Studia Iuridica Lublinensia vol. 34, 2, 2025
DOI: 10.17951/sil.2025.34.2.499-516

Piotr Szczekocki
Maria Curie-Skłodowska University (Lublin), Poland
ORCID: 0000-0001-5756-3611
piotr.szczekocki@mail.umcs.pl

Jarosław Kowalski
Maria Curie-Skłodowska University (Lublin), Poland
ORCID: 0000-0002-4731-1928
jaroslaw.kowalski@mail.umcs.pl

Electronic Writ Proceedings – from Order to Judicial Enforcement

Elektroniczne postępowanie upominawcze – od nakazu do egzekucji sądowej

ABSTRACT

The topic of the article is electronic writ proceedings, which are one of the separate proceedings in the Polish civil procedure. The paper presents and discusses electronic writ of payment proceedings and enforcement proceedings conducted on the basis of an electronic enforceable title. The authors diagnosed and discussed the main problems related to electronic writ proceedings and enforcement proceedings conducted on the basis of an electronic title, and presented proposals for solving them. In their research, the authors used statistical data on electronic writ proceedings and data on enforcement proceedings conducted on the basis of an electronic enforceable title.

Keywords: civil procedure; electronic writ proceedings; electronic enforceable title; e-Court; Poland

CORRESPONDENCE ADDRESS: Piotr Szczekocki, PhD, Assistant Professor, Maria Curie-Skłodowska University (Lublin), Faculty of Law and Administration, Institute of Legal Sciences, 5 Maria Curie-Skłodowska Square, 20-031 Lublin, Poland; Jarosław Kowalski, PhD, Assistant Professor, Maria Curie-Skłodowska University (Lublin), Faculty of Law and Administration, Institute of Legal Sciences, 5 Maria Curie-Skłodowska Square, 20-031 Lublin, Poland.

INTRODUCTION

Electronic writ proceedings (EWP) were introduced into the Polish legal system in 2010 by an amendment to the Civil Procedure Code.[1] The introduction of the new procedure was to accelerate the examination of cases and facilitate the seeking of claims by undertakings (including mass claimants). The aim of the amendment was also to increase the effectiveness of legal protection granted in civil proceedings.[2] The introduction of new technologies into the justice system by the Polish legislature is fully in line with the European guidelines of 2001 on the use of information and communication technologies (ICT)[3] and "the delivery of court and other legal services to the citizen through the use of new technologies".[4] Recommendation Rec(2001)3 clearly points to "the possibility of initiating proceedings by electronic means" and "the possibility of obtaining the results of the proceedings in electronic form". This gradual departure from the physical courtroom towards online courts is (as R. Susskind pointed out) a major step towards tomorrow's technology using the possibility of artificial intelligence in the judiciary.[5] In the axiological aspect of the civil procedure, the amendments were aimed at the smooth application of substantive civil law on monetary claims and achieving the values of efficiency and promptness desired in civil proceedings. The legislature adopted a solution according to which all proceedings conducted electronically were to be settled by one of regional courts.[6] Pursuant to the Regulation of the Minister of Justice of 15 December 2009,[7] the only court competent for such matters is the Sixth Civil Department (the so-called e-Court) of the Lublin-West Regional Court in Lublin. Apart from the new procedure, the Civil Procedure Code amendment introduced the enforceable title in electronic form (Article 783 § 4 CPC).[8] As of 1 January 2010, an application for initiating enforcement under an electronic enforceable title may

[1] Act of 17 November 1964 – Civil Procedure Code (Journal of Laws 1964, no. 43, item 296, as amended), hereinafter: CPC.

[2] S. Kotas-Turoboyska, *Wpływ nowelizacji elektronicznego postępowania upominawczego na możliwość realizacji celów tego postępowania*, "Acta Iuridica Resoviensia" 2021, no. 1, pp. 52–53.

[3] Recommendation Rec(2001)2 concerning the design and re-design of court systems and legal information systems in a cost-effective manner, 28.2.2001.

[4] Recommendation Rec(2001)3 of the Committee of Ministers to member states on the delivery of court and other legal services to the citizen through the use of new technologies, 28.2.2001.

[5] R. Susskind, *Online Courts and The Future of Justice*, Oxford 2021, p. 192 ff.

[6] J. Kowalski, *Wady i zalety postępowań odrębnych na przykładzie postępowania upominawczego i elektronicznego postępowania upominawczego*, "Przegląd Prawno-Ekonomiczny" 2019, no. 47, p. 128.

[7] Regulation of the Minister of Justice of 15 December 2009 on the determination of the regional court assigned to examine cases in electronic writ proceedings falling within the jurisdiction of other regional courts (Journal of Laws 2009, no. 220, item 1728).

[8] Act of 9 January 2009 amending the Civil Procedure Code and certain other acts (Journal of Laws 2009, no. 26, item 156).

be submitted to the judicial enforcement officer via the ICT system handling the electronic writ procedure (Article 797 § 2 CPC).

The main aim of the article is to examine whether the electronic writ procedure meets the purposes for which it was created. The secondary aim includes the identification of significant problems resulting from the enforcement proceedings under an electronic enforceable title. The preliminary review of the literature allowed us to formulate two research hypotheses:

1. The electronic writ procedure allows effective seeking monetary claims.
2. The electronic writ procedure is a tool enabling the initiation and conduct of enforcement proceedings based on an enforceable title issued in an electronic procedure.

The scientific goal has been achieved by an analysis of normative acts, review of Polish literature on the subject and statistical data provided by the Department of European Strategies and Funds of the Ministry of Justice. The desk research method was used. The article consists of two parts. The first part covers examination of cases within the e-Court (filing of the statement of claim, issuing the order for payment, filing an application for enforcement). The second part covers the aspect of enforcement proceedings initiated with an application submitted electronically within the e-Court and conducted by a judicial enforcement officer under an electronic enforceable title.

LITERATURE OVERVIEW

1. Electronic writ proceedings

The EWP is regulated in Articles 505^{28} to 505^{39} CPC. Despite amendments to EWP provisions that have been made in recent years, the very idea of electronic proceedings has not changed much. The legislature decided that all electronic writ proceedings would be conducted in an ICT system. There is one exception to this assumption. Having received an order for payment with a copy of the statement of claim, the defendant may choose the form of filing an objection to the order for payment. The defendant may choose either a traditional form – an objection filed in a written form or via the e-Court ICT system. This solution should be considered correct. The lack of an account in the ICT system or other reasons (e.g. the defendant's age or state of health) do not deprive the defendant of their right to court. Several other important factors also support the use of the EWP.

Firstly, the promptness of proceedings. Since they do not contain evidence-taking proceedings, cases handled by the e-Court are characterised by a relatively short examination time, which in 2022 took on average 3.5 months.[9] In the case

[9] Ministerstwo Sprawiedliwości, *Sądy pracują sprawniej*, 27.8.2023, https://www.gov.pl/web/sprawiedliwosc/sady-pracuja-sprawniej (access: 19.10.2025).

of the ordinary mode of proceeding, the waiting time for a judgment (or order for payment) in 2022 was 8 months in the district court (first instance court) and 6.1 months in regional courts.[10]

The second important issue from the plaintiff's point of view is the lower cost of EWP compared to the ordinary mode of proceeding. The fee for an action brought before the e-Court is one-fourth of the fee for an ordinary lawsuit.[11] Regardless of whether it is a natural person or a company (e.g. a mass claimant), everyone is interested in paying the lowest possible fee, and the EWP allows this.

Positive solutions, especially looking from the perspective of the plaintiff (including the mass claimant), include the lack of obligation to attach evidence to the lawsuit. The plaintiff, when preparing the statement of claim, describes the evidence by filling in dedicated boxes in the form. The solution greatly facilitates and accelerates the submission of claims in the ICT system. At the same time, the lack of the obligation to attach evidence reduces the costs of filing a lawsuit. A clear advantage is also the possibility to submit packages of lawsuits previously prepared in a software application designed for this purpose. However, such a possibility is limited only for professional attorneys and mass-claim purposes. The vast majority of cases processed within the Sixth Civil Department (e- Court) are civil cases (see Figure 1). Despite the fact that the EWP was originally envisaged for economic proceedings, civil cases have accounted for nearly 87% of all proceedings since the beginning of operation of the e-Court. A negligible percentage are labour-law cases (several hundred a year). The electronic writ procedure is now well established in the Polish legal system, as evidenced by the statistics on cases referred for recognition under this procedure. In recent years, the number of cases brought has fluctuated between 2 million and 2.5 million, the highest ever being 2013, when more than 2.7 million cases were brought before the e-Court.

Despite many advantages and conveniences for the user (the plaintiff, the plaintiff's representative), the electronic writ procedure has some flaws and shortcomings both at the regulatory level and at the level of use of the user's account in the ICT system of the e-Court. The decreasing number of cases brought before the e-Court is particularly worrying. This trend has been continuing since 2020 (see Figure 1).

[10] *Ibidem*.

[11] Act of 28 July 2005 on court costs in civil cases (Journal of Laws 2005, no. 167, item 1398).

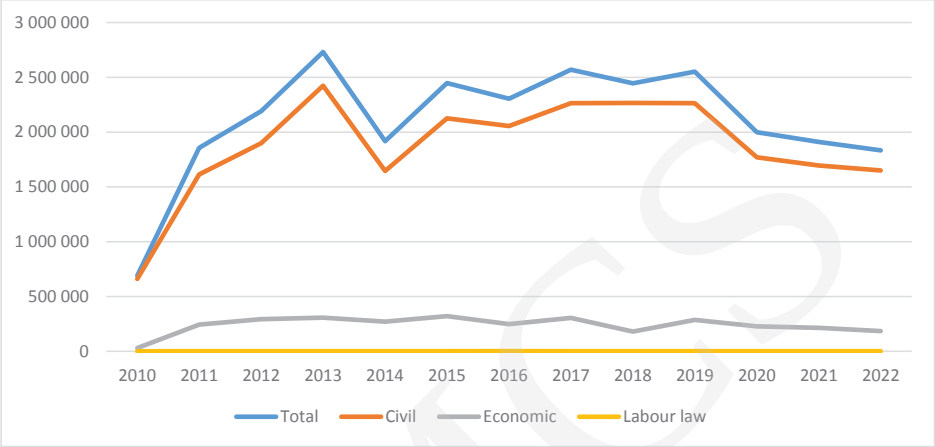

Figure 1. Number of cases brought in consecutive years before the e-Court as part of electronic writ proceedings

Source: authors' compilation based on the statistics published at Serwis RP, *EPU – elektroniczne postępowanie upominawcze (e-sąd) w latach 2010–2024*, https://dane.gov.pl/pl/dataset/124,epu-elektroniczne-postepowanie-upominawcze (access: 19.10.2025).

2. Enforcement proceedings based on the electronic enforceable title

In recent years, there has been a noticeable growing interest in judicial enforcement, shown by both legal scholars and enforcement law practitioners, resulting in a growing number of published studies.[12] However, the literature on judicial enforcement proceedings conducted under an electronic enforcement order is scarce, and single studies or commentaries on selected articles of the Civil Procedure Code present rather a description of the existing reality in the normative layer than discuss the fundamental problems of this procedure in this issue as it is presented herein.[13]

[12] See G. Julke, Z. Knypl, M. Koenner, W. Kowalski, Z. Merchel, G. Sikorski, Z. Szczurek, J. Świeczkowski, *Egzekucja sądowa w prawie polskim*, Sopot 2015; A. Marciniak, *Sądowe postępowanie egzekucyjne w sprawach cywilnych*, Warszawa 2019; J. Jagieła (ed.), *Sądowe postępowanie egzekucyjne. Nowe wyzwania i perspektywy*, Warszawa 2020; K. Flaga-Gieruszyńska (ed.), *System Postępowania Cywilnego*, vol. 8: *Postępowanie zabezpieczające i egzekucyjne*, Warszawa 2021; R. Reiwer (ed.), *Ustawa o kosztach komorniczych. Komentarz*, Legalis 2021; H. Bednorz-Godyń, A. Marciniak (eds.), *Prawa wierzyciela a ochrona dłużnika. Teoria i praktyka*, Warszawa 2022; S. Cieślak (ed.), *Aksjologia egzekucji sądowej. W poszukiwaniu optymalnego poziomu ochrony praw wierzyciela i dłużnika w postępowaniu egzekucyjnym i upadłościowym*, Sopot 2022; T. Szanciło (ed.), *Kodeks postępowania cywilnego. Komentarz*, vol. 2: *Art. 506–1217*, Legalis 2023.

[13] S. Cieślak, *Elektroniczne postępowanie upominawcze*, "Monitor Prawniczy" 2010, no. 7, pp. 358–369; J. Bodio, *Elektroniczny tytuł wykonawczy*, "Przegląd Prawa Egzekucyjnego" 2017, no. 1, pp. 21–46; A. Pytel, *Pełnomocnictwo procesowe a system teleinformatyczny obsługujący elektroniczne*

Judicial enforcement in Poland is the only legal procedure where the implementation of new technologies gradually leads to its comprehensive computerisation. The use of IT solutions, including the large-scale use of new technologies in the process of application of enforcement law, started with the moment of implementation of electronic writ proceedings for judicial enforcement. Amendments made with the Act of 9 January 2009 amending the Civil Procedure Code and certain other acts introduced on a permanent basis the enforceable title in electronic form (Article 783 § 4 CPC) into the process of applying the law. Since the entry into force of this amendment, i.e. from 1 January 2010, an application for initiating enforcement under an electronic enforceable title may be submitted to the judicial enforcement officer via an ICT system handling electronic writ proceedings (Article 797 § 2 CPC), and such a solution is still valid. Of course, this way of proceeding is optional and the creditor can choose the traditional way of filing an application for enforcement. It is irrelevant for the enforcement proceedings whether the proceedings have been initiated through the e-Court or in the traditional manner, but with the caveat that where the enforcement is carried out based on an electronic enforceable title the result of the enforcement procedure is recorded in the electronic system (Article 816 CPC) and the enforceable title is kept in the repository (§ 2 (2) of the Regulation of the Minister of Justice of 6 October 2016[14]). The detailed description of the judicial enforcement officer's activities related to the conduct of enforcement under an electronic enforceable title is currently regulated by the Regulation of the Minister of Justice of 30 November 2018 on the activities of the National Council of Bailiffs enabling judicial enforcement officers to conduct enforcement under an electronic enforceable title and judicial enforcement officer's activities performed via an ICT system in enforcement proceedings.[15] The document contains a legal definition of electronic enforcement order (in Polish: *elektroniczny tytuł egzekucyjny*) and electronic enforceable title (*elektroniczny tytuł wykonawczy*).[16] Apart from the aforementioned act, these terms have not been explicitly defined elsewhere in the applicable law.

Apart from the above-mentioned provisions of Articles 783, 797 or 816 CPC, there are no detailed regulations distinguishing between judicial enforcement con-

postępowanie upominawcze, "Przegląd Prawa Egzekucyjnego" 2018, no. 5, pp. 45–54; N. Wójcik-Krokowska, *Modele odrębnych postępowań przyspieszonych – nakazowego i upominawczych w procesie cywilnym*, Legalis 2024; T. Szanciło (ed.), *op. cit.*; K. Flaga-Gieruszyńska, A. Zieliński (eds.), *Kodeks postępowania cywilnego. Komentarz*, vol. 12, Legalis 2024.

[14] Regulation of the Minister of Justice of 6 October 2016 on the acts of the court related to appending the enforceability clause to electronic enforcement orders and the method of storing and using electronic enforceable titles (Journal of Laws 2016, item 1739).

[15] Consolidated text, Journal of Laws 2023, item 500, hereinafter: the Regulation of 30 November 2018.

[16] § 2 (3) and (4) of the Regulation of 30 November 2018.

ducted under an electronic enforceable title and one based on an enforceable title in its traditional form. The decision-making process for the application of enforcement law in this case does not include deviations from the model of general application of law. This contrasts with the decision-making process at the examination stage, where, i.a., the fact-finding stage has been limited basically to the facts presented by the parties and the evidence itself is not attached to the statement of claim (Article 505^{22} § 1 CPC).

The analysis of statistics on enforcement cases under the electronic enforceable title leads to the conclusion that the ratio between the number of enforcement cases under an enforceable title from EWP and the number of cases under a traditional-form enforceable title shows an increasing trend (this trend has been evident especially since 2019; see Figure 2). As regards 2022, we can already talk about a strong preference for enforcement cases, where enforcement is based on an electronic enforceable title (59% of all cases registered in the KM repertory). It should be noted that during the period the electronic writ procedure has been in force, the record number of applications for enforcement cases to be conducted under an electronic enforceable title was in 2015, where judicial enforcement firms received 3,471,862 applications (see Figure 2).

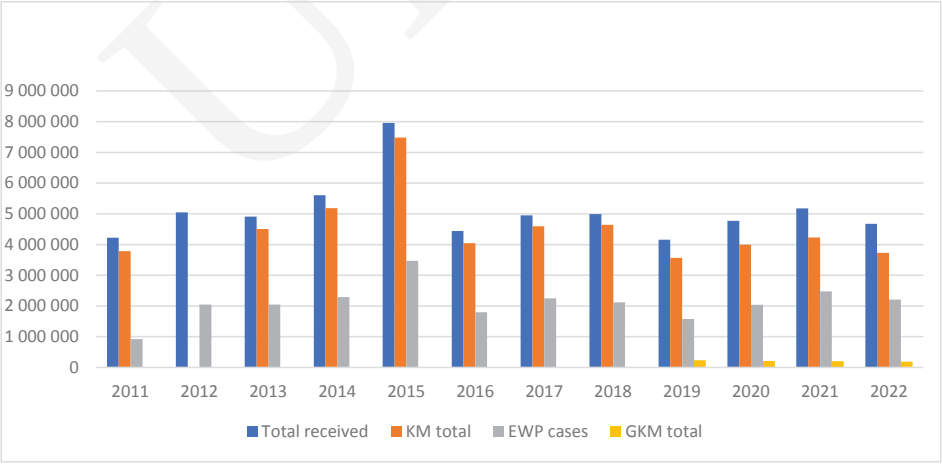

Figure 2. Number of EWP applications as compared to total cases submitted to judicial enforcement offices in the period 2011–2022

Source: authors' compilation based on the statistics published at Serwis RP, *EPU – elektroniczne postępowanie upominawcze (e-sąd) w latach 2010–2024*, https://dane.gov.pl/pl/dataset/124,epu-elektroniczne-postepowanie-upominawcze (access: 19.10.2025).

Table 1. Indicator of the effectiveness of enforcement cases conducted under an electronic enforceable title

Year	Submitted under EWP	Completed under EWP by successful enforcement	Efficiency of EWP enforcement cases (%)
2011	926,534	69,268	7
2012	2,049,366	237,873	12
2013	2,043,446	348,777	17
2014	2,287,778	387,781	17
2015	3,471,862	468,703	14
2016	1,798,924	357,566	20
2017	2,252,431	353,030	17
2018	2,122,588	359,080	17
2019	1,575,330	276,953	18
2020	2,037,326	300,601	15
2021	2,478,582	369,790	15
2022	2,211,816	439,040	20

Source: authors' compilation based on the statistics published at Serwis RP, *EPU – elektroniczne postępowanie upominawcze (e-sąd) w latach 2010–2024*, https://dane.gov.pl/pl/dataset/124,epu-elektroniczne-postepowanie-upominawcze (access: 19.10.2025).

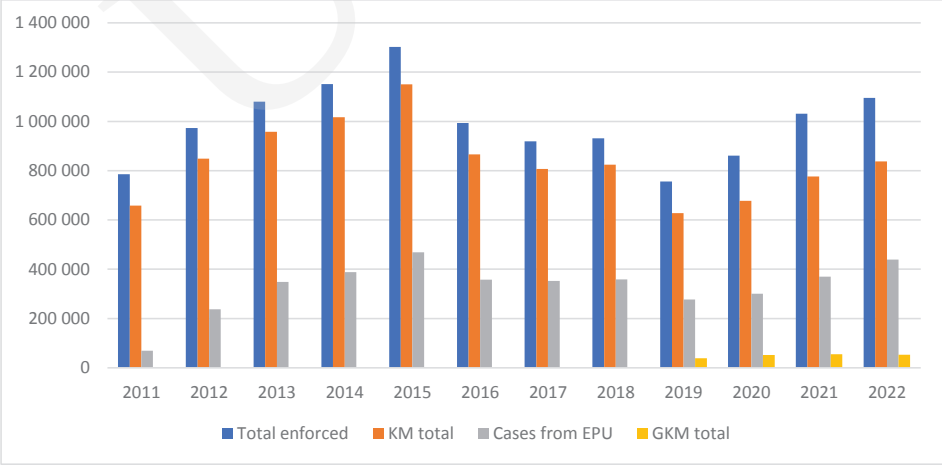

Figure 3. Successful EWP enforcement cases as compared with total successful enforcement cases in the period 2011–2022

Source: authors' compilation based on the statistics published at Serwis RP, *EPU – elektroniczne postępowanie upominawcze (e-sąd) w latach 2010–2024*, https://dane.gov.pl/pl/dataset/124,epu-elektroniczne-postepowanie-upominawcze (access: 19.10.2025).

In terms of effectiveness, we may continuously observe that this indicator is at low level (effectiveness at a dozen or so percent; see Table 1, Figure 3).

A different picture is shown with the completion rate (total number of cases in which enforcement was completed by enforcing the claim, due to ineffectiveness, at the creditor's request, under the procedure set out in Article 824 § 1 (4) CPC and for other reasons), which in 2022 amounted to 85% (see Figure 4).

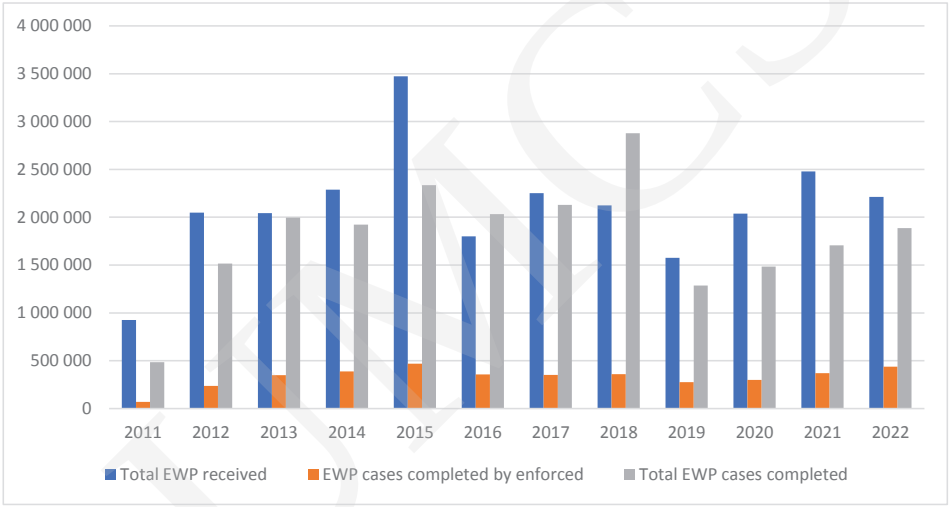

Figure 4. EWP cases completed and successfully enforced in the period 2011–2022

Source: authors' compilation based on the statistics published at Serwis RP, *EPU – elektroniczne postępowanie upominawcze (e-sąd) w latach 2010–2024*, https://dane.gov.pl/pl/dataset/124,epu-elektroniczne-postepowanie-upominawcze (access: 19.10.2025).

RESEARCH AND DISCUSSION

1. Electronic writ proceedings – problems identified

The problem from the perspective of the plaintiff or plaintiff's representative is the situation when, after the order for payment was issued (or before its issuance), the court issues a decision summoning the plaintiff (plaintiff's representative) to indicate the current address of the defendant while setting a 7-day period for performing the actions otherwise the order for payment may be cancelled. This solution seems to be completely wrong and as such should be modified by the legislature. In this situation, the plaintiff, if he/she does not have information on the defendant's current place of residence (and this is most often the case), has several options to choose from. The first possibility is to send an application to the city or commune office for access to address data from the register of residents

(from 1 January 2019 also from the PESEL Register). The second possibility is to apply to the Document Personalization Centre of the Ministry of the Interior and Administration in order to obtain address data from the PESEL Register. The plaintiff or their representative may also apply to another public administration body (Revenue Office [US], Social Insurance Institution [ZUS], Agricultural Social Insurance Fund [KRUS]). However, practice shows that the authorities (ZUS, KRUS, US) refuse to provide information in this respect due to a legally protected secret or lack of legitimate interest. In the case of a municipal office, the examination of the application is subject to the provisions of the Administrative Procedure Code, which in Article 35 § 3 states that "The handling of a case requiring clarification proceeding should take place no later than one month and for a particularly complex case no later than two months after the initiation of the proceedings". It is clear from the very wording of the provision that it is impossible to meet the time limit set by the court. Therefore, it is proposed to change this time limit by extending it accordingly (e.g. up to two months, as is the case with document service by the judicial enforcement officer). Another solution that is worth consideration by the legislature would be the possibility of submitting, within ongoing proceedings, an application for the indication of this address directly by the court. Both the first and the second proposed solutions would have a positive impact on streamlining the proceedings.

On 7 November 2019, an Act introducing a number of amendments to the Civil Procedure Code came into force, including to electronic writ proceedings.[17] The key change is an amendment to Article 505^{33} CPC (Article 505^{33} was amended six months later). Prior to 7 February 2020, if there were no grounds for issuing an order for payment, the e-Court transferred the case directly to the court having general jurisdiction for the defendant. Currently, if there are no grounds for issuing an order for payment, the e-Court discontinues the proceedings. It should be noted that the e-Court also discontinues the proceedings where the defendant effectively files an objection.

The discontinuation of the electronic writ procedure (irrespective of whether the defendant has successfully lodged an objection or the court has concluded that there are no grounds for issuing the order for payment) requires the plaintiff or plaintiff's representative to bring the lawsuit again (including evidence, a full fee on the application, a copy of the statement of claim for the opposing party) before the competent court. For the plaintiff, legal proceedings begin anew. From the point of view of the plaintiff or plaintiff's representative, the change is clearly unfavourable as it forces them to undertake additional, often costly measures to obtain a final decision. The solution is also problematic for regional and district

[17] Act of 4 July 2019 amending the Civil Procedure Code and certain other acts (Journal of Laws 2019, item 1469).

courts, as it imposes additional obligations on them, such as examination of the content of the application, verification of the regularity of the lawsuit fee paid in the EWP. It seems that the "only one" who is satisfied with this change is the e-Court in Lublin (Sixth Civil Department) itself. It is difficult to find a rational explanation for this reform. The solution contradicts the main assumptions of electronic writ proceedings such as speeding up the processing of cases and facilitating the recovery of monetary claims.

A problem from the point of view of a professional attorney, and even more so of a party filing a claim on its own, is also the excessive number of interest rate options that can be selected when specifying the claim in a dedicated form. Currently, the ICT system of the e-Court allows choosing an interest rate from among 21 interest rate options. The solution adopted, due to the large number of options, makes it very difficult for an attorney to file a claim, let alone parties acting on their own. It is proposed that the number of interest rate options be reduced, e.g., to 3–4 items supplemented by a descriptive mode. Alternatively, it is suggested that each interest option should be accompanied by detailed information on the legal basis for that interest rate option with an explanation of when the option can be used by the claimant.

A postulate worth considering is the introduction of the possibility to pay an advance fee when filing an application for enforcement via the ICT system (of the e-Court). The current solutions allow payment of a fee for a statement of claim, a bundle of statements of claim and an application for substantiation. It seems appropriate to extend the adopted solution to include the possibility of paying an advance fee on judicial enforcement officer's actions/cash expenses. This change would accelerate the initiation of enforcement procedure and, as it seems, increase the effectiveness of enforcement conducted under an electronic enforceable title.

The current solutions adopted in the electronic writ procedure do not allow any annexes to the statement of claim (application for enforcement) to be attached. The solution adopted seems right. However, consideration should be given to the possibility of introducing such a solution only when reasonable. It appears that this possibility should be available to the attorney applying for enforcement in the EWP. According to the current arrangement, the attorney, after sending an application for enforcement via the ICT system (e-Court, EWP), receives from the judicial enforcement officer a request to rectify the formal deficiencies in the form of providing the power of attorney. The time between the submission of an application for enforcement with the EWP and the request to complete/send a power of attorney is approximately two weeks. Within that time, the judicial enforcement officer to which the application for enforcement is addressed shall not take steps to satisfy the creditor's claim. On the other hand, that period allows the debtor to carry out activities intended to deplete or conceal the assets in view of the expected enforcement.

The solution being proposed, in view of the regulation contained in Article 129 § 2 CPC concerning the possibility of filing a document copy certified by the attorney, seems to be correct and acceptable. The proposed change would probably influence not only the promptness, but also the effectiveness of the enforcement proceedings conducted under an electronic enforceable title.

2. Enforcement proceedings conducted under an electronic enforceable title – identified problems

The identification of research problems related to the use of the institution of electronic writ proceedings at the stage of compulsory enforcement proceedings was possible owing to many years of observation and application of law in the area of judicial enforcement in Poland. Moreover, the importance of the EWP for judicial enforcement is confirmed by the basic statistical surveys carried out and the necessary indicators developed on this basis regarding enforcement cases conducted under an electronic enforceable title from the moment of introduction of this regulation until the end of 2022 (there was no statistical data available for entire 2023 as of the date of preparation of this study) presented at the outset of this paper. The methods listed herein allowed us to identify at least four research problems.

Firstly, the requirement of handwritten signature, stamp and date on the document generated from the EWP system is an excessive, unjustified formalism. The starting point for determining this problem is the distinguishing of two forms of application for enforcement, i.e. traditional (§ 5 (1) of the Regulation of 30 November 2018) and electronic (§ 6 of the Regulation of 30 November 2018). Such a distinction determines specific actions of the enforcement authority, and in both cases of the form of the application, the enforcement authority is obliged to make a handwritten annotation on the verified document by affixing a handwritten signature and date on the electronic document generated from the system. In the original version of the Regulation,[18] the judicial enforcement officer was additionally required to enter the name of the month in words and a legible signature. In the current wording of the provision, the need to enter the name of the month in words and a legible signature has been abandoned, but the written and handwritten elements of the annotation have remained (which should be assessed as an inconsistency in the de-formalisation). This unnecessary formalism was noticed in the enforcement proceedings as early as in the explanatory memorandum to the draft regulation of the Minister of Justice of 27 May 2021 amending the regulation on the activities of the National Council of Bailiffs enabling judicial enforcement officers to carry out enforcement under an electronic enforceable title and enforcement activities carried out via the ICT system, where it was indicated that "The need to introduce

[18] Journal of Laws 2018, item 2372.

changes made to § 5 (4) of the Regulation amended in § 1 stems primarily from the fact that the current rules for making annotations on the initiation of enforcement based on an electronic enforceable title are excessively formalised. The act of initiating enforcement procedure on the basis of such an enforceable title requires proper recording, while the current legislation imposes a number of unnecessary and labour-intensive obligations on the enforcement officer, such as the need to provide a written annotation on a paper document with a legible handwritten signature and the date on which the name of the month is to be written in words. Procedural provisions do not demand such far-reaching requirements even for actions of incomparably greater procedural importance. It must therefore be concluded that the arrangements in force are redundant and entail unnecessary obligations which may be cumbersome to carry out, given, in particular, that applications for enforcement under an electronic enforceable title are most often made by mass-claim creditors and are often submitted in significant quantities at once".[19]

The lack of consistency in the de-formalisation of those acts is unjustified, and leaving the requirement of handwritten activities relating to the annotations in no way serves the efficiency and promptness of enforcement cases and generates unnecessary obligations for the judicial enforcement officer and the enforcement firm personnel. Moreover, when the annotation is made by a person acting on behalf of the judicial enforcement officer (e.g. a trainee enforcement officer), the person is required, in addition to the items indicated (signature, date, stamp), to specify that he/she acts under the authority of or in lieu of the judicial enforcement officer. Legislative changes in this area should aim towards abandonment of the requirement of putting on the verification document the own signature of the judicial enforcement officer, his/her official stamp and the date, especially since the legislature seeks to make judicial enforcement fully electronic, including ultimately maintaining all enforcement files in electronic form only. In the case of a person acting under the authority or in lieu of the judicial enforcement officer, the amendments should also include the abandonment of the indication in the annotation that that person acts under the authority of or in lieu of the judicial enforcement officer.

In both of the above cases, it is sufficient to specify that the document has been verified and signed electronically with appropriate annotations without the need to repeat this action by applying a handwritten date signature or an official stamp (manually) as the latter is a "step backwards from computerisation".

Secondly, the impossibility of filing documents other than the application for enforcement and the electronic enforceable title in the ICT system handling the EWP infringes the electronic layer of these proceedings. In the course of the procedure in question, this problem, from the perspective of creditors, destabilises the electronic

[19] https://legislacja.rcl.gov.pl/docs//517/12348150/12797364/12797365/dokument508824.pdf (access: 19.10.2025).

nature of the enforcement proceedings and requires partial communication with the judicial enforcement officer in a traditional way. In this context, the possibility of attaching a document e.g. indicating the interruption of the course of period of limitation (Article 797 § 1[1] CPC; where it is apparent from the wording of the enforceable title that the limitation period for seeking the claim has expired, the application must also be accompanied by a document stating that the limitation period has been interrupted) in the form of an enforcement officer's decision previously discontinuing such enforcement proceedings, or of attaching a document demonstrating the transfer of rights related to the common practice, identified in recent years, of joining the proceedings in place of the previous creditor (Article 804[1] CPC), appears desirable.

In addition to the above, it is important for the sake of speed and efficiency of enforcement proceedings to allow attaching a power of attorney for litigation to the application for enforcement submitted via the system handling electronic writ proceedings or downloading such a document from the files of the examination proceedings stored in the system. The necessity of demonstrating the authorisation of the representative in enforcement proceedings was pointed out in the resolution of the Supreme Court.[20] In practice, the absence of such a document at the initial stage causes unjustified delay from the moment of initiation of the enforcement proceedings and the need of requesting the party to rectify the deficiencies.

Thirdly, the lack of normative status of a note made within the ICT system due to the completion of enforcement proceedings undermines the achievement of uniformity in the application of enforcement law. The obligation to make these annotations results directly from Article 816 § 2 CPC (where the enforcement has been conducted under the enforceable title referred to in Article 783 § 4, the result of enforcement shall be recorded in the ICT system) and § 7 of the Regulation of 30 November 2018. However, there is no regulation which unequivocally determines the normative nature of this activity. In the practice of applying the law, there are discrepancies as to the normative nature of such a note and not all judicial enforcement officers treat such an annotation on an equal footing with that placed on the "traditional" enforceable title (this is important, e.g., in the context of the interruption of the course of limitation period or the enforcement of the costs of enforcement proceedings indicated therein). There is no discrepancy in the literature on the subject as regards the meaning of such a note and it is assumed that "this note plays the same role as the note on a title issued in the traditional form"[21] or, e.g., "If the enforceable title is in electronic form, placed on it in the electronic form

[20] Resolution of the Supreme Court – Civil Chamber of 30 November 2011, III CZP 66/11, OSNC 2012, no. 6, item 72.

[21] A. Sadza, [in:] *Kodeks postępowania cywilnego. Komentarz*, part 3: *Postępowanie egzekucyjne*, ed. A. Olaś, Legalis 2023.

(in the ICT system, Article 816 § 2 CPC) annotations also constitute the content of the enforceable title on the basis of which the enforcement authority examines the limitation period".[22] This thesis is no longer so obvious among enforcement officers, which causes interpretation doubts in the context of, e.g., the assumption that payment of the costs of enforcement thus identified (specified) can be enforced on the basis of such a note.

The recording of the manner of termination of the case together with a precise annotation of the the costs, including the costs of representation in judicial enforcement, must be standardised for all cases based on an electronic enforceable title. Such an obligation should also include a time limit for doing so. This is important due to at least two respects. Firstly, such a note on the title could be treated as stating the interruption of the course of limitation period (in the context of demonstrating such an event), and secondly, it should reflect the actual state of proceedings (where currently its content and individual elements result rather from the practice of a given enforcement authority and there is no uniformity as to its content and the elements defining it). What is missing, e.g., is the possibility to choose the appropriate option of the legal basis in the event of completion of the proceedings (e.g. discontinuance on request, discontinuance ex officio, the enforcement declared pointless). The unambiguous clarification by the legislature that such a note has the force of a judicial enforcement officer's decision on the determination of costs and the introduction of the possibility of recording validity of such an action in the ICT system will allow for its certain interpretation and the assumption that the enforcement proceedings conducted under an electronic enforceable title have been completed as final.

Fourthly, the legislature should consider the possibility of removing from the ICT system of the EWP electronic enforceable titles in which the claim is time-barred. The introduction into electronic writ proceedings of automatic verification and removal from the ICT system (after a certain waiting period) of electronic enforceable titles in which e.g. the claim sought is time-barred, where there was no relevant notation, or e.g. when a party to the proceedings has died and the proceedings were not assumed with participation of his/her heirs, is justified for reasons of certainty and their expected effectiveness.

CONCLUSIONS

The electronic writ proceedings have been operating in the Polish legal system for over 13 years. During that time, the EWP were subject to numerous amend-

[22] R. Kulski, [in:] *Kodeks postępowania cywilnego*, vol. 4: *Komentarz. Art. 730–1095[1]*, ed. A. Marciniak, Legalis 2020.

ments. The ICT system has also undergone changes, either because of successive amendments to the Civil Procedure Code or because of a desire to improve the functioning of the system itself. Currently, both the ICT system operated by the e-Court and the EWP itself differ from what they looked like in 2010. Most of the solutions adopted should undoubtedly be assessed positively. However, it seems that the capabilities of the EWP and the ICT system are not used in full. The declining number of cases brought before the e-Court over the last few years is worrying. The proposed changes, both at the legislative level and at the level of the ICT system, would increase confidence and thus increase the frequency of using this mode of procedure by the plaintiffs or their attorneys, which would reduce the burden of common courts conducting ordinary/traditional proceedings.

The changes in the possibility of initiating and conducting enforcement under an electronic enforceable title should be considered positive: they go in the right direction, serve the values of efficiency and promptness in the justice system and fit into the model of computerised society. In general, legal sciences, the functioning of the e-Court in the structure of the justice system and the online procedure of case resolution (e.g. outside the court) is the subject of ongoing discourse of law theorists and practitioners around the world.[23] From the perspective of achieving the objective of judicial enforcement, the above-mentioned problems require legislative measures aimed at clarifying the normative status of electronic activities in the judicial enforcement procedure, not leaving aside changes aimed at de-formalisation of some of the activities of this procedure ultimately affecting the efficient functioning of judicial enforcement in Poland.

On the one hand, the statistical surveys carried out and their quantitative nature revealed a growing number of enforcement cases conducted under an electronic enforceable title compared to the number of cases filed in judicial enforcement firms based on "traditional" enforceable titles. On the other hand, the problem of the low effectiveness of these cases emerged, as confirmed by the percentage figures presented (see Table 1). The rational legislator introducing further changes in the civil procedure should "weigh" these values while maintaining a proper balance between the rights of the creditor and the protection of the debtor.

It should be concluded on the basis of the studies conducted that the electronic writ procedure allows for the effective pursuit of monetary claims, which was positively verified with hypothesis 1. Hypothesis 2 was also confirmed, that the electronic writ proceedings is a tool for initiating and conducting enforcement proceedings based on an enforceable title issued in an electronic procedure.

[23] R. Susskind, *op. cit.*, pp. 192 ff.

REFERENCES

Literature

Bednorz-Godyń H., Marciniak A. (eds.), *Prawa wierzyciela a ochrona dłużnika. Teoria i praktyka*, Warszawa 2022.

Bodio J., *Elektroniczny tytuł wykonawczy*, "Przegląd Prawa Egzekucyjnego" 2017, no. 1.

Cieślak S., *Elektroniczne postępowanie upominawcze*, "Monitor Prawniczy" 2010, no. 7.

Cieślak S. (ed.), *Aksjologia egzekucji sądowej. W poszukiwaniu optymalnego poziomu ochrony praw wierzyciela i dłużnika w postępowaniu egzekucyjnym i upadłościowym*, Sopot 2022.

Flaga-Gieruszyńska K. (ed.), *System Postępowania Cywilnego*, vol. 8: *Postępowanie zabezpieczające i egzekucyjne*, Warszawa 2021.

Flaga-Gieruszyńska K., Zieliński A. (eds.), *Kodeks postępowania cywilnego. Komentarz*, vol. 12, Legalis 2024.

Jagieła J. (ed.), *Sądowe postępowanie egzekucyjne. Nowe wyzwania i perspektywy*, Warszawa 2020.

Julke G., Knypl Z., Koenner M., Kowalski W., Merchel Z., Sikorski G., Szczurek Z., Świeczkowski J., *Egzekucja sądowa w prawie polskim*, Sopot 2015.

Kotas-Turoboyska S., *Wpływ nowelizacji elektronicznego postępowania upominawczego na możliwość realizacji celów tego postępowania*, "Acta Iuridica Resoviensia" 2021, no. 1.

Kowalski J., *Wady i zalety postępowań odrębnych na przykładzie postępowania upominawczego i elektronicznego postępowania upominawczego*, "Przegląd Prawno-Ekonomiczny" 2019, no. 47.

Kulski R., [in:] *Kodeks postępowania cywilnego*, vol. 4: *Komentarz. Art. 730–1095[1]*, ed. A. Marciniak, Legalis 2020.

Marciniak A., *Sądowe postępowanie egzekucyjne w sprawach cywilnych*, Warszawa 2019.

Pytel A., *Pełnomocnictwo procesowe a system teleinformatyczny obsługujący elektroniczne postępowanie upominawcze*, "Przegląd Prawa Egzekucyjnego" 2018, no. 5.

Reiwer R. (ed.), *Ustawa o kosztach komorniczych. Komentarz*, Legalis 2021.

Sadza A., [in:] *Kodeks postępowania cywilnego. Komentarz*, part 3: *Postępowanie egzekucyjne*, ed. A. Olaś, Legalis 2023.

Susskind R., *Online Courts and The Future of Justice*, Oxford 2021.

Szanciło T. (ed.), *Kodeks postępowania cywilnego. Komentarz*, vol. 2: *Art. 506–1217*, Legalis 2023.

Wójcik-Krokowska N., *Modele odrębnych postępowań przyspieszonych – nakazowego i upominawczych w procesie cywilnym*, Legalis 2024.

Documents

Recommendation Rec(2001)2 concerning the design and re-design of court systems and legal information systems in a cost-effective manner, 28.2.2001.

Recommendation Rec(2001)3 of the Committee of Ministers to member states on the delivery of court and other legal services to the citizen through the use of new technologies, 28.2.2001.

Online sources

https://legislacja.rcl.gov.pl/docs//517/12348150/12797364/12797365/dokument508824.pdf (access: 19.10.2025).

Serwis RP, *EPU – elektroniczne postępowanie upominawcze (e-sąd) w latach 2010–2024*, https://dane.gov.pl/pl/dataset/124,epu-elektroniczne-postepowanie-upominawcze (access: 19.10.2025).

Ministerstwo Sprawiedliwości, *Sądy pracują sprawniej*, 27.8.2023, https://www.gov.pl/web/sprawiedliwosc/sady-pracuja-sprawniej (access: 19.10.2025).

Legal acts

Act of 17 November 1964 – Civil Procedure Code (Journal of Laws 1964, no. 43, item 296, as amended).
Act of 28 July 2005 on court costs in civil cases (Journal of Laws 2005, no. 167, item 1398).
Act of 9 January 2009 amending the Civil Procedure Code and certain other acts (Journal of Laws 2009, no. 26, item 156).
Act of 4 July 2019 amending the Civil Procedure Code and certain other acts (Journal of Laws 2019, item 1469).
Regulation of the Minister of Justice of 15 December 2009 on the determination of the regional court assigned to examine cases in electronic writ proceedings falling within the jurisdiction of other regional courts (Journal of Laws 2009, no. 220, item 1728).
Regulation of the Minister of Justice of 6 October 2016 on the acts of the court related to appending the enforceability clause to electronic enforcement orders and the method of storing and using electronic enforceable titles (Journal of Laws 2016, item 1739).
Regulation of the Minister of Justice of 30 November 2018 on the activities of the National Council of Bailiffs enabling judicial enforcement officers to conduct enforcement under an electronic enforceable title and judicial enforcement officer's activities performed via an ICT system in enforcement proceedings (Journal of Laws 2018, item 2372; consolidated text, Journal of Laws 2023, item 500).

Case law

Resolution of the Supreme Court – Civil Chamber of 30 November 2011, III CZP 66/11, OSNC 2012, no. 6, item 72.

ABSTRAKT

Przedmiotem artykułu jest elektroniczne postępowanie upominawcze, które stanowi jedno z odrębnych postępowań w polskiej procedurze cywilnej. W opracowaniu przedstawiono i omówiono elektroniczne postępowanie upominawcze oraz postępowanie egzekucyjne prowadzone na podstawie elektronicznego tytułu wykonawczego. Autorzy zdiagnozowali i omówili główne problemy związane z elektronicznym postępowaniem upominawczym oraz postępowaniem egzekucyjnym prowadzonym na podstawie elektronicznego tytułu wykonawczego, a także przedstawili propozycje ich rozwiązania. W swoich badaniach wykorzystali dane statystyczne dotyczące postępowania w sprawie nakazu zapłaty w trybie elektronicznym oraz dane dotyczące postępowania egzekucyjnego prowadzonego na podstawie elektronicznego tytułu wykonawczego.

Słowa kluczowe: postępowanie cywilne; elektroniczne postępowanie upominawcze; elektroniczny tytuł wykonawczy; e-Sąd; Polska

Ministerstwo Nauki i Szkolnictwa Wyższego
Doskonała Nauka II

Projekt dofinansowany ze środków budżetu państwa, przyznanych przez Ministra Edukacji i Nauki w ramach Programu „Doskonała Nauka II"