

NEWSLETTER

June 2015

Large amendment of the Civil Code and the Code of Civil Procedure

Dear Sirs,

We would like to inform you about the amendment enacted by the Parliament of the Civil Code and the Code of Civil Procedure. In the passed legal act proposed a number of important changes that will not only contribute to improving the efficiency of the courts, measurable savings, but also make civil proceedings less formal for the benefit of the participants in this proceeding.

Primarily, the amendment involves changes in the form of legal acts that respond to the needs of modern times, new technologies. **Soon, in the Civil Code, will appear a new form of documentation which will be less formal than in writing.** To maintain this form, you will have to make a declaration of intent in the form of a document in a manner which recognizes the person submitting the declaration. **In the regulation passed the document has been defined as an information carrier that allows familiarize with its content.** Thus the legislature breaks with the traditional understanding of the concept of a document, as information persisted only in the form of letter. An important feature of the document in the new terms will be its content, that is information contained therein. The signature will not be so constitutive element of the document. Appropriate fixation of content of the document, so that they can be player, will be the only condition. Therefore, it will be equated the status of documents in electronic form with traditional documents in paper version. According to the new regulations, documentary form can be reserved for invalidity, both by law and in the agreement itself. Interestingly, the first legal use of a documentary form is to reserve her for evidence to contrach for a loan with a value exceeding one thousand PLN.

Significant changes will also take place in civil proceedings. **They assume the computerization of procedures.** You will be allowed to bring letters through ICT system and make electronic service, also in traditional civil proceedings.

In the regulations of the Code of Civil Procedure will appear a new institution ‘the sell by electronic auction’. Under the amendment the bailiff will perform sell by electronic action at the request of the creditor. Auctioning will be carried out electronically via ICT system.

Further, referring to the execution, the approved amendments assume that an application for execution proceedings provides an opportunity for the execution of all permissible ways, with the exception of execution of real estate. **The creditor shall not be obliged to present for execution authority debtor's assets, from which execution can be carried out.** If the creditor does not indicate the property leading to the satisfaction of his claim that a bailiff will call the debtor to submit the list of assets under pain of criminal liability for making a false statement.

Complaint against the bailiff will be submitted through the bailiff. If the bailiff will evaluate it as reasonable, it will take into account the whole complaint without transfer to court. This is to facilitate and accelerate the proceedings, because in many cases will disappear the need for time-consuming transmission of files between the bailiff and the court.

The changes will also take place in the warning proceeding. **Soon, court registrars will be entitled to perform all the steps in this procedure, the premise is to improve the work of courts.**

There will also be approved possibility to suspend proceedings if the outcome of the case will depend on the outcome of the proceedings pending in the Constitutional Court or the Court of Justice of the European Union.

In addition, the court at the request of a party will be obliged to agree to consolidate its conduct of the hearing by means of a sound recording equipment, if there is no appeal against this view on the correctness of the procedure.

The assumptions described above are just some of enacted, significant changes affecting the marketing practice of law. Let us hope that the new provisions primarily indeed have a positive effect on the speed of recognition of cases.
