

AMENDMENTS TO CIVIL PROCEDURE CODE

Extensive amendments to the Civil Procedure Code entered into force on 1 July 2009. The changes mostly affect international civil procedure.

Particularly important changes concern proceedings for recognition of foreign judgments. Previously, recognition of a foreign judgment by a Polish court required a special proceeding in Poland. Under the new provisions, recognition occurs by operation of law. Therefore, the consequences of a foreign judgment are automatically respected in the Polish legal system (CPC Art. 1145), unless there is an obstacle to recognition as set forth in CPC Art. 1146 (for example, when the judgment is not final in the state where it was rendered). Anyone with a legal interest may file a motion to determine whether a judgment of a foreign state court is subject to recognition or not (CPC Art. 1147). Enforceable judgments become writs of enforcement upon issuance of an enforcement clause by a Polish court (CPC Art. 1150 and subsequent articles).

The jurisdiction of Polish courts has also undergone significant changes. For example, a Polish court is now required to take judicial notice of the pendency of a proceeding before a foreign court (CPC Art. 1098). If the court finds that a case involving the same claim and the same parties was commenced before a foreign court

before it was commenced before the Polish court, then the Polish court is required to suspend the proceeding. After the case has been resolved by the foreign court, the Polish court will then discontinue the proceeding if the foreign resolution is enforceable in Poland.

Moreover, the new provisions make it possible to bring a case before a Polish court, despite the lack of other grounds for Polish jurisdiction, if the case has a sufficient connection with the Polish legal order and it is not possible to conduct proceedings before a court or other authority of another state (CPC Art. 1099¹). In another significant change, joining issue on the merits of a case now subjects the case to the jurisdiction of the Polish courts (CPC Art. 1104).

Under the new provisions (CPC Art. 1103 and subsequent articles), the Polish courts will have jurisdiction in matters concerning the activity of the defendant's establishment or branch in Poland; claims concerning property rights, if the defendant has property rights or assets in Poland of significant value compared to the amount in dispute; and matters involving dissolution of a legal person or organizational unit without legal personality, and cases seeking to invalidate resolutions of their authorities, so long as the entity has its registered office in Poland.

There were also changes concerning taking evidence and service of court papers in international cases, designed to make

procedures simpler and faster. Provisions concerning Polish jurisdiction in security and enforcement proceedings were also added to the Civil Procedure Code.

Provisions concerning evidence and review of formal requirements for pleadings in commercial cases were also amended.

Should you wish to obtain any additional information, please contact Jan Rysiński (jan.rysinski@laszczuk.pl).

SECOND HOUSES WITHOUT PERMITS

Starting from 1 May 2009, citizens of European Economic Area member states and Switzerland may acquire second houses in Poland without a permit. Under the Act on Acquisition of Real Estate by Foreigners of 24 March 1920, restrictions on acquisition of second houses by such persons ceased on the fifth anniversary of Poland's joining the European Union.

The parliament defined a "second house" as a real property intended for residential development or recreational and holiday purposes which is not the foreigner's permanent residence. A second house could also be a residential unit (that is, a flat) within the meaning of the Act on Ownership of Premises of 24 June 1994, for which a foreigner did not need and still does not need to obtain a permit.

Citizens of EEA member states and Switzerland are still required to obtain a permit for acquisition of agricultural and

forest lands. These restrictions may remain in force until 1 May 2016.

Citizens of countries other than EEA member states and Switzerland still need to obtain a permit to acquire any type of real estate in Poland (with a few statutory exceptions).

Permits are issued upon the foreigner's motion by the Minister of Internal Affairs and Administration, if there is no objection by the Minister of National Defence or, in the case of agricultural properties, the Minister of Agriculture and Rural Development.

Should you wish to obtain additional information on this topic, please contact Magdalena Szwarc-Brożyna (magdalena.szwarc@laszczuk.pl).