order for payment issued in an electronic procedure by writ of payment and included in the IT system is a writ of execution. An order for payment issued in an electronic procedure by writ of payment is declared enforceable by the court by means of an electronic enforcement order.

12 Is it possible to submit documents to a court electronically and if so in what type of proceedings and under what conditions is it possible?

In an electronic procedure by writ of payment, documents cannot be enclosed with pleadings submitted via electronic means.

13 Can judicial documents, and particularly judgments, be served via the internet?

In an electronic procedure by writ of payment, court process is served on the claimant via electronic means. Upon initiating the procedure by lodging a statement of claim via the website of the e-court, claimants obtain access to a dedicated section of the website of the e-court, which allows them to receive correspondence from the court. Court process is served on the claimant via the data transmission system supporting the electronic procedure by writ of payment (electronic service of court process). Court process is served on the defendant electronically only if the defendant has agreed to this form of service of court process.

14 Can judicial decisions be given electronically?

In an electronic procedure by writ of payment, judicial decisions are electronic.

15 Can an appeal be made and its decision served via the internet?

Yes, only in an electronic procedure by writ of payment.

16 Is it possible to initiate enforcement proceedings via the internet?

If the enforcement order covers a judicial decision issued in an electronic procedure by writ of payment, an application to initiate enforcement proceedings may be filed via electronic means.

It must be filed via the data transmission system supporting the electronic procedure by writ of payment.

17 Can the parties or their legal representatives consult on-line cases? If so, how this can be done?

In the course of an electronic procedure by writ of payment, the parties have full access to the files of the procedure conducted in their case. Such access is provided via the data transmission system supporting the procedure. It is also possible to print out the accessible documents.

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