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Informatization of Civil Proceedings in Poland. Conclusions *de lege lata*

Jacek GOŁACZYŃSKI
University of Wrocław (Poland)
Head of the Center for Research on Legal and Economic Problems of Electronic Communication, Faculty of Law, Administration and Economics
e-mail: jacek.golaczynski@uwr.edu.pl

Abstract. The informatization of civil proceedings is regulated in Poland by the use of several instruments pertaining to various aspects of civil procedure. The author presents the most relevant instruments and their major provisions in the context of what may be called 'normal' circumstances and also as they were amended to suit the needs of the judiciary during the COVID-19 pandemic. Submission of pleadings via the dedicated ICT (information and communication technology) system of the courts is presented, as is the electronic delivery service meant to facilitate the service of procedure and the communication of procedural documents in Poland (especially in the future). The rules applicable to open hearings and recording of hearings, as well as their transmission, are presented. The relatively novel rules on the taking of electronic evidence and on rendering an 'e-judgment' are also referred to.

Keywords: informatization, civil procedure, electronic service of procedure, electronic court submission system, access to courts via video and audio link, e-judgement, Poland

1. Introduction

The informatization of civil proceedings is a process that has been going on for 20 years, and, currently, the regulations governing it are dispersed in several acts. First of all, the regulations on informatization are included in the Code of Civil Procedure (CCP) but also in the Law on the system of common courts, in the Act on the electronic delivery service [Art. 131(2) of the CCP], in the Act on land and mortgage registers and on mortgage, in the Act on the registered pledge and register of pledges, in the Act on the National Court Register, and in the Code of Commercial Companies. However, it should be noted that the provisions regulating the main registration proceedings can be found in the Code of Civil Procedure.

The provisions of civil procedure regarding the informatization of this procedure have now been shaped by the amendment to the Code of Civil Procedure of 10 July 2015. This amendment entered into force on 8 September 2016. Due to their detailed and very extensive regulation, this study does not cover enforcement and bankruptcy proceedings, not even in terms of their informatization.

2. Submission of Pleadings via the ICT System

The above amendment introduced the model of submitting pleadings. These pleadings can only be filed 'via the ICT system',[1] and therefore, unlike in administrative proceedings, via electronic means of communication or via electronic data carriers.[2] This method of submitting pleadings in civil proceedings applies to general examination proceedings (Art. 125 of the CCP), separate proceedings (electronic proceedings by writ of payment), registration proceedings (in land and mortgage register proceedings, registration proceedings for entry in the National Court Register), and security and enforcement proceedings alike.

The provision introducing the principle discussed above is Art. 125, section 2(1a) of the CCP, which provides that a party may choose to submit pleadings via the ICT system, which is admissible if, for technical reasons attributable to the court, it is possible. Submitting pleadings via the ICT system may therefore take place (1) when a special provision stipulates that the submission of pleadings can be done only through the ICT system or (2) when a party has made a choice to submit pleadings via this system. However, it should be noted that such a special provision stipulating that pleadings are filed only through the ICT system is Art. 505(11), section 1 of the CCP[3] and electronic land and mortgage register proceedings, in which a notary public, a court bailiff, and the head of the tax office submit applications for entry in the land and mortgage register only via the ICT system. From 1 March 2021, in the registration proceedings pending before the registration court in the case on entry in the National Court Register, where the actions in the registration proceedings are conducted via the ICT system supporting the court proceedings, the party submits the application via this system, excluding the means of appeal considered by the Supreme Court. What is significant, however, is that the provision of Art. 125, section 2(4) of the CCP does not apply to registration proceedings, i.e. it is not possible to resign from the electronic means in keeping contact with the court. The same exemptions can be

1 ICT is taken to mean 'information and communication technologies' in this context.

2 Gołaczyński–Szostek 2020. In the period of the COVID-19 epidemic, the courts allowed various possibilities of submitting pleadings in Poland.

3 The plaintiff brings a claim in these proceedings only via the ICT system, as well as the defendant if he or she chooses this way of communication with the court.

found in the provisions regulating electronic proceedings by writ of payment and land and mortgage register proceedings.

Based on Art. 125, section 1(1a) of the CCP, a party may choose to submit pleadings electronically when the technical conditions on the part of the court allow it. It may happen that courts will be gradually provided with an ICT system supporting court proceedings.

In a situation where a party initiates electronic contact with the court (when the party has the option to choose), the rule that the party, but also the party's representative, may resign from submitting pleadings via the ICT system will apply [Art. 125, section 2(4) of the CCP]. The pleading is provided with a qualified electronic signature, a trusted or personal signature (Art. 126, section 5 of the CCP). In accordance with the delegation of legislative powers under Art. 126, section 6 of the CCP, the Minister of Justice issued the Regulation of 2016 on the procedure for setting up and sharing an account in the ICT system that supports court proceedings.[4] The provision of Art. 128, section 2 of the CCP is also worth mentioning, which provides for the manner of appending attachments to the pleading submitted via the ICT system. The attachments are submitted via the ICT system with the proviso that the certification of compliance with the original takes place by submitting the documents to the ICT system. The electronic certification by a professional representative is an official document (Art. 129, section 3 of the CCP).

Another provision that is important from the point of view of electronic submission of pleadings is Art. 125, section 2^3 of the CCP, which regulates the consequence of the inability to submit a pleading for technical reasons. According to this provision, when for technical reasons attributable to the court it is not possible to submit the pleading via the ICT system within the required time limit, the provisions of Art. 168–172 of the CCP apply. Therefore, the regulations concerning the reinstatement of the time limit apply directly. However, the above legal solution assumes that the reason for the failure lies with the court, not the party.[5]

In the case of submitting pleadings via the ICT system, there are certain distinctions relating to the payment of court fees. Thus, when a special provision stipulates that the pleading must be filed only through the system, the pleading must be filed together with the fee. Therefore, this only applies to situations where a special provision requires the submission of pleadings electronically, i.e. in electronic proceedings by writ of payment, electronic land and mortgage register proceedings. In such a case, which essentially applies to electronic proceedings by writ of payment, in a situation when several pleadings subject to payment are

4 From 1 July 2021, the delegation to issue this regulation has been moved to Art. 53d of LSCC.

5 See also Goździaszek 2021. 140; Gołaczyński 2016; Gołaczyński–Szostek (eds.). 2016. 143 et seq.; Jakubecki (ed.). 2017. 280.

filed simultaneously, none of these pleadings will have a legal effect if the fee has not been paid for all the pleadings. If the pleadings are submitted in breach of this obligation, the presiding judge informs the person submitting the pleadings that they have not produced any effect. Of course, this does not apply to parties exempt from court costs. If the choice to submit the pleadings via the ICT system has been made, the fee is payable according to general principles.

The obligation to prove one's authorization with a document at the first procedural step does not apply when it is possible for the court to ascertain the authorization on the basis of a list or other register to which the court has access by electronic means, and also when the procedural action is performed via the ICT system and a special provision states that a pleading may only be filed through this system. In this case, the legal representative, the authorities, and persons mentioned in Art. 67 of the CCP are required to indicate the basis of their authorization. Therefore, in the case of electronic proceedings by writ of payment, it is sufficient for the party's representative to refer to his or her authorization and the legal representative to the power of attorney. In these proceedings, there is no obligation to attach to the pleading a document confirming authorization to act on behalf of a party, or a power of attorney (submission of pleadings takes place only through the ICT system (by the plaintiff), and when the defendant chooses to submit pleadings in this way). The provision of Art. 125, section 2(4) of the CCP (lack of possibility of resigning from submitting pleadings in this way) does not apply. Moreover, Art. 126 section 3 of the CCP does not apply to the electronic proceedings by writ of payment, i.e. there is no obligation to attach a power of attorney or evidence to the statement of claim or other pleadings, e.g. objection to the payment order.[6]

On the other hand, in electronic land and mortgage register proceedings, a notary public, a court bailiff and the head of the tax office may submit an application for entry only via the ICT system.[7] However, this application is provided with

6 Art. 128 of the CCP does not apply.

7 The application for entry in the land and mortgage register on the basis of the enforceable order referred to in Art. 783, section 4 of the CCP (electronic enforceable order) must be accompanied by a document obtained from the ICT system enabling the court to verify the existence and content of the enforceable order. A notary public and a court bailiff submit an application for entry only via the ICT system. The head of the tax office submits an application for entry in sections III and IV of the land and mortgage register only via the ICT system. Such an application is provided with a qualified electronic signature. The application must be accompanied by the documents constituting the basis for the entry in the land and mortgage register if they have been prepared in an electronic form. Documents constituting the basis for entry in the land and mortgage register, not prepared in an electronic form, are sent by the notary public, bailiff, and the head of the tax office to the court competent to keep the land and mortgage register within three days from the date of submitting the application for entry. If an application for entry in the land and mortgage register submitted by the head of the tax office is subject to a fee, the provisions of Art. 130, sections 6 and 7 of the CCP do not apply. The head of the tax office sends the proof of payment to the court competent to keep the land and mortgage register along with

only a qualified electronic signature.[8] In these proceedings, the provisions of art-s 128 and 129 of the CCP do not apply because the documents that are the basis for the entry are not attached to the application electronically but sent in a written form within three days from the date of submitting the application. When the application is submitted by a notary public or bailiff, the obligation to correct or supplement the application rests with the parties to notarial acts or the creditor. The notary public is the legal representative of the party that performs the notarial act but only submits an application for entry on the basis of a notarial deed, which he or she draws up, and then submits the documents constituting the basis for the entry to the court.[9]

Since the submission of pleadings via the ICT system will result in the gradual creation of electronic files, it should be pointed out that the case files may be created and processed with the use of IT technologies. Pursuant to the provisions of Art. 53 § 1a–1c of LSCC, which entered into force on 1 December 2020, the ICT system supporting court proceedings, in which the files of the case are created and processed, is maintained by the Minister of Justice, who is also the administrator of this system. However, the Minister of Justice, even as the administrator of the ICT system that supports court proceedings, does not have access to the files of the proceedings. A court document obtained from this ICT system has the power of a document issued by the court, provided that it has features that enable its verification in this system (Art. 53a § 1 of LSCC, see: Regulation of the Minister of Justice on the method and features enabling verification of the existence and content of a pleading in the ICT system supporting court proceedings).[10]

3. Electronic Delivery Service

Pursuant to Art. 131(1), section 1 of the CCP, the court performs electronic service if the addressee has submitted the pleading via the ICT system or if the addressee has chosen to submit the pleadings via this system. The addressee who has

the documents constituting the basis for the entry. If the creditor has been exempted from court fees for the application for entry in the land and mortgage register, the head of the tax office sends a final court decision regarding the exemption from court fees to the court competent to keep the land and mortgage register together with the documents constituting the basis for the entry. In the case of applications submitted by notaries and bailiffs, the obligation to correct or supplement the application rests with the parties to notarial acts or the creditor, respectively. The court also notifies the bailiff about the creditor's obligation to correct or supplement the application through the ICT system, indicating the type of formal defects that prevent the application from being properly processed. The hour, minute, and second of submitting the application into the ICT system are considered to be the moment when the application for entry submitted via the system is received.

8 There is no possibility to use a trusted or personal signature.

9 Gołaczyński 2020. 35 et seq.

10 *Journal of Laws* of 2016, item 1422.

chosen to submit pleadings via the system may resign from delivery service via this system [Art. 131(1), section 2(1) of the CCP]. This rule will not be applied when a special provision stipulates that the pleading may be submitted only through the ICT system (in electronic proceedings by writ of payment, electronic land and mortgage register proceedings and registration proceedings for entry in the register of entrepreneurs of the National Court Register). It should be noted that in each case of electronic delivery service, i.e. both when a special provision requires filing pleadings electronically and when a party has chosen to submit pleadings electronically, the provision of Art. 134 of CCP does not apply. It is assumed that this limitation applies only to delivery service done by post due to the protection of domestic peace.

The delivery service takes place at the moment indicated in the electronic confirmation of receipt or after 14 days from the date of submitting the pleading in the ICT system. Pursuant to the provisions of the Regulation of the Minister of Justice issued according to Art. 131(1), section 3 of the CCP, the delivery service takes place by logging in to the ICT system unless, for reasons attributable to this system, access to the content of the pleading is not available. However, pleadings and decisions are served in the form of copies (Art. 140, section 1 of the CCP), but in this case a copy of the pleading may be obtained from the ICT system provided that it has features that enable verification of the existence and content of the pleading or judgment in this system.

It should also be indicated that on 1 October 2022 the provision of Art. 131(2), sections 1–2 of the CCP will come into force, which stipulates that, if the technical and organizational conditions of the court make it possible, the delivery service will be made to the address for electronic delivery referred to in Art. 2, point 1 of the Act of 18 November 2020 on the electronic delivery service,[11] entered into the database of electronic addresses referred to in Art. 25 of AEDS, and, in the absence of such an address, to the address for electronic delivery service connected with the qualified electronic registered delivery service, from which the addressee submitted the pleading. For the purposes of judicial civil proceedings, the effects of the Act on the electronic delivery service will be significantly deferred compared to non-judicial procedures (by eight years), as, pursuant to Art. 155, paragraph 7 of AEDS, courts will be obliged to apply the provisions of the Act on the delivery service of correspondence using the public service of electronic registered delivery service or public hybrid service only from 1 October 2029.

As a result of the provisions of AEDS, all main procedures (administrative and court: civil, criminal, court-administrative) will start to perceive electronic delivery service as the basic tool for the circulation of correspondence. This means that, from the point of view of the parties to these proceedings and their

11 Act of 18 November 2020 on electronic delivery service (*Journal of Laws* of 2020, item 2320); hereinafter referred to as AEDS.

representatives, the era of registered paper mail will in principle end. The current method of creating pleadings (including their printing) and sending them (with the use of the services of the postal operator) will change in favour of the introduction of the e-Delivery application, allowing for sending and receiving electronic correspondence, which is an equivalent of a registered mail or mail with return confirmation of receipt.[12]

This brief discussion shows that some parties to civil proceedings (entrepreneurs) and their professional representatives will obligatorily receive court correspondence to their electronic delivery service address entered in the database of electronic addresses and connected with the public service of electronic registered delivery service or the qualified electronic registered delivery service. The question that should be asked is how the regulations of AEDS will look like between the court and entities that are not obliged to have a special address for electronic delivery service, which, in principle, means natural persons who do not conduct business activities (after all, they constitute a large number of the parties and participants in civil proceedings in Poland).[13]

12 Gołaczyński (ed.) 2021. 79 et seq.

13 Gołaczyński (ed.) 2021. 79 et seq. In the cited book, M. Dymitruk indicates that: 'according to the legal definition contained in Art. 2, point 1 of AEDS, the address for electronic delivery service is the electronic address referred to in Art. 2, point 1 of the Act of 18 July 2002 on providing services by electronic means, of an entity using the public service of electronic registered delivery service or public hybrid service, or qualified electronic registered delivery service, which enables an unambiguous identification of the sender or addressee of data sent as part of these services. It follows from the above that entities wishing to have an address for electronic delivery service will be able to use the following types of addresses: an address intended for the public service of electronic registered delivery service (hereinafter, for the sake of simplicity, referred to as "public address for electronic delivery service", or "public address" for short); an address intended for the qualified electronic registered delivery service (hereinafter, for the sake of simplicity, referred to as "electronic delivery service address from a qualified supplier", or "qualified address" for short). In order to create a public address, it is generally necessary to apply for its creation to the minister responsible for informatization. To create a qualified address, it is necessary to contact a qualified trust service provider. Public entities (including courts) will obligatorily have public addresses for delivery service and will not be able to resign from them, while non-public entities will be entitled to resign from the public service of electronic registered delivery service. However, if the resignation from the public address will concern entities that, pursuant to Art. 9, paragraph 1 of AEDS, will be obliged to have an address for electronic delivery service, this resignation will be possible only if the entity has a qualified electronic registered delivery service entered in the database of electronic addresses. Professional legal representatives will be able to choose whether they prefer to use a public address or an electronic delivery service address from a qualified supplier. There are no obstacles for these entities to have both a public address and a qualified address, although in principle for each entity only one address for electronic delivery service is entered in the database of electronic addresses. Art. 32, paragraph 2 of AEDS clarifies that in the case of a natural person who is an entrepreneur entered in the Central Registration and Information on Business, as well as an attorney, legal advisor, tax advisor, restructuring advisor, notary public, patent attorney, attorney at the General Prosecutor's Office of the Republic of Poland, and a court bailiff, the database of electronic addresses will include the address for electronic delivery service for the purpose of running a business, practising a profession or performing official duties, regardless of the address for electronic delivery service of that person

On the other hand, a different solution for the delivery service of correspondence in registration proceedings is provided for in the Act of 26 January 2018 amending the Act on the National Court Register and certain other acts,[14] which became the basis for the creation of the Portal of Court Registers.[15] And so, in the registration proceedings before the registration court in a case for entry in the National Court Register, the provision of Art. 125, section 2(4) of the CCP does not apply from 1 March 2021, i.e. it is not possible to resign from electronic communication in contact with the court.

Finally, the episodic solution adopted for delivery service in civil proceedings during the COVID-19 pandemic[16] cannot be overlooked. Therefore, Art. 15zzs[9], paragraph 2[17] states 'that in the period specified in paragraph 1, if it is not possible to use the ICT system that supports the court proceedings, the court delivers court pleadings to an attorney, legal advisor, patent attorney, or the General Prosecutor's Office of the Republic of Poland by placing their content in the ICT system used for the purpose of sharing such pleadings (information portal). This does not apply to pleadings that are subject to delivery service together with copies of the parties' pleadings or other documents not originating from the court. The date of delivery is the date on which the recipient reads the pleading placed on the information portal. If the pleading is not read, it is considered as delivered after 14 days from the date of placing the pleading on the information portal. The delivery service of a pleading via the information portal produces procedural effects specified in the Code of Civil Procedure, appropriate for the delivery service of a court pleading. The presiding judge orders the waiver of the delivery service of a pleading via the information portal if the delivery service is impossible due to the nature of the pleading.

4. Remote Open Hearing

Conducting a remote trial in open court or a remote open hearing (delocalized trial) was regulated by the provision of Art. 151 § 2 of the CCP, according to

entered in the database of electronic addresses for purposes not related to running a business, practising a profession, or performing official duties.'

14 Act of 26 January 2018 amending the Act on the National Court Register and certain other acts (*Journal of Laws* of 2018, item 398); hereinafter referred to as: the Act introducing the Portal of Court Registers.

15 https://prs.ms.gov.pl/ (accessed: 10 October 2021).

16 According to Łukowski 2020.

17 Act of 28 May 2021 amending the Code of Civil Procedure and certain other acts, taken together with the Act of 2 March 2020 on specific solutions related to the prevention, counteraction, and eradication of the COVID-19, other infectious diseases and crisis situations caused by them, in provisions of Art. 15zzs[9] made the civil delivery service with the use of the Information Portal for professional legal representatives obligatory.

which the presiding judge may order an open hearing with the use of technical devices enabling it to be conducted remotely. In such a case, the participants to the proceedings may be present in the court session when they are in the building of another court and perform procedural actions there, and the course of procedural actions is transmitted from the court room of the court conducting the proceedings to the place of stay of the participants to the proceedings and from the place of stay of the participants to the proceedings to the court room of the court conducting the proceedings. This regulation is undoubtedly an exception to the previous rule that court sessions are held in the court building. On the other hand, outside the court building, sessions are held when court actions must be performed elsewhere or when holding a session facilitates the conduct of the case or contributes to saving the costs of the proceedings. This is applied to situations when, for example, it is necessary to hear a person suffering from an illness or disability, in which case the hearing is held in the place where these persons are staying (Art. 263 of the CCP), or when it is necessary to inspect an object that cannot be delivered to the court building. The provision of Art. 151 § 2 of the CCP introduces the possibility of holding a remote open hearing via videoconference upon the presiding judge's order. This provision is an extension to Art. 235 § 2 of the CCP, which allowed for the taking of evidence at a distance and was introduced into the Code of Civil Procedure in order to adjust Polish law to the Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure.[18]

The provision of Art. 15zzs[1] of the Coronavirus Act in the wording established in Art. 4 of the Act of 28 May 2021 amending the Act – Code of Civil Procedure and certain other acts substantially changed the Act of 2 March 2020 and stipulates that during the period of an epidemic threat or epidemic due to COVID-19 and within one year from the cancellation of the last of them in cases examined under the provisions of the Code of Civil Procedure, a trial in open court or an open hearing is held with the use of technical devices enabling their conduction at a distance with the simultaneous direct transmission of image and sound, except that the persons participating in it, including members of the adjudicating panel, do not have to be in the court building. Currently, this provision stipulates that holding an open hearing by videoconference is the rule, and it should be applied, with the omission of the provision of Art. 151 § 2 of the CCP, in the period after the announcement of an epidemic threat or epidemic due to COVID-19 and one year after their announcement. This understanding of a remote trial in open court is also supported by Art. 15zzs[1], paragraph 1, point 2 of the Coronavirus Act, according to which the conduct of a remote hearing may be waived only if the examination of the case at a trial in open court or open hearing is necessary and their conduct in the court building does not pose a threat to the health of the

18 *Official Journal of the European Union* L 199/1.

persons participating in them; the waiver, however, requires the consent of the president of the court. A remote trial in open court or a remote open hearing is currently a rule that may be departed from only exceptionally, and additionally with the consent of the president of the court. This solution is also supported by the right of the presiding judge, who may refer the case to a closed hearing in order to examine the case, if a remote hearing cannot be held (e.g. for technical reasons) and a trial in open court or an open hearing is not necessary. In the event that a party is technically not able to participate in the hearing, Art. 15zzs[1], paragraph 2 of the Coronavirus Act imposes an obligation on the court to provide the party or the summoned person with the possibility to participate in a remote hearing in the court building. The party or the person summoned (e.g. a witness, an expert) proves in the application that he or she does not have technical devices enabling participation in a remote hearing outside the court building. However, the request in this matter must be submitted within 5 days from the date of the summons. Therefore, only technical reasons, and only those remaining on the part of the court, will result in referring the case to a closed hearing (Art. 15zzs[1], paragraph 1, point 3 of the Coronavirus Act). The provision of art. 15zzs[1], paragraph 1, point 1 of the Coronavirus Act also restricts the simultaneous presence at a time and place at a trial in open court or an open hearing of the adjudicating panel. In the previous version of Art. 15zzs[1], point 3, the president of the court could order that exclusively the members of the panel, with the exception of the presiding judge and the reporting judge, may participate in the hearing by electronic means of communication, except for the hearing at which the case is closed. In the case of a multi-person adjudicating panel, pursuant to an order of the president of the court issued in accordance with Art. 15zzs[1], paragraph 1, point 3 of the Coronavirus Act, only the presiding judge and the reporting judge will participate in a trial in open court or an open hearing, and the other members of the panel via electronic means of communication. The concept of 'electronic means of communication' was defined in the Act of 18 July 2002 on providing services by electronic means.[19] Therefore, there was no need for the members of the adjudicating panel to communicate via the ICT system supporting the transmission of video and sound at a distance, and only an ordinary Internet communicator tool, such as Messenger, WhatsApp, e-mail, etc., was sufficient.

19 Art. 2, point 5 of the Act on providing services by electronic means defines these means as: 'technical solutions, including ICT devices and software tools cooperating with them, enabling individual communication at a distance using data transmission between ICT systems, in particular by e-mail'.

5. Taking Evidence in the Form of an Electronic Document

Amendments to the Civil Code concerning the concept of document, its definition, and new forms of documentary instruments (paper-based and electronic) also necessitated changes to the provisions of the Code of Civil Procedure in the scope of documentary evidence.

Documentary evidence has been regulated in section 2, *Documents*, in the chapter regulating the taking of evidence. The problem was that, until now, only paper documents containing text were understood as a 'document' in a procedural sense, whereas the so-called other means of evidence were regulated in art-s 308 and 309 of the CCP. Currently, as a result of the amendment to the Code of Civil Procedure of 10 July 2015, any medium containing information is considered as a document, and it was necessary to clearly indicate that in accordance with Art. 243^1 of the CCP the provisions on the documentary evidence (section 2) will be applied to documents containing text, enabling their issuers to be identified. Therefore, those will be documents containing text regardless of the medium on which they were written or recorded – paper documents and electronic documents.

Therefore, when using the term 'electronic form of a document', the legislator does not refer to an electronic form of a legal deed under Art. 78^1 of CC. After all, a document may be in an electronic form, even if its content has not been provided with a qualified electronic signature but only with an ordinary electronic signature, or even if it does not contain any signature. In the latter case, it is a documentary form of a legal deed. The documentary form can be paper or electronic (e.g. an e-mail containing a declaration of will).[20] The Code of Civil Procedure also contains a definition of an official and private document, but it does not indicate the form in which these documents are to be prepared (written, electronic), but it only refers to special provisions regulating the preparation of official documents.

It should also be pointed out that private law already includes documents that are in an electronic form and are classed as official documents. For example, court actions are taken in electronic proceedings by writ of payment, in which the court issues an order for payment in an electronic form. The same applies to the decision granting an enforcement clause to such an enforcement order (Art. 783 of the CCP).[21] If the proceedings were initiated via an ICT system, the court will be able to issue a judgment in an electronic form (Art. 324 § 2 of

20 Kaczmarek 2008. 248–252; see also Marszałkowska-Krześ–Rudkowska-Ząbczyk 2010. 356; Szostek–Świerczyński 2007; Szostek–Świerczyński 2009.

21 Jakubecki (ed.) 2010. 1011.

the CCP).[22] Another situation is the use of electronic copies, extracts, certificates from court registers that operate in an electronic form. From the provision of Art. 4, paragraph 3 of the Act on the National Court Register,[23] it follows that the central information service issues copies, extracts, certificates and provides information from the register, which have the force of official documents if they have been prepared in a paper or electronic form. Printouts made from electronic documents have the power of official documents if they have features that enable their verification with the data contained in the register. Like in the economic register (NCR), a similar solution was introduced in the Act on land and mortgage registers and mortgage.[24] Until 1 December 2013, access to the land and mortgage register via the Internet was given pursuant to the Regulation of the Minister of Justice on establishing and keeping the land and mortgage registers in an IT system,[25] and pursuant to § 3 paragraph 1 of this Regulation, viewing the land and mortgage register consisted in displaying the required land and mortgage register on the screen of a monitor. Therefore, the provision of § 3 paragraph 2 of this Regulation made it possible to entrust the tasks related to the viewing of land and mortgage registers to the Central Information on Land and Mortgage Registers.[26] By the Act of 24 May 2013 amending the Act on land and mortgage registers and mortgage,[27] changes were made, among others, in Art. 36^4 of ALMRM, according to which the information from the central database of land and mortgage registers is provided by the Central Information on Land and Mortgage Registers, with branches at divisions of district courts keeping land and mortgage registers. Then it was clarified in this provision that the Central Information issues, upon request, copies of land and mortgage registers, extracts from land and mortgage registers, and certificates of closure of land and mortgage registers kept in the IT system. The copies, extracts, and certificates referred to in Art. 36^4, paragraph 2 of ALMRM, issued by the Central Information, have the power of documents issued by a court. Finally, it is possible to submit the above-mentioned requests via the ICT system. In such a case, the Central Information makes it possible to print these documents on your own via the ICT system. Printouts of these documents have the power of documents issued by a court if they have features that enable their verification with the data contained in the central database of land and mortgage registers.[28]

22 Gołaczyński 2020. 215; Cieślak 2016. 13 et seq.
23 Act of 20 August 1997 on the National Court Register (*Journal of Laws* of 2016, item 687).
24 Act on land and mortgage registers and mortgage (*Journal of Laws* of 2016, item 790).
25 Regulation of the Minister of Justice of 20 August 2003 on establishing and keeping the land and mortgage registers in an ICT system (*Journal of Laws* of 2013, item 695).
26 Leśniak. 21 et seq.
27 Act of 24 May 2013 amending the Act on land and mortgage registers and mortgage (*Journal of Laws* of 2013, item 941).
28 Gołaczyński–Klich 2016.

The distinction between private and official documents is important in terms of evidentiary value, as stated in art-s 244 and 245 of the CCP.[29] It should only be indicated that Art. 245 has been changed and supplemented with an electronic form. This means that a private document made in a written or electronic form is evidence that the person who signed it made the declaration contained in the document. There is no such presumption for private documents drafted in a documentary form. The reason for such a regulation is the lack of a signature in the document stating that the declaration of will has been submitted, regardless of the form of the signature (handwritten, electronic, or electronic as equivalent to a handwritten one).[30] The presumption of origin of the declaration of will contained in a private document from the person who signed it means that the declaration was made by the issuer of this document. However, it cannot be inferred from such a declaration that it is true.[31] Sometimes this presumption is equated with the presumption of truthfulness and authenticity of the document.[32] It is also assumed that the presumption of truthfulness of a document and its origin differ from each other. In particular, there may be a situation where a person has signed a document without content, and the person who filled the document with content other than the original agreement may not rely on the presumption of the origin of the declaration from the person who signed the document.[33]

When returning to the issue of depriving a private document prepared in a documentary form of such a presumption, it should be stated that the party relying on such a document will not be protected by the presumption, i.e. when the opposing party denies the origin of such a document.[34] In a situation where the declaration of will has been submitted by electronic recording on a carrier, such as an e-mail, the person who refers to such a declaration must prove that it was sent from the mailbox of a specific person and that this action was performed at the time when this person had access to the Internet. It may be helpful to present the IP number of the computer from which the message was sent. In a situation where the declaration was recorded in a different way, e.g. by videophone, the recording should be played. However, in such a case, it is

29 The presumption of conformity with the actual state of an official document only applies to narrative documents, according to Knoppek 1993. 70.

30 In a situation where it is possible to establish the author of the declaration of will prepared in a documentary form, there will be no presumption under Art. 245 of the CCP. In the absence of a handwritten or electronic signature under Art. 78^1 of CC, or if the author of the declaration of will cannot be identified, we are dealing with an anonym, which cannot be used as evidence. As for the latter, see more: Knoppek 1993. 115; Judgment of the Supreme Court of 9 December 1980, II URN 171/80, SP 1981, issue 7, item 126; Siedlecki 1981. item 126. However, there is also the view that an anonym is a document but cannot be used as evidence in a civil lawsuit, according to Ereciński 1985. 76.

31 Decision of the Supreme Court of 15 April 1982, III CRN 65/82, Lex No. 8414.

32 Berutowicz 1972. 146; Siedlecki 1987. 263; Rudkowska-Ząbczyk 2010. 142.

33 Kaczmarek-Templin 2013. 135–136.

34 Gołaczyński–Szostek (eds.) 2016. 196.

rather not the origin of the document that may be questioned but its truthfulness. Nevertheless, the evidentiary value of a private document is not determined only by the presumption of origin or the presumption of truthfulness. In particular, the presumption of origin of a private document is not a weaker presumption than the presumption of truthfulness.[35] The evidentiary value of a private document is determined by the court on the basis of its discretionary evaluation of evidence. In the case of private documents prepared in a documentary form, i.e. without a handwritten signature or an electronic signature equivalent to a handwritten signature (Art. 25, paragraph 2 of the eIDAS Regulation), in order to establish its truthfulness or authenticity, the rules of Art. 308 of the CCP apply. Alternatively, it should be indicated that the message was sent from a computer identified by a specific IP number, which was under the control of this person at the time of sending the content of the message.

The 2015 amendment to the civil procedural law provides for the taking of evidence from a document other than the one referred to in Art. 243^1 of the CCP, i.e. from a document that does not contain text. This situation is regulated by Art. 308 of the CCP, which states that 'evidence from documents other than those mentioned in Art. 243^1 of the CCP, in particular those containing video, audio, or video and audio recordings, are taken by the court on the basis of provisions on inspection evidence and documentary evidence accordingly'.[36] Therefore, this provision applies to documents (within the meaning of Art. 77^3 of CC) which do not contain text.[37] Declarations of will and knowledge are currently also prepared in a different way, namely with the use of modern technical means, i.e. most often an audio or audio-visual recording. In the case of such documents, the provisions on inspection evidence and documentary evidence should be applied accordingly.[38] When it comes to inspections, this means of evidence applies to material objects, but also to specific situations or places.[39] Usually, it is enough to perform an inspection to take material evidence, but often the inspection requires special knowledge, which involves the participation of an expert.[40]

The subject of inspection of a document may be its external form and not its intellectual content. In this context, it is irrelevant whether the document includes paper or electronic content, and if it is electronic, whether it is audio,

35 Judgment of the Supreme Court of 25 September 1985, IV PR 200/85, OSNCP 1986, No. 5, item 84.

36 Gołaczyński–Szostek (eds.) 2016. 200. A. Klich notes that after the amendment of 10 July 2015, the participation of an expert in taking evidence from a document will not be obligatory in the scope of verifying the truthfulness of the document. However, the level of participation of an expert in taking evidence in the scope of confirming the truthfulness of the document will be greater because special knowledge will be required to assess issues related to the recording of messages on electronic data carriers.

37 Gołaczyński–Szostek (eds.) 2016. 201.

38 Kaczmarek-Templin 2012. 169 et seq.

39 Siedlecki 2004. 246.

40 Jodłowski–Resich–Lapierre–Misiuk-Jodłowska–Weitz 2009. 441–442.

audio-video, photo, or other multimedia content. Therefore, in order to take evidence by inspection, it is necessary to perceive the document directly, most often with the senses of sight and hearing. Therefore, the possibility of taking evidence from the inspection of the intellectual content of the electronic document is rejected. The subject of the inspection may only be the data carrier on which the intellectual content has been recorded.[41] However, it should be assumed that since the provision of Art. 308 of the CCP currently provides for an inspection for the taking of evidence from the document other than the one referred to in Art. 243[1] of the CCP, it is possible to determine the content of this document. For this purpose, in the case of an electronic document, a sufficient way to perform the inspection is to submit a printed copy instead of the original – unless the opposing party objects to this and contests the authenticity or truthfulness of such a copy. This may apply to the documents referred to in Art. 129 of the CCP. The presentation of an electronic document may also consist in displaying its content on a computer monitor or by printing its content.[42] In a situation where an electronic document has an electronic signature verified by means of a valid qualified certificate, it is necessary for the holder of such a document to cooperate and make it available to the court via a private key.

In order to take evidence from a document, the possibility of obliging the holder to present it to the court was introduced. If an electronic document exists on the Internet, in electronic mail, then, in order to take evidence by inspection, its content should be recorded on an electronic carrier and included in the files, or the data contained in the IT system should be made available to the court.[43]

In the case of a document containing text, but without a handwritten or electronic signature, or electronic signature equivalent to a handwritten signature, pursuant to Art. 243[1] of the CCP, the provisions of section 2, *Documents*, should be applied. If such a document is a message sent by e-mail or by means of a mobile phone, an Internet communicator tool, communication channels on social networks, then this document will not, as already indicated above, benefit from the presumption of Art. 245 of the CCP. Therefore, in a situation where the opposing party contradicts such a document, the party that refers to this document is obliged to prove its origin from the issuer (author) and its truthfulness (authenticity). In the event that such an electronic declaration sent, e.g. by e-mail, is provided with a secure electronic signature, then it benefits from the presumption resulting from art. 25 of the eIDAS Regulation. The same will happen when the declaration is also provided with an electronic time stamp. Within the meaning of Art. 3, point 33 of the eIDAS Regulation, an electronic time stamp should be understood as data in electronic form which binds other data in electronic form to a particular time,

41 Kaczmarek-Templin 2012. 171.
42 Kaczmarek-Templin 2012. 172; Stępień 2001. 1172.
43 Kaczmarek-Templin 2012. 174.

establishing evidence that the latter data existed at that time. Pursuant to this provision, affixing a declaration with an electronic time stamp results in a certified date. It is therefore known exactly when and by whom the declaration was made. In a situation where the declaration is made by a legal person, the presumption function under Art. 245 of the CCP may also be performed by an electronic seal, which, in accordance with Art. 3, point 25 of the eIDAS Regulation is data in electronic form, which is attached to or logically associated with other data in electronic form to ensure the latter's origin and integrity. Currently, the Polish legislator has not decided to use this institution in the Polish law, but a document provided with an electronic seal in a trial before a Polish court cannot be ruled out, as the document may come from another Member State of the European Union. In such a situation, the Polish court will have to apply the eIDAS Regulation directly and include this document in the evidence material of the case.

As already indicated, it follows from Art. 308 of the CCP that for documents other than those referred to in Art. 243^1 of the CCP, the evidence by inspection is applied accordingly. Proper, and not direct, application allows the use of this evidence for the needs, as mentioned above, of examining the document – also electronic documents – to the extent in which there is no need to use special knowledge. However, it may happen that the court will use expert evidence to determine the origin of the electronic document, the lack of interference in the carrier, the data contained in the document, if it has been secured against unauthorized access (e.g. with an electronic signature or other security method). However, there may be a situation where the court will have to use special knowledge for the purposes of the inspection itself. The Supreme Court, in the judgment cited earlier, stated that the mere making of factual findings in the field of technology may require knowledge and experience in a given field, and even research apparatus. When deciding to admit expert evidence, the court should order the presentation of an electronic document to the expert or allow access to it (via ICT networks) and indicate whether and to what extent the parties should participate in these activities (e.g. by providing an access password to an electronic document or biometric data).[44]

However, when the document contains audio or audio-visual content, such evidence is taken by playing an audio or a video recording.[45] Nevertheless, it can be assumed that a video or audio recording that does not contain a declaration of will and knowledge but is a work within the meaning of copyright law, may still be considered an 'other means of evidence', as referred to in Art. 309 of the CCP.[46] This is because an audio or audio-visual recording containing information

44 Judgment of the Supreme Court of 20 June 1984, II CR 197/84, OSNC 1985, issue 2–3, item 37; Kaczmarek-Templin. 2012. 176.

45 Jodłowski–Resich–Lapierre–Misiuk-Jodłowska–Weitz 2009. 382.

46 Kaczmarek-Templin 2012. 182.

and a video as a work cannot be differentiated as a document on the one hand and as other means of evidence on the other. In the case of audio recordings, digital techniques are currently used, although in order to take such evidence the provisions on the evidence by inspection will apply accordingly (Art. 308 of the CCP). It may also be necessary to use other means of evidence, such as an expert opinion, to assess whether the recording is original. For the assessment of the content of a document in the form of a recording, the provisions on documentary evidence should be applied.[47] The court should also take into account the circumstances in which the recording was made.[48]

A document, also an electronic document, may be the subject of an expert opinion – as already mentioned – also in a situation when it can be the subject of an inspection.[49] However, in each case, when the examination of a document, especially of an electronic one, requires special knowledge, it is necessary to take such evidence.[50] In a situation where the subject of the expert opinion is an electronic document, it is usually necessary for the expert to use appropriate software. This applies when, for example, it is necessary to recover lost data. This can occur as a result of software or hardware failures. In the first case, the source of damage is a disturbance of the logical location of the data, and in the second case, damage to the carrier on which the data was recorded. Taking evidence from an electronic document requires not only scientific knowledge – which is usually possessed by an expert – but also technical knowledge. And so, in order to read a message secured with a secure electronic signature verified with a valid qualified certificate, special technical knowledge will be needed.[51]

For the evaluation of the evidentiary value of an electronic document, so-called authentication is important. This concept is understood as determining whether the content of the record has changed since its creation, determining the source of the data contained in the document, as well as verifying the truthfulness related to the recording of the data.[52] Data integrity ensures their invariability in the course

47 Łętowska (ed.) 1989. 533.

48 Judgment of the Supreme Court of 10 January 1975, II CR 752/74, Legalis; Ł. Błaszczak et al. (eds.) 2021. 553.

49 Gołaczyński–Szostek (eds.) 2016. 207.

50 Special knowledge is knowledge which is not available to the average person. This concept also depends on the current level of science. Dalka 1987. 73. The catalogue of specialties (special knowledge) is constantly changing with the development of science, according to the Resolution of the Supreme Court of 30 October 1985, IIICZP 59/86, OSN 1986, issue 9, item 140; Klich 2014. 96 et seq.

51 Judgment of the Supreme Court of 20 June 1985, II CR 197/84, OSN issue 2–3, item 37. The Supreme Court stated that establishing facts in the field of technology may require expertise and experience in a given field, and even the use of apparatus. Conducting such an examination with the participation of an expert is possible if it allows the court to make certain findings on its own. Otherwise, the expert should make such determinations as a basis for drawing up the opinion. According also to Kaczmarek-Templin 2012. 192; Klich 2016a. 142 et seq.

52 Lach 2004. 165.

of transmission and is most often achieved by using an additional file with an electronic signature or with an electronic seal. In the normative environment in force from 8 September 2016, the legislator did not provide for obligatory evidentiary proceedings with the participation of an expert in the scope of verifying the truthfulness of a pleading (from 8 September 2016 – a document). According to the amended wording of Art. 254 of the CCP, the truthfulness of the document may be verified with the participation of an expert. This provision also applies to an electronic document. This regulation is also supported by other provisions added by the amended Act of 10 July 2015, which enable the court to summon the issuer of a document prepared in an electronic form to provide access to an IT data carrier on which the document was recorded (Art. 254 § 2^1 of the CCP).[53]

When an electronic document has been encrypted, i.e. when access to it is password-protected, it is possible for the document to be saved on the computer's hard drive and thus secured with a password, fingerprint, or other biometric method, then, in accordance with Art. 254 § 2^1 of the CCP, the disclosure of a document may also consist in allowing the court (court expert) to access this document. If the holder of the document refuses to give such access (e.g. does not provide the password), then the inspection from the electronic document or the opinion of a court expert will also include the decryption of the document.[54]

6. Electronic Recording of Open Hearings

The requirement to record an open hearing with the use of sound or image and sound recording devices was introduced in the Act amending the Code of Civil Procedure of 29 April 2010, which entered into force on 1 July 2010 and affected many provisions of the Code of Civil Procedure, i.e. Art. 9, 157, 158, 238, 273, and 525. It should be remembered that the minutes are prepared by recording the course of the hearing under the direction of the presiding judge with the use of sound or image and sound recording devices, which is the principle. An exception to this principle is a case when, for technical reasons, it is not possible to record the course of a hearing with the use of sound or image and sound recording devices, when the minutes are made only in writing. At the same time, along with the recording of the image and sound or image, an abridged minutes are prepared next to the recording, containing only the indication of the court, place and date of the hearing, judges, recording clerks, parties, interveners, statutory representatives and attorneys, and the designation of the case and references to

53 Gołaczyński–Szostek (eds.) 2016. 207. The author also proposes that this provision be supplemented with the obligation to electronically transmit the content of an electronic document.

54 Kaczmarek-Templin 2012. 201.

the disclosure.[55] Moreover, it includes court decisions, orders, and actions of the parties. There is also a possibility to transcribe a specific part of the recording, which could be performed with the consent of the president of the court, at the request of the presiding judge. Therefore, the original version of the provisions did not allow for transcription only at the request of the judge. As a result of the experience from the practice of using e-minutes, the Code of Civil Procedure was amended by the Act of 29 August 2014, entered into force on 27 October 2014, which introduced the possibility of drawing up actions of the parties requiring signature on a separate document (e.g. court settlement) and extended the scope of the content of the abridged minutes (the written part of the minutes) to include the parties' requests and statements and a summary of the results of the evidentiary proceedings. Finally, the provisions stipulated that the transcription could be ordered by the presiding judge and not by the president of the court at the request of the presiding judge. The amendment to the Code of Civil Procedure of 10 July 2015 introduced the possibility of registering the course of an open hearing by the parties themselves, pursuant to Art. 162(1) of the CCP, and, finally, the amendment of 4 July 2019, which entered into force on 7 November 2019, introduced some rules relating to the status of the transcription of an oral justification.

The minutes of an open hearing have especially two parts (two forms). The first part is a recording (audio-video or audio only), and the second part is in writing. The colloquial term e-minutes can refer only to the first part, but also to both parts of the minutes (then the term e-minutes simply means minutes different than the traditional ones, i.e. only in written form). In each case, the minutes are drawn up by a recording clerk under the supervision of the presiding judge.

Currently, the recording part is not always prepared. Pursuant to Art. 157 § 2 of the CCP, if for technical reasons it is not possible to record the course of the hearing with a device recording sound or image and sound, the minutes are only prepared in writing. The reason for this may be a failure or lack of infrastructure in a given court (recording takes place using dedicated devices and software, so if they have not been delivered to the court, the recording part cannot be prepared).

If the course of the hearing is not recorded with the use of sound or image and sound recording equipment, the minutes drawn up in writing contain more elements – apart from the data and circumstances specified in Art. 158 § 1 of the CCP, they also include requests and statements of the parties, instructions given, and the results of the evidentiary proceedings and other circumstances important for the course of the hearing; instead of requests and statements, it is possible to refer in the minutes to preparatory pleadings. Some of these elements, pursuant to Art. 158 § 1^1 of the CCP, may, but do not have to, include written minutes even if the recording part is prepared.

55 Klich 2016b. 89; Goździaszek 2016. 28; Kaczmarek-Templin 2012. 287; Gołaczyński–Szostek (eds.) 2016. 187; Zalesińska 2016. 232; Uliasz 2019. 510 et seq.

In the Regulation of the Minister of Justice of 2 March 2015 on sound or image and sound recording of the course of an open hearing in civil proceedings (*Journal of Laws* of 2015, item 359, as amended), minutes drawn up using a sound or image and sound recording device are signed by the recording clerk with an electronic signature that guarantees the identification of the recording clerk and the recognition of any subsequent changes to the minutes.

The minutes prepared in writing are signed by the presiding judge and the recording clerk. It is also possible to order a transcription of the recording. Based on Art. 158 § 4 of the CCP, if it is necessary to ensure the proper adjudication in the case, the presiding judge may order a transcript of the relevant part of the minutes prepared with the use of a sound or image and sound recording device.

If there is a contradiction between the transcription and the recording of sound or image and sound, then, pursuant to Art. 160 of the CCP, it is possible to correct the transcription. However, there is no possibility to rectify the sound or image and sound recording itself.

Pursuant to Art. 9 of the CCP, the parties and participants in the proceedings have the right to view the case files and receive copies or extracts from these files. The content of the minutes and pleadings may also be made available in an electronic form via the ICT system supporting the court proceedings or another ICT system used to make these minutes or pleadings available. The parties and participants in the proceedings have the right to receive sound or image and sound recordings from the case files unless the protocol has been prepared only in writing. The presiding judge issues a sound recording from the case files if important public or private interests oppose the release of the image and sound recording.

If the hearing was held *in-camera*, the parties and participants in the proceedings have the right to receive only the audio recording from the case files.

In view of the need to protect privacy, initially there was no possibility for the parties to record the course of the hearing. However, currently, pursuant to Art. 9^1 § 1 of the CCP, the court's permission is not required for the parties or participants in the proceedings to record the course of the hearing and other court actions at which they are present with the use of a sound recording device. However, there are some limitations, namely: only sound can be recorded; and this applies to hearings and other court actions at which the recorders are present.

The parties and participants in the proceedings are required to inform the court of their intention to record the course of a hearing or other court action with the use of a sound recording device. However, on the basis of Art. 9^1 § 1–2 of the CCP, the court prohibits a party or participant in the proceedings from recording the course of a hearing or other court action with the use of a sound recording device if the hearing or part of it is held in-camera or for the sake of correctness of the proceedings.[56]

56 Gołaczyński–Flaga-Gieruszyńska–Woźniak 2021. 137 et seq.

7. E-judgments

The provision of Art. 324, section 4 of the CCP, as mentioned above, set forth that 'in proceedings initiated via the ICT system, the judgment may be recorded in the ICT system and provided with a qualified electronic signature'. This general provision will apply to payment orders [Art. 353(2) of the CCP], decisions (Art. 361 of the CCP), orders of the presiding judge (Art. 362 of the CCP), and decisions of the reporter – a court clerk with judicial attributions – [Art. 362(1) of the CCP]. An interesting solution is the possibility of providing an oral justification. However, this applies to a situation where the course of an open hearing was recorded using sound or image and sound recording devices (e-minutes) (Art. 157, section 1 of the CCP). However, before the oral justification is given, the presiding judge is obliged to inform the participants of the hearing about this form of justification. The consequence of giving the oral justification is the failure to provide the basic motives for the decision. If an oral justification is provided, a party may request a transcript of an oral justification, to which the provisions on a written justification apply accordingly [Art. 331(1) of the CCP].

In the electronic proceedings by writ of payment, the payment order is issued only in the ICT system. The party, when applying for the initiation of enforcement on the basis of an order issued in these proceedings, has to attach a printout from the ICT system to the application for initiation of enforcement, and the court bailiff is required to verify the existence of this title in the ICT system that supports the court proceedings (courts also have access to this system). The decision granting an enforcement clause to the orders referred to in Art. 777, sections 1 and 1(1) of the CCP issued in an electronic form is left only in the ICT system, except for the cases referred to in art-s 778(1), 778(2), 787, 787(1), 788, and 789 of the CCP. Such a decision is issued without writing a separate sentence, by placing an enforcement clause in the ICT system and affixing it with a qualified electronic signature of a judge or a reporter. Enforcement orders referred to in Art. 783, section 4 of the CPP are appended with an enforcement clause by the district court of general jurisdiction of the debtor (Art. 781, section 192 of the CCP). The existence and content of the electronic enforcement order is verified by a judge or a reporter in the ICT system in which this order has been recorded. Detailed issues were regulated in the Regulation of the Minister of Justice of 2016 on court actions related to granting an enforcement clause to electronic enforcement orders and the method of storing and using electronic enforcement orders. The decision granting the enforcement clause is served pursuant to Art. 131(1) of the CCP.

8. Conclusions

The informatization of civil proceedings covers examination proceedings, which provide for a general model of proceedings in the fields of: submitting pleadings, performing court actions, including delivery services, recording the course of an open hearing, electronic judgments, taking electronic evidence, and separate proceedings, e.g. electronic proceedings by writ of payment and electronic land and mortgage register proceedings and registration proceedings for entry in the National Court Register. It can be noted that the special provisions contain certain differences, which result from the specificity and purpose of particular proceedings, but nevertheless they duplicate the general model for the examination proceedings (the form of judgments, electronic delivery service, submitting pleadings). The provisions of the third book on enforcement proceedings – not discussed in this publication – also refer to the general provisions developed for the examination proceedings. Therefore, it can be concluded that the current regulations contain, with some exceptions, fairly consistent IT solutions in civil proceedings. It can only be postulated that these differences in separate proceedings should be gradually eliminated. It is also possible to consider introducing to the general provisions in the examination proceedings the 'takeover' of solutions provided for the time of the COVID-19 pandemic, in particular to amend Art. 151, section 2 of the CCP and shape a remote hearing similarly to Art. 15zzs(2) of the Coronavirus Act, or to leave the delivery service of court pleadings to professional representatives via the Information Portal of Common Courts.

References

BERUTOWICZ, W. 1972. *Postępowanie cywilne w zarysie*. Warsaw.

CIEŚLAK, S. 2016. Elektroniczne czynności sądowe – perspektywy rozwoju. In: *Informatyzacja postepowania cywilnego. Teoria i praktyka*. Warsaw.

DALKA, S. 1987. Opinia biegłego oraz opinia instytutu naukowego lub naukowo-badawczego w procesie cywilnym. *Nowe Prawo* 10.

ERECIŃSKI, T. 1985. *Z problematyki dowodu z dokumentów w sądowym postępowaniu cywilnym. Studia z prawa postępowania cywilnego. Księga pamiątkowa ku czci Z. Resicha*. Warsaw.

GOŁACZYŃSKI, J. 2016a. Elektroniczne biuro podawcze. In: *Informatyzacja postepowania cywilnego*. Warsaw.

2016b. Informatyzacja postępowania cywilnego po nowelizacji Kodeksu postępowania cywilnego z 7.7.2019 r. In: *E-sąd, E-finanse, E-praca.* Warsaw.

(ed.) 2020. *Informatyzacja ksiąg wieczystych i postępowania wieczystoksięgowego.* Warsaw.
(ed.) 2021. *Postępowanie cywilne w dobie pandemii COVID-19*. Warsaw.
GOŁACZYŃSKI, J.–FLAGA-GIERUSZYŃSKA, K.–WOŹNIAK, Z. (eds.). 2021. *Kodeks postępowania cywilnego: postępowanie zabezpieczające*.
GOŁACZYŃSKI, J.–KLICH, A. 2016. Informatyzacja ksiąg wieczystych. In: *Elektronizacja postępowania wieczystoksięgowego*. Warsaw 2016.
GOŁACZYŃSKI, J.–SZOSTEK, D. (eds.) 2016. *Informatyzacja postępowania cywilnego.* Warsaw.
2020. Epidemia może przyspieszyć informatyzację sądów. *Prawo.pl* 31.03.2020. https://www.prawo.pl/prawnicy-sady/informatyzacja-sadow-zdaniem-ekspertow-moze-byc-przyspieszona-w,499106.html (accessed on: 10.09.2021).
GOŹDZIASZEK, Ł. 2016. Zasada bezpośredniości i pisemności postępowania dowodowego. In: *Informatyzacja postępowania cywilnego*. Warsaw.
2021. Informatyzacja postępowania cywilnego. In: *Prawo nowych technologii*. Warszawa.
JAKUBECKI, A. (ed.) 2010. *Kodeks postepowania cywilnego. Komentarz*. Warsaw.
(ed.) 2017. *Kodeks postępowania cywilnego*, vol. 1. Warsaw.
JODŁOWSKI, J.–RESICH, Z.–LAPIERRE, J.–MISIUK-JODŁOWSKA, T.–WEITZ, K. 2009. *Postępowanie cywilne*. Warsaw.
KACZMAREK, B. 2008. Moc dowodowa dokumentu elektronicznego w postępowaniu cywilnym – polemika. *Monitor Prawniczy* 5.
KACZMAREK-TEMPLIN, B. 2012. *Dowód z dokumentu elektronicznego w procesie cywilnym*. Warsaw.
2013. *Dowód z dokumentu elektronicznego w procesie cywilnym*. Warsaw.
KLICH, A. 2014. Pojęcie wiadomości specjalnych w tzw. cywilnych procesach lekarskich. In: *Dowodzenie w procesach cywilnych, gospodarczych i administracyjnych*. Olsztyn.
2016a. *Dowód z opinii biegłego w sprawach cywilnych. Biegły lekarz*. Warsaw.
2016b. Możliwość wykorzystania protokołu elektronicznego. In: *Informatyzacja postępowania cywilnego*. Warsaw.
KNOPPEK, K. 1993. *Dokument w procesie cywilnym*. Poznań.
Ł. BŁASZCZAK et al. (eds.). 2021. *Dowody w postępowaniu cywilnym*. Warsaw.
LACH, A. 2004. *Dowody elektroniczne w procesie karnym*. Toruń.
LEŚNIAK, M. 2011. Powszechny dostęp do przeglądania księgi wieczystej prowadzonej w systemie informatycznym (nowej księgi wieczystej). *Prawo Mediów Elektronicznych* 1.
ŁĘTOWSKA, E. (ed.) 1989. *Dopuszczalność dowodu z taśmy magnetofonowych. Proces i prawo, Księga pamiątkowa ku czci J. Jodłowskiego*. Wrocław.

ŁUKOWSKI, W. 2020. Portalu Informacyjnego czar. *Rzeczpospolita* 23.04.2020. https://www.rp.pl/opinie-prawne/art8965701-wojciech-lukowski-portalu-informacyjnego-czar (accessed on: 09.05.2020).

MARSZAŁKOWSKA-KRZEŚ, E.–RUDKOWSKA-ZĄBCZYK, E. 2010. Dowód z dokumentu w świetlne projektowanych zmian Kodeksu cywilnego. *Współczesne problemy prawa prywatnego. Księga pamiątkowa ku czci prof. E. Gniewka*. Warsaw.

RUDKOWSKA-ZĄBCZYK, E. 2010. Dowody w postępowaniu cywilnym. In: *Dowody w postępowaniu cywilnym*. Warsaw.

SIEDLECKI, W. 1981. Gloss to the Judgment of the Supreme Court of 9 December 1980. *OSPiKA* 7–8.

1987. *Postępowanie cywilne. Zarys wykładu*. Warsaw.

2004. *Siedlecki, Swieboda, Postępowanie cywilne. Zarys wykładu*. Warsaw.

STĘPIEŃ, J. 2001. Podpis elektroniczny, Nowa ustawa – nowe problemy. *Monitor Prawniczy* 23.

SZOSTEK, D.–ŚWIERCZYŃSKI, M. 2007. Moc dowodowa dokumentu elektronicznego w postępowaniu cywilnym. *Monitor Prawniczy* 17.

2009. Moc dowodowa dokumentu elektronicznego w postępowaniu cywilnym – odpowiedź na polemikę. *Monitor Prawniczy* 6.

ULIASZ, M. 2019. *Zasada jawności sądowego postępowania egzekucyjnego*. Warsaw.

ZALESIŃSKA, A. 2016. *Wpływ informatyzacji na założenia*. Warsaw.

*** https://prs.ms.gov.pl/ (accessed on: 10.10.2021).

*** Decision of the Supreme Court of 15 April 1982, III CRN 65/82, Lex No. 8414.

*** Judgment of the Supreme Court of 10 January 1975, II CR 752/74, Legalis.

*** Judgment of the Supreme Court of 9 December 1980, II URN 171/80, SP 1981, issue 7.

*** Judgment of the Supreme Court of 20 June 1984, II CR 197/84, OSNC 1985, issue 2–3.

*** Judgment of the Supreme Court of 25 September 1985, IV PR 200/85, OSNCP 1986, No. 5.

*** Resolution of the Supreme Court of 30 October 1985, IIICZP 59/86, OSN 1986, issue 9.