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*Electronic Delivery in Civil and Criminal Cases in Poland**

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ABSTRACT: Electronic delivery in Poland has so far been introduced on a sector-by-sector basis, for a particular procedure, or to improve contact, for example, between a taxpayer and a tax office, the Social Insurance Institution, or in civil and administrative courts. The idea of unification of electronic delivery is certainly attractive for the entrepreneur, professional attorney, and public and non-public entities, and for the citizen, a technical solution ensuring the possibility of delivering correspondence by public entities would be a great convenience. Currently, however, in Polish law, we have different solutions regulating delivery in individual court procedures. This article does not cover service in administrative and court-administrative proceedings and refers only to the norms contained in civil proceedings and, after the amendment of 7 July 2023, also in criminal proceedings.

KEYWORDS: E-justice – Electronic delivery in civil procedure code.

1. *Electronic delivery in the Code of Civil Procedure*

Electronic delivery was introduced into the Civil Procedure Code with the introduction of electronic writ-of-payment proceedings. Electronic delivery was made through an ICT system supporting electronic writ-of-payment proceedings, available through online services provided on the website of the Ministry of Justice. After another amendment to the Code of Civil Procedure by the Amendment Act of 10 July2015,[1] electronic service will be used by the court not only when the addressee has filed a letter via the ICT system, but also when he or she has chosen to file pleadings via the ICT system.

At the same time, it was stipulated that a letter served electronically is deemed to have been delivered on the date indicated in the electronic acknowledgment of receipt of correspondence, even if that date falls on a legal holiday. This is because the application of Article 134 of the CCP has been excluded with respect to electronic delivery via an ICT system. In the absence of electronic acknowledgment of receipt of correspondence, service shall be deemed effective 14 days after the date on which the letter is placed in the ICT system. The above regulation requires the parties to check their electronic account at least at 14-day intervals. An addressee who has chosen to file letters via an ICT system may opt out of electronic delivery at any time (Article 1311 § 21 CCP). In such a case, further service on that person will be made in the "traditional" manner, even though he or she will be filing pleadings with the court via the ICT system. On the other hand, the reverse situation is not possible, in which a party, not choosing to file pleadings via the ICT system, will be able to use electronic service.[2]

The 2019 Amendments to the Code of Civil Procedure amended the provision of Article 125 of the Code of Civil Procedure by introducing § 21a, which reads: "making an election to file pleadings using an ICT system and continuing to file such pleadings using this system is permissible if, for technical reasons on the part of the court, this is possible".[3] At the same time, Article 6 of the Amendment of CCP from 2019 repealed Article 20 of the Amendment of CCP 2015,

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[1] Journal of Laws of 2015, item 1311, as amended.

[2] E. Rudkowska-Ząbczyk, *com. to art. 131(1)* in *Code of Civil Procedure. Commentary*, ed. 33, E. Marszałkowska-Krzes, I. Gil (eds.), Warsaw, Legalis; S. Kotecka, *Informatyzacja postępowania cywilnego w Polsce*, in *Informatyzacja postępowania sądowego i administracji publicznej*, J. Gołaczyński (ed.), Warsaw, C.H.Beck, 2010, 10-12; J. Gołaczyński, *com. art. 131(1)*, in *Informatyzacja postępowania cywilnego, Komentraz*, ed. 1, Gołaczynski, D. Szostek (eds.), Warsaw, Legalis, 2016.

[3] Ł. Goździaszek, *Computerization of civil procedure,* in *Law of new technologies,* K. Flaga-Gieruszyńska, J. Gołaczyński (eds.), 2021, 141.

which stipulated that within 3 years from the entry into force of this law, choosing between filing pleadings through the ICT system handling court proceedings and continuing to file those pleadings through that system is permissible if, for technical reasons on the court's side, this is possible. The purpose of this regulation was to provide adequate time for the establishment and successive implementation of the ICT system handling court proceedings. However, despite the passage of 4 years since the enactment of the amendment of the CCP from 2015, the aforementioned system has not been implemented, hence the need to amend Article 20 of the amendment of the CCP from 2015.[4]

With the amendment of the CCP on 28 May 2021, the provision of Article 15zzs1 introduced a simplified form of electronic service in civil proceedings. Thus, during the period of the epidemic emergency or the state of epidemics declared due to COVID-19 and within one year from the revocation of the last of them in the cases listed in Article 15zzs1 CoronavirusU, the first pleading filed by a lawyer, legal counsel, patent attorney or the Public Prosecutor's Office of the Republic of Poland shall provide an e-mail address for service and a telephone number. Further, during the period indicated in paragraph 1, in the absence of the possibility of using the ICT system to serve court proceedings (Article 1311 KPC), the court shall serve the lawyer, legal counsel, patent agent or the General Prosecutor's Office of the Republic of Poland with a digital reproduction of notices, summonses and judgments by placing them in the ICT system serving these writings.[5] The date of delivery is the date on which the recipient becomes acquainted with the letter posted on the information portal (Article 15zzs9 paragraph 3 of the CoronovirusU). In the absence of familiarization, the letter shall be deemed delivered 14 days after the date of posting the letter on the information portal(it means internet portal for publishing date about the court's case). The service referred to herein shall have the procedural effects specified in the Code of Civil Procedure appropriate to the service of a pleading, notice, summons, or judgment. At the same time, the chairman may waive service by electronic means (through the information portal) if service is impossible due to the nature of the letter.

The above regulation should be noted positively, as it allows in any civil case to apply the model of service provided for in Article 1311 § 1 of the CCP, according to which: The court shall make service using an ICT system if the addressee has filed a pleading by means of an ICT system or has made a choice to file pleadings using this system. In the regulation in question, Article 15zzs9, there is no rationale, as it can be observed, for the use of electronic service, in the form of filing a letter or choosing to file pleadings through the ICT system.[6] As indicated above, the ICT system supporting the filing of pleadings has not yet been established, and therefore the current regulation as a premise for the use of electronic service indicates only a state of epidemic emergency or a state of epidemic, and in terms of subjects, limits the scope of application of this form of service to attorneys, legal advisers, patent attorneys or the Attorney General's Office of the Republic of Poland. It can only be pointed out that the legislator also used an ICT system for the service of court letters on parties represented by professional attorneys and the General Prosecutor's Office of the Republic of Poland, and this is a system for providing access to information (Article 9 § 1, sentence 3 of the CCP).

Finally, a similar solution contained in Article 15zzs9 paragraph 3 of the CoronavirusU and contained in Article 1311 § 2 of the CCP is the marking of the date of delivery of the letter. Thus, in Article 1311 § 2 of the CCP, in the case of electronic delivery, the letter is considered delivered at the time

[4] M. Uliasz, *The principle of openness of court enforcement proceedings*, *in the era of computerization*, Wolters Kluwer, Warsaw, 2019, 73; A. Zalesińska,, in *Informatyzacja postępowania cywilnego. Komentarz*, Wydawnictwo, J. Gołaczyński, D. Szostek (eds.), Warsaw, C.H.Beck, 2016, 164; J. Gołaczyński, J. Gołaczyński & D. Szostek (eds.), *Informatyzacja postępowania cywilnego. Komentarz,* Wydawnictwo C.H.Beck, Warsaw, 2016, 139-140. Regarding the electronic form of procedural actions, see A. Kościółek, *Electronic procedural actions in civil judicial proceedings,* Warsaw, 2012, 214; E. Rudkowska-Ząbczyk, *Written procedural actions in civil proceedings*, Warsaw, 2008, 241, and Ł. Goździaszek, *Electronic proceedings*, 193; S. Cieślak, *Formalism of civil proceedings*, Warsaw, Wydawnictwo Beck, 2008, 125.

[5] *Information portal*, in *Informatization of proceedings*, A. Zalesinska, J. Gołaczyński, D. Szostek (eds.), 359-372.

[6] Ł. Goździaszek, *Computerization of civil procedure*, in *Law of new technologies,* Kinga Flaga-Gieruszyńska, Jacek Gołaczyński (eds.), 2021, 146.

indicated in the electronic acknowledgment of receipt of correspondence. The provision of Article 134 § 1 of the CCP shall not apply. In the absence of such acknowledgment, electronic delivery shall be deemed effective 14 days after the letter is placed in the ICT system. On the other hand, the provision of Article 15zzs9 (3) of the CoronovirusU indicates that the date of service of a court letter is the date on which the recipient became familiar with the letter posted on the information portal, and in the absence of such familiarization, the letter shall be deemed served after the expiration of 14 days from the date on which the letter was posted on the information portal. Hence, a doubt arises as to whether the provision of Article 15zzs9 (2) of the CoronovirusU and the Order of the Minister of Justice dated 20 October 2015 on the mode and manner of electronic delivery (i.e., Journal of Laws 2023, item 452) should be applied to Article 15zzs1 § 3 CCP. This is because the provision of Article 1311 § 2 of the CCP excludes from its scope of application the provision of Article 134 of the CCP, which addresses the issue of the possibility of service at night or on a public holiday, making such possibility subject to the order of the president of the court, and only in urgent cases. Such an exemption, that is, the application of the provision of Article 134 of the CCP, is not contained in Article 15zzs9 paragraph 2 of the CoronovirusU.

Note that the provision of Article 1491 of the CCP, which stipulates that the court may summon parties, witnesses, experts or other persons in the manner it deems most expedient, disregarding the methods of service provided for in Chapter 3, Division I, Title VI, Book One of the CCP, if it deems it necessary to expedite the hearing of the case, will still apply. A summons made in this manner shall have effect if it is undoubted that it reached the addressee within the time limits specified in Article 1491 of the CCP. This provision also gives the possibility to make a summons by e-mail, telephone, electronic messenger, etc. Also, helpful here will be the provision of Article 15zzs9 (1) of the CoronavirusU, which requires a lawyer, legal counsel, patent attorney or the Attorney General of the Republic of Poland to provide in the first pleading filed with the court his or her e-mail address for service and telephone number. Of course, this provision only applies to pleadings filed during an epidemic emergency or an epidemic state and during the period of one year after the cancellation of one of them.

The concept of a court letter subject to service may also raise questions. Court writs are currently: court decisions; orders of the presiding judge; notices and summonses for public hearings, closed sessions; other orders, such as on supplementing formal deficiencies, on the obligation to take a position.

The question also arises as to whether a court letter served through an information portal meets the prerequisites referred to in Article 53a(1) of PrUSP. Recall that the latter provision defines the legal status of a document from a court information and communication system, namely that such a document has the force of a document from the court (an official document), but on the condition that its content can be verified in the information and communication system. Is it possible to verify the content of a court letter published in an information portal, treated as an ICT system? At present, there is no possibility, as in the case of electronic writ of payment proceedings, of verifying, in the information system supporting these proceedings, the existence and validity of the order for payment issued therein. Verification is also required to be carried out by a bailiff, before the initiation of enforcement proceedings to satisfy the debt stated in the order for payment, The party itself, having only the so-called verification printout, can verify with the bailiff or the court whether the order for payment exists. Such a procedure does not exist in the case of the information portal, and therefore the question arises whether through the information portal there is a service of the court writ itself, or only of the contents of the writ. If it is considered that service is made by reading the contents of the court letter, then the provision of Article 53a(1) of PrUSP will not apply.

Significant changes were introduced by the Act of 7 July 2023 on amending the Act - Code of Civil Procedure, the Act - Law on the System of Common Courts, the Act - Code of Criminal Procedure and some other acts (Dz.U., poz. 1860) regarding electronic delivery in the Code of Civil Procedure. The legislator decided to transfer the solutions concerning both remote hearings and electronic service to procedural laws, i.e. to the CPC, the Code of Criminal Procedure and other laws. Thus, Article 9 of the CCP provides for the repeal of the third sentence in

§ 1 and the addition of § 1 after § 1 - § 11. The new § 11 stipulates that reviewing case files and providing the parties with copies, or excerpts of case files may be done through an ICT system supporting court proceedings, hereinafter referred to as the "ICT system" or the ICT system referred to in Article 53da § 1 of the Act of 27July 2001. Law on the Organization of Common Courts (i.e., Journal of Laws of 2023, item 217, as amended, hereinafter: PrUSP), hereinafter referred to as the "information portal." This amendment undoubtedly refers to the ICT system used until the outbreak of the Covid-19 pandemic to obtain information about the case, and during the pandemic on the basis of the CoronavirusU also for the service of court letters to professional attorneys.[7] This provision distinguishes the concept of an "ICT system" serving court proceedings, i.e., under Article 125 of the CCP and Article 1311 of the CCP enabling the filing of pleadings and electronic service in civil proceedings, from the concept of an "ICT system" under Article 53da of PrUSP called an information portal. The amendment is intended to make permanent in the CCP the possibility of serving court pleadings on attorneys through an information portal. To this end, the legislature also modifies the law in Article 1311a CCP and 142 § 1 CCP.

A new editorial unit was introduced into the CCP by ZmKPC23 of 7 July 2023, i.e. Article 1311a, which stipulates that in a situation where service using a teleinformation system is not possible, the court shall serve court pleadings on a lawyer, legal counsel, patent agent or the General Prosecutor's Office of the Republic of Poland by posting their contents on an information portal. This method of service does not apply to letters that are subject to service with copies of the parties' pleadings or other documents not originating from the court. Thus, we are dealing here with the transfer to the Procedural Law (CCP) of the solution contained in the CoronavirusU (Article 15 zzs9). The legislator has decided at this point to allow service through the information portal also of copies of the parties' pleadings or other documents not coming from the court in electronic form, as long as the court has such a copy. As in the CoronavirusU, it is indicated that in such a case the date of service is the date on which the recipient becomes acquainted with the letter posted on the information portal. In the absence of familiarization, the letter shall be considered delivered 14 days after the date of posting the letter in the information portal. At the same time, it is stipulated that the chairman will order to waive service of the letter through the information portal if service in such a manner is impossible due to the nature of the letter, in particular, if there is a need to issue a party with a certified copy of the judgment or enforcement order. A continuation of the regulation pertaining to electronic service is the amendment to Article 142 § 1 of the CCP, which stipulates that service of a letter shall be confirmed by the recipienţ: in writing; by means of the postal operator's information and communication system referred to in Article 131 § 1 of the CCP by a document obtained from the information and communication system; by a document obtained from the information portal." Acquisition by the court of information on the service of court letters traditionally served through the postal operator is done through the postal operator's teleinformation system. In courts, it is possible to determine through the teleinformatics system of the Polish Post (postal operator) the court letter in this system. The court has access to this system (EPO- electronic receipt). On the other hand, in the case of electronic service from Article 1311 of the CCP, confirmation of receipt is made by a document obtained from this system, and the same is true of a document obtained from the ICT system called the information portal.[8]

Legislators in the explanatory memorandum of the amendment of CCP from 7 July 2023 emphasize that service through the information portal is mandatory, unless service through one of the dedicated ICT systems referred to in Article 1311 of the CCP

[7] G. Karaś and A. Zalesińska, *Electronic service under Article 15zzs9 CoronavirusU*, in *Civil proceedings during pandemic*, Chapter 1, J. Gołaczyński (ed.), 2022, 25-63.

[8] S. Cieślak, *Form of Actions,* in *Recognitive Proceedings,* K. Markiewicz, A. Torbus (eds.), 2014, 165-164, note 30; resolution. SN of 23.5.2012, III CZP 9/12, Legalis; cf. also post. SA in Białystok of 8 December 2010, I A Cz 1065/10, OSA 2010, No. 3, 46), i.e. after 1 July 2016. (entry into force of the eIDAS Regulation), with a qualified electronic signature [Article 25(2) of Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, Official Journal of the EU L No. 257, 73].

is included. The detailed procedure and method of service of court letters through the information portal, as well as the electronic form in which the letters are served, has been specified within the framework of an ordinance of the Minister of Justice issued in consultation with the minister responsible for informatization.

According to Article 1311a § 1 of the CCP, no copy of the letter is served through the information portal, but only the contents of the letter are posted in the portal. In the opinion of the legislator, this means that the letter can be posted in the information portal in any form, and the only condition is that the contents of the letter can be read. It is, however, superfluous to affix a signature, annotations or stamps to it, since it does not constitute a copy.[9] This is consistent with the view of the scholarship, which was formed on the basis of the previously effective Article 15zzs9 paragraph 2 of the CoronavirusU. The use of the phrase service of "the content of the letter" in the provision was considered a conscious decision by the legislator. "The amendment of Article 53d of PrUSP, which consists in the addition of Article 53e of PrUSP, is also important for electronic service through the Information Portal. Thus, the provision reads: "§ 1. Provided that a special provision so provides, court letters shall be served on attorneys, legal advisors, patent attorneys, the prosecutor and the Prosecutor General's Office of the Republic of Poland and the pension authority determined by the minister responsible for internal affairs electronically through accounts in the information and communication system (Information Portal). The information portal may also be used to inform the parties and their attorneys about the actions taken in the case. § 2. The Minister of Justice, in consultation with the Minister responsible for informatization, shall determine, by means of an ordinance, the technical conditions for the use and operation of the information portal, the procedure for establishing, providing access to and liquidating an account in the information portal, taking into account the efficiency of the proceedings, the protection of the rights of the parties to the proceedings and the principles for the practice of the profession by attorneys, legal advisers and patent attorneys. § 3. An institutional account in the information portal shall be required to be held by a pension authority specified by the minister responsible for internal affairs. In addition, it is indicated in Article 157 § 1a of PrUSP that it is stipulated that an expert enrolled in the list of court experts is obliged to have an account in the information portal. If an expert is removed from the list, the president of the competent district court shall request the Minister of Justice to delete the account in the information system. This provision refers to the amendment of Article 184 of the CCP, which stipulates that the court may order that files or parts thereof be made available to an expert through information portals. Thus, now expert witnesses, from the list of court experts (and therefore not ad hoc experts), will be required to have a user account in the information portal for communication with the court.

Similar obligations have been imposed on professional attorneys, i.e. attorneys, legal advisors, patent attorneys. Thus, in Article 4 of the amended law, the Law of 26 May 1982 was amended. - Law on the Bar (Journal of Laws of 2022, item 1184 and 1268) by adding Article 37d, that an attorney practicing in the profession is required to have an account in the information portal referred to in Article 53da § 1 of PrUSP. In addition, it follows from this provision that the dean of the district bar council shall apply to the Minister of Justice for removal of the account in the information portal in the cases referred to in Article 4b, or in the case of removal of an attorney from the list of attorneys, except in the case referred to in Article 72(1)(3).

Similarly, Article 5 of the amended law amended the Law of 6 July 1982 on Legal Advisors (Journal of Laws of 2022, item 1166) by adding Article 2211, that a legal advisor practicing in the profession is obliged to have an account in the information portal referred to in Article 53da § 1 of PrUSP. The dean of the district chamber of legal advisers shall apply to the Minister of Justice for removal of the account in the information portal in the cases referred to in Article in Article 222, Article 28 paragraph 1 points 2 and 3 and paragraph 2, Article 29 and Article 652."

In turn, Article 11 of the amending law amended the Law of 11 April 2001 on patent attorneys (Journal of Laws 2023, item 303), after Article 16a, Article 16b is added, which reads: "A patent attorney practicing his

[9] Print No. 3216, 2-3.

profession shall be obliged to have an account in the information portal referred to in Article 53da § 1 of PrUSP. The President of the Patent Office shall request the Minister of Justice to remove the account in the information portal in the case of a final disciplinary decision to suspend the right to practice the profession of a patent attorney, or in the case of a final decision to remove a patent attorney from the list of patent attorneys maintained by the Patent Office."

Finally, Article 24 of the amending law amended the Act of 15 December 2016 on the Attorney General of the Republic of Poland (Journal of Laws of 2022, item 2100, and of 2023, item 614) by adding Article 36a. The General Prosecutor's Office shall be obliged to have an account in the information portal referred to in Article 53da § 1 of PrUSP At the same time, paragraph 4 of Article 50 is repealed, and paragraph 4 of Article 51 is repealed.

As one can read the intention of the legislator, the amendments to the corporate laws (the Law on the Bar, the Law on Legal Advisers, the Law on Patent Attorneys) and the Law on the Attorney General's Office of the Republic of Poland are intended to unambiguously clarify the doubts that arose under Article 15 zzs1 CoronavirusU, whether the very norm of this episodic law imposing an obligation on the court to serve court letters to professional attorneys creates at the same time an obligation for attorneys to set up a user account in the ICT system (information portal). At present, such an obligation will arise from the law, that is, corporate laws to attorneys, legal advisors, patent attorneys, the Attorney General's Office of the Republic of Poland, and for pension authorities for internal affairs and expert witnesses listed as experts under the USP.

The Act of 7 July 2023 on amendments to the Act - the Code of Civil Procedure, the Act - the Law on the System of Common Courts, the Act - the Code of Criminal Procedure, and some other acts also introduced several changes to the Act of June 6, 1997 - the Code of Criminal Procedure. These modifications concern, among other things, subject communications, the powers of the prosecutor in the event of a subsidiary indictment and in the case of crimes prosecuted by private prosecution, but also the issue of service in criminal proceedings. The amendments on the subject of service concern Article 133 § 2a of the Code of Criminal Procedure, which extends the possibility of receiving letters left at post offices based on a postal power of attorney, as well as on the addition of Article 133a of the Code of Criminal Procedure, which introduces the institution of service through the information portal referred to in Article 53e § 1 of PrUSP into the criminal process. It should be considered that Article 133a of the Code of Criminal Procedure represents a new solution in criminal procedure and aims to computerize criminal proceedings.[10] Thus, Article 133a of the Code of Criminal Procedure provides for the possibility of serving pleadings or other letters by means of an information portal to the prosecutor, defence counsel and attorney who is a lawyer or legal counsel, as well as the General Prosecutor's Office of the Republic of Poland. Thus, the law provides for the extension of the subject scope of the information portal also to criminal cases, which will undoubtedly contribute to the improvement of criminal proceedings by speeding up service in the jurisdictional phase of these proceedings. In civil procedure, the possibility of serving letters via the information portal was introduced, as indicated above, in the Covid Law, (Article 15 zzs9(2) of the Law of March 2, 2020 on Special Solutions for Preventing, Countering and Combating COVID-19, Other Infectious Diseases and Crisis Situations Caused by Them, which came into force on 3 July 2021), but this provision did not refer to criminal proceedings. Thus, it was not until the new Article 133a of the Code of Criminal Procedure that the possibility of electronic service through an information portal was also provided for in criminal proceedings.

Finally, of significant importance is the amendment to the Law of 2 March 2020 on Special Arrangements for Preventing, Countering and Combating COVID-19, Other Prohibited Diseases and Emergencies Caused by Them, which provides that Article 15zzs1 and Article 15zzs9 are repealed. The repeal of Article 15zzs9 is a consequence of the change in the Code of Civil Procedure conducted in Article 1 of the amending law. Article 15zzs1 on remote hearings and Article 15zzs9 on electronic service to professional attorneys

[10] The Code of Criminal Procedure (CCP) allowed only the possibility of serving letters via fax or e-mail- Article 132 § 3 of the CCP.

through an information portal (Article 28) applied to cases heard under the Code of Civil Procedure (Drug No. 3216, pp. 74 - 76).

It is also necessary to discuss the intertemporal rules. Thus, it follows from Article 35 of the amending law ZmKPC 23 of 7 July 2023 that procedural actions performed before the date of entry into force of this law are effective if they were performed in compliance with the requirements set forth in the law amended by Article 3 as amended to date. On the other hand, actions performed before the effective date of this Law in accordance with Article 15zzs9 of the Law amended in Article 11 shall be deemed to have been performed in accordance with Article 1311a of the Law amended in Article 1 (Article 39, paragraph 3). Thus, this refers to electronic services made by the information portal for court letters served on professional attorneys. They will have an effect equivalent to electronic service based on Article 1311 as of the CCP introduced by this amendment.

From the point of view of the scope of this article, it should be pointed out that the provision of Article 28 ZmKPC23 of 7 July 2023, which provides for amendments to the CoronavirusU, repealed the provision of Article 15zzs(1) on remote hearings, but according to Article 40(4), this provision shall cease to be effective with respect to paragraphs 1(1) and (2), and paragraphs 2 and 3 after 6 months from the date of promulgation, i.e. March 15, 2024. In contrast, according to Article 28(3), which deals with the repeal of Article 15zzs(9) of the CoronavirusU (electronic delivery), this provision also becomes effective 6 months after the date of promulgation of the law, i.e., as of 15 March 2024.

2. *Electronic delivery to a delivery address*

The Law on Electronic Delivery stipulates that eventually all correspondence from public entities will be sent electronically - using a public registered electronic-delivery service or a public hybrid service provided by a designated operator (for the terms "public hybrid service"[11] and "designated operator",[12] please refer to Article 2 of DorElektrU). The provision of the public registered electronic-delivery service and the public hybrid service in dealing with public entities has been entrusted to the designated operator. Trusted providers (public and qualified) will issue eIDAS-compliant proofs of sending and receiving - that is, providing certainty of the sender and addressee and the time of delivery. Electronic delivery is a service provided to third parties. The provider of this service is an independent entity. In particular, this independence can be ensured through the use of technical or organizational mechanisms. Hence, the provider of the electronic-delivery service will be an "impartial witness" who provides evidence of the entire delivery process. This standard stipulates the conditions for issuing evidence, ensuring its unambiguity, security and interoperability. The services included in the national e-delivery system are to ensure the issuance and storage of evidence in accordance with the standard specified in DorElektrU. The primary result of the electronic-delivery service, in addition to the mere transfer of data between the sender and the addressee, is to secure and make available the relevant evidence, in particular proof of sending and receipt. Proofs of sending, making the document available for receipt, and receipt are made available to the sender and the addressee. The registered electronic-delivery service ensures the identification of both the sender and the addressee. This identification can be carried out each time on the basis of one's own or external means of electronic identification. The registered electronic-delivery service can also provide the sender or addressee with authentication means after one-time identification. In this case, only authentication is sufficient and no identification is required each time. With regard to senders and addressees who are legal entities, authentication for the purpose of sending or receiving a shipment can be implemented on the basis of a legal entity's electronic identification, an electronic seal mechanism or a website authentication certificate. To secure both sent and received data, an advanced electronic signature or advanced electronic seal is used to exclude the possibility of undetectable data change. The integrity of all evidence, including the shipment itself, is further secured by a qualified electronic time stamp.[13]

[11] See Article 2(7) of the DorElektrU.
[12] Comments on article 2 point 4 of DorElektrU.

[13] K. Chałubińska-Jentkiewicz, *com. to art. 1*, in *Electronic Delivery Law. Commentary*, 1st edition, Chalubinska-Jentkiewicz (ed.), Warsaw, Legalis.

The provision of Article 131(2) of the Code of Civil Procedure also provides an alternative to Article 131(1) for electronic service. Thus, according to the former provision, in a situation where the technical and organizational conditions of the court make this possible, service shall be made to the electronic service address referred to in Article 2(1) of the Law of 18November 2020. on electronic delivery,[14] entered in the database of electronic addresses referred to in Article 25 of that Act, or, in the absence of such an address, to the electronic delivery address associated with the qualified registered electronic delivery service from which the addressee filed the letter (para. 1 of Article 131(2) of the Code of Civil Procedure). The provision of Article 2(1) of the Law on Electronic Service clarifies that the electronic service address is understood to be the electronic address referred to in Article 2(1) of the Law on Provision of Electronic Services of July 18, 2002 (Journal of Laws of 2020, item 344) of the entity using the public service of registered electronic service or the public hybrid service or the qualified service of registered electronic service, which allows unambiguous identification of the sender or addressee of the data sent under these services. Service may be made on a party who is a natural person only if he or she has filed a letter from an address for electronic service or has indicated this address as an address for service. This does not apply to service on entrepreneurs entered in the Central Register and Information on Economic Activity (§ 2 of Article 131(2) of the Code of Civil Procedure). The legislator also provided as electronic delivery in the Law of 18 November 2020 on electronic delivery (i.e., Journal of Laws of 2023, item 285, as amended), which imposes an obligation on public entities, i.e., also common courts, to deliver correspondence using the public service of registered electronic delivery when dealing with non-public entities that have electronic-delivery addresses entered in the electronic-address database, according to one of the indicated methods:

1) to the electronic-delivery address entered in the electronic-address database;

2) if the electronic-delivery address of a non-public entity is not entered in the database of electronic addresses - to the electronic-delivery address from which the correspondence was sent;

3) if it is not possible to determine the address for electronic delivery in the manner specified in items 1 and 2 - using a public hybrid service.

A public hybrid service is a postal service as referred to in 2 paragraph 1 of PrPoczt,[15] i.e., implemented by sending letter mail, the sender of which is a public entity sending the transmitted content by means of electronic communication, and the recipient of the physical form of the letter mail is a non-public entity, where there is no technical and organizational possibility of electronic delivery by standard letter mail. In the justification to the draft of the aforementioned law, it was emphasized that the introduced possibility of using standardized services of registered electronic delivery will only constitute, in the case of the indicated proceedings, a supplement in the form of integrating the currently used court systems with the ICT system provided by the minister responsible for informatization, ensuring the functioning of electronic delivery (Parliamentary print No. 239 IX term of the Sejm, justification to the draft, p. 101).[16]

Thus, the provision of Article 131(2) of the Code of Civil Procedure provides for court service of judicial and procedural letters on parties to proceedings. When technical and organizational conditions are created in the civil court, service will be made to the electronic-service address entered in the electronic-address database or to the "qualified" electronic-service address through which the letter was filed. Such a solution is allowed if the electronic-service address of a party or participant in the proceedings has not been entered in the database of electronic addresses.

On the other hand, service using the public service of registered electronic delivery against an individual can be made only if the addressee has brought the letter from an electronic-delivery address entered in the

[14] Dated November 18, 2020. (Journal of Laws of 2020, item 2320). i.e., as of 7 February 2022 (Journal of Laws of 2022, item 569). i.e., as of January 13, 2023 (Journal of Laws of 2023, item 285).

[15] T. Skoczny, *com. to art. 2*, in *Postal Law. Commentary*, Warsaw, Legalis, 2018.

[16] K. Flaga-Gieruszyńska, *com. to art. 131(2) k.p.c.)* in *Kodeks postepowania cywilnego. komentarz*, ed. 24, A. Zieliński, K. Flaga-Gieruszyńska (eds.), Warsaw, Legalis, 2024.

electronic-address database or from an electronic-delivery address associated with a qualified service of registered electronic delivery, or has indicated this address as an address for service. This does not apply to delivery made to natural persons who are entrepreneurs, registered in the Central Register and Information on Economic Activity. The provision of Article 8 of the Law on Electronic Delivery implies the obligation of a public entity entered to have an address for electronic delivery. This address for delivery should be entered in the electronic-address database, which is linked to the public service of registered electronic delivery (Article 8 of the Electronic Delivery Law). On the other hand, Article 9 of the same law also implies the obligation to have a delivery address entered in the electronic-address database, which is linked to the public service of registered electronic delivery, or a qualified electronic-delivery service is also: a lawyer practicing a profession, a legal advisor practicing a profession, a tax advisor practicing a profession, a patent agent practicing a profession, a notary practicing a profession, and a non-public entity entered in the register of entrepreneurs referred to in Art. 1(2)(1) of the Act of 20 August 1997 on the National Court Register (Journal of Laws 2022, item 1683 and 2436). The above-mentioned entities were required to have a delivery address until 30 December 2023.

On the other hand, a non-public entity registered in the Central Register and Information on Business Activity, as referred to in Article 2 of the Law of March 6, 2018 on the Central Register and Information on Business Activity and the Entrepreneur Information Point (Journal of Laws 2022, item 541), will be obliged to have an address for service under Article 8 of the Law on Electronic Service from 10 October 2026.

It should be pointed out that the obligation to have a delivery address does not apply to the persons referred to in paragraph 1(1)-(7) of Article 9 in cases of non-practicing, suspension of the right to practice a profession, suspension from the profession, suspension from employment, or suspension of rights under a license. In turn, Article 10 of the Law on Electronic Delivery provides the authority to have an electronic address for a non-public entity other than that specified in Article 9, paragraph 1.

3. *Summary*

As it can be seen, electronic service of court letters according to the Code of Civil Procedure, despite the Law on Electronic Service, and according to the Code of Civil Procedure, will take place until 2029, i.e. until the entry into force of the provisions on electronic service in relation to common courts based on the provision of Article 131(1a) of the Code of Civil Procedure and Article 133a of the Code of Criminal Procedure, i.e. through an ICT system - the portal of common courts. In this regard, professional attorneys, i.e., attorneys, legal advisors, patent attorneys, and the General Prosecutor's Office of the Republic of Poland, will be required to set up a user account in the ICT system called the information portal, and to receive court letters, possibly pleadings, when the court is in possession of a digital copy of such a letter. The information portal has previously been used to obtain information about court cases, and under the Covid Law also for the electronic service of court letters. An amendment to the Civil Procedure Code and other laws on 7 July 2023 transferred solutions from the Covid Law to the Civil Procedure Code and the Criminal Procedure Code. and amended corporate laws by requiring attorneys, to set up a user account in this ICT system in order to be authorized to peel off court letters (possibly pleadings). The amendments to the Civil Code and the Criminal Procedure Code. enters into force on 15 March 2024, i.e. after 6 months from the date of promulgation of the Law of 7 July 2023 in the Official Gazette. This change is superimposed on the obligation under the Law on Electronic Delivery to establish an address for service in accordance with Article 8 of the Law. Although this Law imposes an obligation on professional attorneys to establish an address for service by 30 December 2023, in view of the wording of Article 155, paragraph 7 of the Law on Electronic Service, its provisions will only be applied to service made in common courts from 1 October 2029. This means that the establishment of an address for service, according to the rules set forth in the Law on Service, will not result in obtaining correspondence from common courts (in civil and criminal cases) at this address. As of 15 March 2024, the provisions of Article 131(1a) of the Code of Civil Procedure and Article 133a of the Code of Criminal Procedure will

apply to service according to the Code of Civil Procedure and the Code of Criminal Procedure, respectively. On the other hand, according to Article 28(3), ZmKPC2023 of 7 July 2023, which relates to the repeal of Article 15zzs(9) of the CoronavirusU (electronic service), this provision will also enter into force after 6 months from the date of promulgation of the law, i.e. on 15 March 2024, which means that until 14 March 2024, the provision of Article 15zzs(9) of the CoronavirusU will continue to apply for electronic service, but made exclusively under the provisions of the Code of Civil Procedure.