

## CORONAVIRUS: CHANGES IN COURT AND ADMINISTRATIVE PROCEEDINGS IN POLAND FOR THE DURATION OF THE PANDEMIC

The justice system and public administration in Poland are moving into a state of partial suspension in light of the COVID-19 pandemic. On 31 March 2020, the Anti-crisis Act entered into force, which introduced amendments to several dozen acts of law, including those relating to the judiciary and public administration, applicable during the state of epidemiological threat or state of epidemic.

### Main changes introduced in connection with the COVID-19 pandemic:

- cancellation of trials and public hearings
- suspension of the running of procedural and court deadlines
- suspension of the running of administrative deadlines

### Suspension of the running of court and procedural deadlines

The Anti-crisis Act, i.e. the Act amending the Act on special solutions related to preventing, counteracting and combating COVID-19, other infectious diseases and the resulting crisis and certain other acts (the "Act"), entered into force on 31 March 2020.

The Act introduced two major amendments affecting proceedings (including, in particular, court, administrative, criminal proceedings, etc.) for the duration of the state of epidemiological threat or state of epidemic.

Firstly, no trials or public hearings will be held during this time. In practice, this will exclude the possibility of passing judgments in the majority of civil and commercial cases. This is because the actual possibilities of closing contentious proceedings (disputes) without a trial are currently limited.

However, the courts will be able to examine cases in closed hearings. In civil and commercial cases this will relate to, in particular, proceedings to secure claims, payment-order proceedings, writ of payment proceedings and electronic writ of payment proceedings. Therefore, formally, orders for payment and decisions on the granting of injunctive relief may still be issued. Courts will also be able to pass decisions that do not require a hearing to be held (i.e. in respect of proceedings to hear evidence).

Secondly, during the state of epidemiological threat or state of epidemic, the running of new procedural and court deadlines will not commence and the running of existing ones is suspended. This refers to, among other things, deadlines for lodging appeals (appeals, complaints or cassation appeals),

procedural writs (statements of defence, subsequent preparatory writs) or corrections of formal defects.

During the period of suspension of the running of deadlines, the parties may take actions with respect to which the running of the deadline has been suspended, however they are not obliged to do so.

### **No limitations in urgent cases**

The suspension of the commencement of the running and running of deadlines and the prohibition on holding trials and public hearings does not encompass the so-called urgent cases, primarily concerning selected cases related to criminal law as well as family and guardianship law (including, among other things, related to the application of or release from pre-trial detention). Such cases are to be examined according to the existing rules.

In the case of administrative courts, urgent cases are those which up to now had to be examined by a court within a prescribed time limit (this concerns, among other things, the consideration of appeals against the decisions of appeal bodies on the setting aside of a decision of a body of first instance and the remanding of the case for re-examination, or complaints being examined in cases concerning the disclosure of public information). Requests for the suspension of the enforcement of administrative decisions have also been deemed as being urgent, which may be of significance in the case of the issuance during the pandemic period of administrative decisions that are incompatible with the law.

The president of the competent court may order that any case be examined as urgent, if the failure to do so could result in a threat to the life or health of humans or animals, serious damage to public interest, or possible irreparable material damage, and also when the welfare of the justice system so requires.

### **No sanctions for inaction of the administration authorities**

The Act has also suspended the running of the majority of substantive deadlines provided for under the provisions of administrative law (including, among other things, deadlines on which the granting of legal protection before a court or body is dependent, statute of limitations periods, final deadlines, deadlines related with the obligation to make notifications to registers).

During the work on the Act, the suspension of deadlines was originally also to apply to civil-law deadlines, but ultimately such solution was abandoned.

The Act also protects the public administration against the negative consequences of the inability to operate efficiently during the pandemic. For this purpose, the application of the provisions on the failure to act of authorities and the necessity to inform a party about the failure to handle the case in a timely manner has also been suspended.

The running of the deadlines for tacit acceptance and for the submission of an objection by an authority (or identical measure) has also been suspended in cases based on the notification model. This concerns, for example, cases regarding the notification of construction works for which a building permit is not required – in such cases the entitled party notified the intended construction project and, in the event of the absence of an objection, could commence the works after 21 days. Deadlines of this types have presently

been suspended, although the relevant authority may issue a certificate on the absence of grounds to submit an objection.

The deadlines for an authority to issue its opinion or an individual ruling have also been suspended, except for cases concerning tax matters in which such rulings are to be issued within the current deadlines.

## Summary

The changes introduced by the Act will affect the functioning of courts and administration bodies for the duration of the state of an epidemiological threat or state of epidemic announced due to COVID-19.

The suspension during this period of time of procedural and court deadlines, as well as the limiting of trials and public hearings may lead to a significant slowdown in the examination of cases.

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