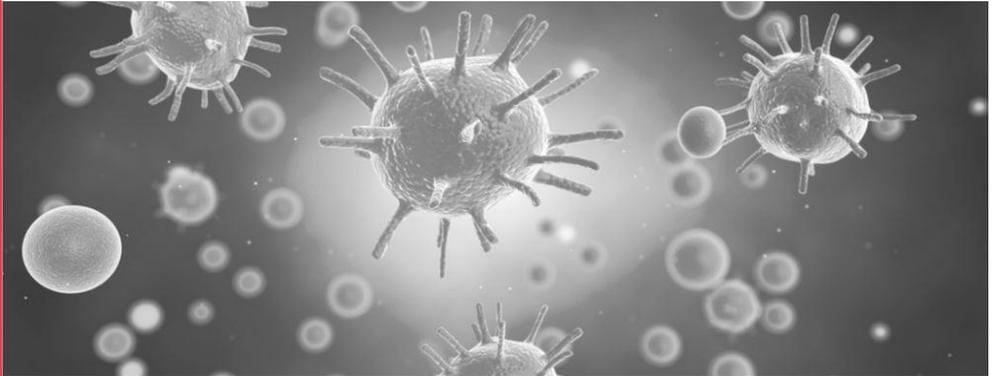


**CORONAVIRUS
ALERT**

24/7



Business support 24/7 during coronavirus pandemic

Litigation – functioning of courts during epidemic

The COVID-19 epidemic is having a significant impact on the functioning of the justice system, including on the course of court cases. We discuss below several key issues – though please note that information quickly becomes outdated due to the dynamic development of the situation. We would like to point out that **decisions related to the pandemic are usually taken by the presidents of individual courts** as no systemic solutions have yet been adopted.

Cancellation of court hearings

As all issues concerning the organisation of hearings and court activities are the responsibility of the presidents of individual courts, the decisions to limit the activities of individual courts are different. In the vast majority of courts, hearings have been cancelled until the end of March, except for publication dates (announcements of judgments) and particularly urgent criminal and family cases. **Information on the measures and restrictions adopted in a given court is published on the courts' websites (public information bulletin).**

The organisational decisions most frequently being taken, apart from the cancellation of hearings, include:

- limiting the work of mail offices, service offices and file reading rooms;
- closing court cash desks;
- restricting access to the court for uninvolved persons and taking the body temperature of persons coming in.

Impact of pandemic on court time limits

There are currently no specific provisions suspending the running of court time limits. It is possible only to apply for an extension of a time limit set by the court or to submit, on general principles, an application for a statutory time limit to be reinstated if the time limit is not met through no fault of one's own (Articles 168 and 169 of the Code of Civil Procedure – within a week of the time the cause of the failure to meet the time limit ceases). Please remember that **at present it is up to the court to decide whether to change or reinstate a time limit in a specific case and requires a separate decision to be issued by the judge.**

If the court in which the case is pending ceases to operate due to force majeure (e.g. complete closure of a given court due to quarantine), proceedings pending in the court are suspended by force of law (Article 173 of the CCP), which also means suspension of any time limits. The Minister of Justice has already announced amendments to the Act on Special Arrangements for Preventing, Counteracting and Combating COVID-19 of 2 March 2020, which will include changes in procedural and substantive time limits and also a special procedure in the event of a court being closed due to quarantine.

Due to restrictions on the operations of Polish Post, in some courts the court presidents have issued internal orders to limit the sending of letters which result in the running of a time limit. This is of course beneficial for parties bound by a time limit, but it generally means that the activity of the courts is suspended outside hearings too – delivery of payment orders, decisions, judgments and grounds for the foregoing.

Impact of pandemic on limitations periods

For a limitations period to be suspended, the event of force majeure has to result in the “inability to pursue rights” (Article 121(4) of the Civil Code). It cannot be explicitly said that this state of affairs already exists today as, due to the risk of COVID-19 infection, it is only hearings that have been cancelled (excluding urgent cases); court work has not been suspended completely. This means that it is unsafe to assume that limitation periods do not start running.

Electronic filing of court submissions

Under the current legislation, the possibility of filing submissions by electronic means is very limited (generally only to electronic writ of payment proceedings). However, in certain conditions, case law allows for submissions (also appeals) to be filed by electronic means, provided that the absence of an original signature is later supplemented (Supreme Court resolution of 23 May 2012, III CZP 9/12).

Unfortunately, in this case, the Supreme Court indicated that the **date a submission is filed is not the date it is received in the court's e-mail box, but the very uncertain date on which it is printed out by the court secretariat**. Due to potential restrictions on the work of court secretariats, a party is unsure when the submission will be printed and stamped as received, which gives rise to significant procedural risks.

Recommendations:

- 1) **Check current information on the courts' websites** on the restrictions adopted by the court presidents and possible cessation of a given court's activities (resulting in the suspension of all proceedings and suspension of time limits ex officio).
- 2) **Monitor the announced amendments to the Act on Special Arrangements for Preventing, Counteracting and Combating COVID-19 of 2 March 2020**, which is to regulate the running of time limits.
- 3) If it is impossible to carry out a procedural action on time (e.g. due to quarantine), **document the obstacles** (certificates, etc.) and **ask the court to reschedule** (before the end of the court time limit) **or to reinstate the time limit** (within one week of the cause ceasing to exist).
- 4) **In urgent cases** (it is impossible to file a submission in the original), **file submissions by e-mail in advance** so that the court can print out the submission and stamp it before the end of the time limit.

We are at your disposal



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