

Second Study Commission Civil Law and Procedure 66th Annual Meeting of the IAJ – Cape Town (South Africa)

Questionnaire 2024 – Polish Judges Association “Iustitia”

Written submissions – when do they turn from a help to a hindrance?

In Taipei, Taiwan, we decided that in 2024, our Second Study Commission will focus on how written submissions in civil litigations can turn from a help to a hindrance and whether there are limits on written submissions in our various jurisdictions. If so, what these limits include. We have limited the questionnaire to six questions and expect to receive short but concise answers.

The questions are as follows:

1. Are there limits for written submissions in civil litigations in your jurisdiction in terms of the maximum length?

There are no limits for written submissions in civil litigations according to Polish Civil Procedure Act, in terms of maximum length, referring either to the number of pages or to the number of words. It may cause some problems for the parties not represented by professional lawyer, when the opposite party's attorney files a pleading of many pages full of legal terms and quotations of jurisprudence.

2. Are there time limits for filing written submissions?

There are no legal time limits during the case, but a judge can set a deadline individually in a particular case, especially referring to the answer to lawsuit and alternatively to the next pleadings. According to art. 205 (3) of Civil Procedure Act, in the beginning of the case the judge can determine both the time limit or the number of submissions and the order of submissions for each party as well.

3. Are there limits in terms of a maximum number of additional submissions in a case?

There are no limits in terms of number of additional submissions established in general. The judge is entitled to set a deadline for additional submissions in a particular case.

4. Are there rules, including penalties or cost implications, for breaches of these requirements?

There are no special rules concerning parties which refer to the penalties or other costs implicated by the breach of these rules. Articles 205(12) and 381 of Civil Procedure Act provide general rule of concentration the submissions and proofs. The only consequence for the parties that breach these requirements is leaving the additional submissions after the deadline without effect. According to the art. 5 of Civil Procedure Act in a very special situations behaviour of one party can be treated as an abuse of procedural rights, which may refer to enormous number of written submissions or the size of it. In situation of a witness or expert who breaches the terms of written submissions, a judge can order a fine.

5. Are these limits or requirements effective in terms of reducing the number and length of written submission and the time spent preparing for and determining a case?

The limits established by the judge concerning the number and order of written submissions, together with the consequence of leaving a submission without any action, is effective in terms of reducing the total number of submissions. It is very useful and helpful for the judge and opposite party to achieve reduction of the time necessary to prepare and determine the case. There is a lack of limits or requirements referring to the length of written submissions in Polish civil procedure, which may give some parties and their legal representatives opportunity to create enormously long submissions, as mentioned above (point 1).

6. What is the effect of written submissions on any hearing which subsequently takes place?

If the written submission is delivered just before the hearing it may be reasonable to postpone the hearing in order to give the judge and the parties possibility to consider its content and prepare.

7. Comments or suggestions as to what could otherwise prove to be effective.

- I. Plain language in court document templates

Written declarations have a supplementary (complementary) role in the resolution of disputed cases. Nevertheless, there are minor cases or cases which are not the subject of the dispute, in which the settlement (judgments) may be based exclusively or substantially on written declarations of the participants of the court proceedings. Poland's experience shows that the form, shape and content of templates in some cases can significantly speed up the time of proceedings. In our opinion, this happens when the participant of the proceedings has an accessible set of information on the court's website in form and content:

- a template for a court letter in a particular case,
- guidelines or instructions on how to fill in the blanks in the prepared template.

This makes it possible to file a case with complete information, allowing the court to issue a settlement (judgments) either without calling for a hearing or hearing is shorter.

- II. Good practice of the use of plain language in template court letters - allowing for a comprehensive written statement

Following Russia's invasion of Ukraine, several million Ukrainian citizens became refugees for whom Poland was either a temporary or long-term host country. Many Ukrainian children and adolescents crossed the Polish border unaccompanied by their parents or legal guardians. As a result, minor Ukrainian citizens had no adult representation to deal with their administrative matters and exercise their rights. The judiciary faced a huge challenge in appointing temporary guardians. However, the participants in the proceedings did not know the Polish language, Polish law, and the need to complete formal deficiencies or substantive applications threatened to paralyse the family units of the district courts in Poland.

Members of the Civil Law Team of the IUSTITIA Association of Polish Judges in a very short period drafted a motion exhausting the legal requirements - formal and substantive - concerning the

appointment of a legal guardian for a minor Ukrainian citizen. Using the experience of the initiated work on simplifying communication, we considered it necessary to translate it and develop it in an accessible form, according to the rules of plain language. This application is still widely used today and, if completed in full, allows a decision to grant a temporary legal guardianship for the child to be made at the first court session.

