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ADMINISTRATIVE PROCEEDINGS ARE BECOMING DIGITALIZED

CHANGES ADOPTED

On May 31, a new legal institution in Polish procedural law came into force. The main goal of the modifications is to further digitalize proceedings. These changes could be a positive development for the judiciary, but on the other hand, they could be viewed as negative, as certain legal constructions can generate very serious problems and threaten the interests of the parties involved.

The default form of an administrative proceedings will continue to be delivery of pleading letters in a paper form. However, the introduced provisions grant parties to proceedings the option of choosing a new, electronic method of document delivery. The amendments may help to speed up the proceedings and make it more cost-efficient for the involved parties and the courts. New proceedings will be conducted with the use of the ePUAP system, which is an ICT platform designed for communication between citizens or entrepreneurs and public administration units in a standardized manner.

In order to initiate the electronic delivery of documents, a party is obliged to either:

- submit a letter to the court asking for initiation of the proceedings in an electronic form;
- file a request to deliver documents electronically, or;
- grant consent to carry out document delivery electronically.

In each scenario, a party is obliged to provide the court with its electronic mailing address. The parties can also, at any time, resign from electronic delivery and return to the standard method of document delivery, but such resignation needs to be submitted in an electronic form.

FOUR IMPORTANT ASPECTS OF THE NEW PROCEEDINGS

There are four major issues that are crucial for parties to become familiar with in order to conduct the new type of proceedings in an effective way:

1. Letters will be submitted in an electronic format and verified, electronic signatures will replace handwritten ones. These "e-signatures" will have the same power as written ones, thus conducting such proceedings without acquiring an electronic signature will be impossible. The three types of e-signatures that may be chosen by parties to proceedings are:
 - electronic signature;
 - a trusted ePUAP signature;
 - personal signature.
2. Properly sent documents in electronic proceedings should be submitted to the electronic box of the competent court or the authority. In electronic proceedings, the date of filing the letter in the form of an electronic document is the date of entering the letter into the relevant IT system of the competent authority. Letters must also include the PESEL (personal identification number) or KRS (identification number from the registry of entrepreneurs) of the party in the letter initiating the proceedings.
3. Documents delivered to the parties in the course of proceedings will be downloadable from a page indicated by the court in the notification sent to the parties via e-mail. The delivery date will be the day of the signing of the receipt with one of the three certified signatures. The new regulation stipulates that in the scope of the electronic means of delivery, the provisions regarding the so-called "fiction of delivery" are also applicable; if after 7 days from sending the notification, the party fails to open the document, the court or automatic system will send a second notification. In the event of failure to open a document again, delivery shall be deemed to be effective after fourteen days from the first notification.
4. If the party is represented by an attorney and have decided for an electronic delivery, counsels for parties will no longer have to deliver the letters directly to each other, as the IT system of the relevant court or body will deliver documents automatically.

Opting to utilize electronic document delivery may be a great development, as it may be time and cost-efficient for parties of proceedings. However, as indicated above, there are certain issues that need to be taken into account when deciding on which method of delivery to use. Should you have further questions regarding this topic or require any assistance in court proceedings, please do not hesitate to contact us.

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