Polija

1 Should I apply to an ordinary civil court or to a specialised court (for example an employment labour court)?

In Poland, civil cases are dealt with by ordinary courts (*sądy powszechne*) and the Supreme Court (*Sąd Najwyższy*) (see: Judicial systems in Member States - Poland), unless they fall within the competence of specialised courts.

Provisions concerning court jurisdiction are laid down in the Code of Civil Procedure (CCP, *Kodeks Postępowania Cywilnego*), in Articles 16-18 and Articles 27-46.

In district courts (*sądy rejonowe*), civil law cases are examined by the following divisions:

Civil;

Family and Juvenile (family courts, *sądy rodzinne*) – for family and guardianship cases; cases concerning moral corruption of minors and punishable acts committed by them; cases concerning the treatment of persons addicted to alcohol, drugs or psychotropic substances; as well as cases which, in accordance with other legislation, fall within the competence of a guardianship court;

Labour and Social Security (labour courts, *sądy pracy*) – for labour law and social security cases;

Commercial (commercial courts, *sądy gospodarcze*) for commercial law and civil law cases between business entities, concerning their business activities; cases concerning company or partnership relationships; cases against members of management boards of companies, cases concerning claims arising from false declarations submitted by members of management boards to the National Court Register; cases against business entities, requesting an order requiring them to cease environmental damage or compensate for the damage resulting therefrom, and to prohibit or restrict activities that pose a threat to the environment; cases concerning construction works contracts and contracts closely linked to the construction process for the execution of construction works; cases concerning leasing contracts; cases against persons liable, whether in the alternative or jointly or severally, for the business entity's debt by operation of law or legal act; cases between the bodies of state-owned enterprises; cases between a state-owned enterprise or its governing bodies and its constituent or supervisory body; cases concerning bankruptcy and restructuring; cases for incorporation of an enforceability clause in an enforceable title which is a final or immediately enforceable commercial court decision or a settlement concluded before that court; cases for revocation of an enforceability clause from an enforceable title which is a final or immediately enforceable commercial court decision or a settlement concluded before that court; and bankruptcy cases;

Land Registry – for keeping land registers and dealing with other civil matters related to land registry proceedings.

Regional courts (*sądy okręgowe*) in Poland have corresponding divisions, except for land registry divisions and family and juvenile divisions. Regional courts in Poland have civil family divisions competent to hear, in particular, cases for divorce, legal separation and termination of legal separation, for the annulment of marriage, for establishing the existence or non-existence of marriage, or for declaring the enforceability of judgments of foreign courts in family cases.

The Regional Court in Warsaw has the following additional division:

Competition and Consumer Protection Court (*Sąd Ochrony Konkurencji i Konsumentów*), whose scope of operation includes hearing cases concerning prevention of monopolistic practices and energy regulatory cases.

In addition, regional courts in: **Gdańsk, Katowice, Lublin, Poznań and Warsaw** have intellectual property divisions, which hear cases concerning the protection of intellectual property (including, at the Regional Court in Warsaw, cases concerning the protection of EU trade marks and Community designs, cases concerning infringement, threats, non-infringement of industrial designs and trade marks, cases concerning the invalidity of Community designs, cases concerning the expiry and invalidation of trade marks, and cases concerning the effects of trade mark infringement.

Additionally, on 1 January 2010 the District Court in Lublin (currently: the **Lublin-Zachód [Lublin West] District Court**) was designated as the competent court for hearing cases falling within the jurisdiction of other district courts in an electronic procedure by writ of payment.

2 Where the ordinary civil courts have jurisdiction (i.e. these are the courts which have responsibility for such cases) how can I find out which one I should apply to?

As a general rule, district courts have jurisdiction in civil cases at first instance. **District courts** (*sądy rejonowe*) have jurisdiction in all cases except for cases reserved by law (Articles 16 and 507 of the CCP) for regional courts.

Regional courts (*sądy okręgowe*) have first instance jurisdiction over the cases listed in Article 17 of the CCP, namely:

(1) for non-property rights and property claims pursued together with those rights, except for
cases for establishing or disputing a child's parentage, cases for annulling an acknowledgment of paternity and for dissolving adoption;

(2) for the protection of copyright and related rights, as well as cases concerning inventions, utility models, industrial designs, trade marks, geographical indications and integrated circuits topographies, and cases for the protection of other intangible property rights;

(3) for claims under the Press Law;

(4) for property rights where the value of the subject of the dispute exceeds one-hundred thousand zlotys, except for maintenance cases, cases for infringement of possession, cases for establishing the separation of property of spouses, and cases examined in an electronic procedure by writ of payment;

(5) for issuing a judgment in lieu of a resolution to divide a co-operative;

(6) for repealing, annulling or establishing the non-existence of resolutions of governing bodies of legal entities or organisational units which are not legal persons but which have been granted legal personality by law;

(7) for preventing and combatting unfair competition;

(8) for compensation on account of damage caused by issuing an unlawful final judgment;

(9) for claims arising from infringements of rights conferred by personal data protection rules.

Furthermore, the jurisdiction of **regional courts** covers for example:

(1) incapacitation cases;

(2) cases for resolving disputes concerning the operation of state-owned enterprises: between the enterprise's board and the enterprise's director, the enterprise's governing bodies and its founding bodies, and between its governing bodies and the body exercising supervision over the enterprise;

(3) for recognising judgments of foreign courts and declaring them enforceable (Article 11481 and Article 11511 of the CCP).

In cases concerning property rights, the claimant is obliged to specify the value of the subject of the dispute in the statement of claim, unless the subject of the dispute is a specified amount of money.
In cases concerning monetary claims, even if raised as an alternative to another claim, the specified amount of money constitutes the value of the subject of the dispute.
In other property cases, the claimant is obliged to specify the value of the subject of the dispute by indicating the amount of money in the statement of claim, in compliance with Articles 20-24 of the CCP.

2.1 Is there a distinction between lower and higher ordinary civil courts (for example district courts as lower courts and regional courts as higher courts) and if so which one is competent for my case?

See paragraph 2.

2.2 Territorial jurisdiction (is the court of city/town A or of city/town B competent for my case?)

The Polish Code of Civil Procedure distinguishes among the following types of court jurisdiction: general (Articles 27-30), alternative (Articles 31-37) and exclusive (Articles 38-42). Additional matters relating to territorial jurisdiction are governed by special provisions (Articles 43-46 of the CCP).
Territorial jurisdiction has been described in detail in paragraphs 2.2.1 to 2.2.3.

2.2.1 The basic rule of territorial jurisdiction

General territorial jurisdiction

Actions must be brought before the court of first instance with territorial jurisdiction over the defendant's domicile (Article 27 of the CCP).
In accordance with Article 25 of the Civil Code, the domicile of a natural person is the town/city in which this person stays with the intention to stay on a permanent basis. If the defendant is not resident in Poland, general jurisdiction is determined according to his or her place of stay, and where that place is unknown or is outside Poland, actions must be filed according to the defendant's last domicile in Poland.
Actions against the State Treasury must be filed in the court with jurisdiction over the registered office of the organisational unit which the dispute concerns. Where the State Treasury is represented by the General Counsel to the Republic of Poland (*Prokuratoria Generalna Rzeczypospolitej Polskiej*), actions must be filed in the court with jurisdiction over the registered office of the Counsel branch responsible for the organisational unit which the claim concerns.
Actions against other legal persons and other entities which are not natural persons are to be filed in the court with jurisdiction over their registered office (Article 30 of the CCP).

2.2.2 Exceptions to the basic rule

See paragraph 2.2.2.1.

2.2.2.1 When can I choose between the court in the place where the defendant lives (court determined by the application of the basic rule) and another court?

Alternative territorial jurisdiction allows the claimant to choose the court in certain cases. The claimant may then bring an action before the court of general jurisdiction or before another court specified in Articles 32 to 371 of the CCP.
Alternative territorial jurisdiction is provided for in the following cases:
for maintenance claims and for establishing a child's parentage and related claims – actions may be brought in the court with jurisdiction over the domicile of the entitled party;
for a property claim against a business entity – actions may be brought before the court with jurisdiction over that entity's headquarters or branch, if the claim is connected with the activities of the headquarters or branch;
actions for concluding an agreement, establishing its content, amending an agreement and for establishing the existence of an agreement, for the performance, termination or annulment of an agreement, as well as for damages on account of a failure to perform or properly perform an agreement may be brought before the court having jurisdiction over the place of performance of the agreement; the place of performance of the agreement is deemed to be the place of performance typical of a particular type of agreement, in particular in the case of: (1) the sale of movable goods – the place where, under the agreement, the goods were delivered or should have been delivered; (2) the provision of services – the place where, under the agreement, the services were or should have been provided; should there be any doubts, the place of performance of the agreement should be confirmed by a document;
for a tort claim – actions may be brought before the court in the territorial jurisdiction of which the event causing the damage occurred;
an action for the protection of personal rights infringed by the mass media may be brought before the court having jurisdiction over the place of residence or registered office of the claimant;
for the payment of an amount due for handling a case – actions may be brought before the court having jurisdiction over the place where the legal representative handled the case;
for a claim under real estate lease (*najem* or *dzierżawa*) – actions may be brought before the court having jurisdiction over the place where the real estate is located;
against a party obliged under a promissory note or cheque – actions may be brought before the court having jurisdiction over the place of payment. Several parties obliged under a promissory note or cheque may be sued jointly before the court having jurisdiction over the place of payment or before the court of general jurisdiction for the acceptor or issuer of the promissory note or cheque;
An action for a claim arising from a banking transaction against a bank, another organisational entity authorised to carry out banking activities or their legal successors may be brought before the court having jurisdiction over the claimant's domicile or registered office. This provision also applies to actions against a mortgage-providing bank or its legal successor for a claim arising out of the mortgage-providing bank's activities;
concerning labour law – actions may be brought before the court in the territorial jurisdiction of which the work is, was or was to be carried out, or before the court in the territorial jurisdiction of which the employment establishment is located (Article 461(1) of the CCP).

2.2.2.2 When do I have to choose a court other than that in the place where the defendant lives (court determined by the application of the basic rule)?

Exclusive jurisdiction of a court means that the case may be heard only by the court specified in the Code. Exclusive jurisdiction is provided for in as follows:
in cases concerning ownership or other rights in rem over real estate, as well as those concerning the possession of real estate; and claims under Articles 231, 224-228 and 230 of the Civil Code, in so far as they relate to real estate: actions may be brought only before the court having jurisdiction over the location of the real estate; if the subject of the dispute is a land easement, jurisdiction is determined according to the location of the encumbered property; this jurisdiction encompasses personal claims related to rights in rem and rights pursued jointly with those claims against the same defendant; The competent court may, if the parties so request unanimously, refer the case to another equivalent court, where this is justified by reasons of expediency;
concerning succession, a reserved share, as well as bequests, instructions or other testamentary dispositions – actions are to be brought only before the court having jurisdiction over the testator's last place of habitual residence, and if the testator's domicile in Poland cannot be established, before the court having jurisdiction over the location of the inheritance or part thereof;
concerning membership in a co-operative, partnership, company or association – actions may be brought only in the court with jurisdiction over the registered office;

concerning a relationship of marriage – actions may be brought only before the court in the territorial jurisdiction of which the spouses were last resident if even one of them is still domiciled or habitually resident within that jurisdiction. In the absence of such a basis, the court with exclusive jurisdiction is the court with jurisdiction over the domicile of the defendant, and in the absence also of that basis – the court with jurisdiction over the domicile of the claimant;
concerning a relationship between parents and children and between the adopter and the adoptee – actions may be brought only before the court with jurisdiction over the domicile of the claimant, provided there are no grounds for filing an action under general jurisdiction provisions.

2.2.2.3 Can the parties themselves attribute jurisdiction to a court that would not be competent otherwise?

Special jurisdiction means that court jurisdiction may be defined differently in cases specified in special legislation:
the right to choose the court has been granted to the claimant;
if the jurisdiction of several courts is justified or if the action is brought against several parties for which various courts are competent under the legislation on general jurisdiction. The same applies if the real estate whose location is the basis for determining court jurisdiction is situated in several court jurisdiction areas;
the right to choose the court has been granted to both parties on the basis of an agreement or a unanimous request;
the parties may agree in writing to submit an already existing dispute, or any disputes that may arise in the future out of a specified legal relationship, to a court of first instance which does not have territorial jurisdiction under law. That court will then have exclusive jurisdiction, unless the parties have agreed otherwise or unless the claimant has filed a statement of claim in an electronic procedure by writ of payment (*elektroniczne postępowanie upominawcze, EPU*). The parties may also limit, by means of a written agreement, the claimant's right to choose from among several courts competent for such disputes;
the parties may not, however, change exclusive jurisdiction;
agreements on court jurisdiction must be in written form, and they may form part of a substantive law agreement (a jurisdiction clause) or constitute a separate agreement;
in labour law and social security cases, the competent court may, at a unanimous request of the parties, refer the case for hearing to another, equivalent court dealing with labour law and social security matters, where this is justified by reasons of expediency;
the competent court is designated by the superior court or the Supreme Court;
if the competent court cannot hear the case or undertake another action due to an obstacle, its superior court will designate another court. The reason for such designation may only be an obstacle preventing the case from being heard, e.g. the exclusion of a judge or force majeure;
the Supreme Court may refer the case to another court equivalent to the requesting court if the interests of justice so require, in particular due to the need to ensure that the court is seen as an impartial body in the public perception. The referral of the case may be requested by the competent court.
if the State Treasury is a party to proceedings, and the State organisational unit whose activities give rise to the claim is the court: (1) competent to hear the case, then that court must, of its own motion, submit the case file to the superior court, which must refer the case to another court equivalent to the referring court; (2) superior to the court competent to hear the case, then the court competent to hear the case must, of its own motion, submit the case file to the superior court, which must refer the case to another court equivalent to the referring court located outside the jurisdiction of the referring court;
The Supreme Court is obliged to designate the court before which the action is to be brought if territorial jurisdiction cannot be determined in accordance with the Code on the basis of the circumstances of the case (Article 45 of the CCP).

3 Where specialised courts have jurisdiction how can I find out which one I have to address?

Specialised courts are administrative courts (*sądy administracyjne*) and military courts (*sądy wojskowe*).
The operation of military courts is regulated by the Military Courts Organisation Act (*Prawo o ustroju sądów wojskowych*) of 21 August 1997. Generally, these courts examine criminal cases in the Polish Armed Forces. Other cases may be referred to their jurisdiction exclusively by way of an Act.
The operation of administrative courts is regulated by the Administrative Courts Organisation Act (*Prawo o ustroju sądów administracyjnych*) of 25 July 2002**.**
Administrative courts dispense justice by monitoring the activities of public administration authorities, as well as by resolving competence disputes and jurisdiction disputes between local government authorities and government administration authorities. It cannot be excluded that in exceptional cases an administrative court, as part of its supervisory duties with respect to the activities of public administration authorities, may decide in a civil case.

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