



An Introduction to Court Procedures

Limitation Periods

The limitation periods depend on the type of claim being pursued and are:

1. 3 years for commercial claims
2. 3 years for employment related claims
3. 10 years for property claims

These periods are subject to specific circumstances and we suggest that you take advice on this issue. The limitation period runs from the time that the claim becomes due. Statutory limitation periods cannot be modified by agreement.

Commencing a Claim

Commercial procedures may be commenced before a district court or regional court depending on the value of the claim:

- District court – value of the claim does not exceed Pln 75,000
- Regional court - value of the claim exceeds Pln 75,000, and Pln 100,000 for commercial cases.

In general, litigation should be commenced before the court of the defendant's registered office. Judgements of foreign courts are recognised in Poland according to EC Council Regulation 44/2001 and the Lugano Convention 1988. Careful preparation is required before the claim should be made. Incomplete or incorrectly completed pleadings will be returned, and, once proceedings have commenced, it will be difficult to introduce new claims or evidence. We strongly advise that only highly experienced lawyers are involved in the preparation and submission of pleadings.

A Summary of Court Procedures

- (a) The formal commencement of a claim is by filing a statement of claim together with pleadings with the court where the defendant has their registered address. The court checks the pleadings for compliance with procedural requirements and either returns them as incomplete, or, if accepted, sends a copy to the defendant. The court fees are payable in advance at 5% of the value of the claim for commercial claims, up to a maximum of Pln 100,000.
- (b) In commercial proceedings the defendant has 2 weeks to submit a defence. The defence should include all evidence, counterclaims, and arguments, otherwise no further submissions may be made unless the defendant can show that it was impossible to make such earlier.
- (c) If evidence needs to be obtained prior to the commencement of the action, such as witness statements or expert opinions, then there are special proceedings available to the parties. All claims should be proven by evidence.
- (d) Procedures do exist for a case to be dealt with, prior to a claim being filed, by mediation, or to call the other party to try and negotiate a settlement of the dispute with recourse to the court.
- (e) The timetable for the court's procedures and hearings are set by the judge. We normally advise clients that they should be prepared for the timeframe for the successful conclusion of a claim to be up to 1 year and for all further appeals to be exhausted after a further year. There are a number of factors that influence the timeframe including, complexity, appeals, evidence, and the court's timetable.

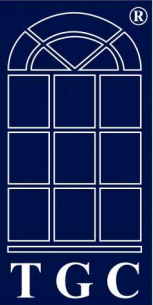
Interim Relief, Remedies and Appeal

The parties can apply to the court for interim relief to ensure that assets are not dissipated in any way. The normal types of interim relief include taking a mortgage over land and property, and blocking bank accounts.

There are 3 main types of remedies:

- i) Specific performance including damages
- ii) Transfer of ownership rights e.g. change of owner in the land register
- iii) Issuance of a declaratory judgement





TGC Corporate Lawyers

LITIGATION AND DISPUTE RESOLUTION DEPARTMENT

Damages include actual loss, as well as, any loss of profit and indirect loss. Property can be seized and sold. Bailiffs can be appointed to seize and sell property. Generally, the losing party pays the costs of the other party, including legal fees.

The unsuccessful party may, within 7 days from the date of judgement, submit a request for a written justification of the decision. If an appeal is required then it should be submitted within 2 weeks of receiving the written justification.

Our Approach

Although we have a reputation as tough litigators, our view is that litigation should not automatically be the sole recourse when looking to resolve disputes. We actively promote arbitration and mediation and other dispute resolution techniques and prefer to work closely with clients to avoid or reduce the risk of disputes in the first place. We understand that clients may need to maintain a co-operative relationship with the other party and we understand the need to resolve disputes quickly.

Pre-Action Protocol

Our pre-action protocol may include the following:

- advice at an early stage to help to identify and remove the cause of the dispute
- negotiation to resolve the dispute quickly
- mediation and forms of alternative dispute resolution
- risk management and reducing risk profile
- arbitration
- litigation

Our Expertise

Our main expertise is as large-scale commercial litigators advising on complex core issues. We advise on strategic options, court procedures, assessment of liability and costs, appeals, and enforcement. We combine the skills of our lawyers who have technical expertise with our abilities as commercial litigators. In situations where the dispute does have to be dealt with by court proceedings we are expert at assisting our clients to run those proceedings as effectively as possible and reaching a successful outcome.

Contacts

If you would like to discuss any of these matters then please contact:

Beata Ordowska

Advocate, Head of Litigation
TGC Corporate Lawyers
ul. Krolewska 27
00-060 Warsaw
Poland
Tel: +48 (0) 22 653 3644
Email: bordowska@tgc.eu

Nicholas Fielding

Managing Partner
TGC Corporate Lawyers
ul. Krolewska 27
00-060 Warsaw
Poland
Tel: +48 (0) 22 653 3644
Email: nfielding@tgc.eu

