



RGW Rocławski Graczyk i Wspólnicy Adwokacka Spółka komandytowa

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1. Abolishment of the mode of paying court fees by way of court fee stamps

- A bill to amend the act dated 28 July 2005 on legal charges in civil cases (Journal of Laws No. 167, item 1398, as amended) modifies the powers of the Minister of Justice under article 9, clause 1, of the act to issue an order on the modes of paying court fees in civil cases by eliminating one of the still permissible forms of such payment by way of court fee stamps.
- The planned amendment of the law is connected with the content of the draft of a new order which will supersede the order of the Minister of Justice dated 31 January 2006 on the mode of court fees payment in civil cases (Journal of Laws No. 27, item 199, as amended). The fundamental change consists in abolishment of the possibility for the court fees to be paid by way of court fee stamps.
- In § 12 of the order a relatively long period, i.e. until 31 December 2012, has been provided for when payment of court fees by way of court fee stamps will still be permissible. In the opinion of the drafter, the transitional period mentioned above will make it possible to sell off the court fee stamps already produced remaining at the cash desks of the courts and out-of-court points of sale and enable applicants to use stamps purchased by them.
- Additionally, the planned order contains provisions regulating the way of paying court fees by means of the Electronic Payment Platform (EPP) which will allow to pay court fees using various forms of payment (such as credit cards, payments into an account, transfers, etc.) and will contain all necessary identification data.
- An authorized employee of the court will be able to seek out a particular payment quickly according to specific EPP parameters, to connect it with the appropriate type of action and to note down the payment made. A notice of the payment made given to the court by an applicant indicating the EPP number will be sufficient to establish the fact that the payment has been effectively made.

2. **Amendment of the regulation of article 585 of the Commercial Companies Code [“CCC”]**

As of 1 July 2011, the act dated 29 March 2011 became effective on limitation of administrative barriers for citizens and entrepreneurs (Journal of Laws of 2011, No. 106, item 162) amending, *inter alia*, the regulation of article 585 of the Commercial Companies Code.

- **A new definition of an offence**

In the amended wording, the regulation of article 585 provides: “Anyone who taking part in establishment of a commercial company, serving as a member of its management board, supervisory board, audit committee or being a person actually managing its affairs or a liquidator, by abuse of powers granted him/her or breach of duty resting with him/her, exposes the company to direct danger of substantial damage to its property shall be subject to a fine or imprisonment for up to 3 years.

- **Extension of a circle of parties to the commission of an offence under article 585 of the CCC**

The subjective change consists in the extension of the list of parties to the omission of an offence under article 585 of the CCC to all persons actually managing affairs of a commercial company, including partners in private companies authorized to manage company affairs and persons appointed as members of the management board of a commercial company in contravention of the regulations determining the procedure for such appointment.

- **Offence of exposing the company to (property) damage**

The amended regulation of article 585 of the CCC provides for criminal responsibility, not as so far, for action to the detriment of the company but for exposure of the company to danger of a substantial damage to its property by abuse of powers or breach of duty, i.e. for an offence of the so called particular exposure to danger being a substantive (consequential) offence. A statutory limitation of damage has also been introduced exclusively to the loss of a property nature.

- **Tempered sanction and private complaints procedure**

As a result of the amendment, the commission of an act under article 585 of the CCC is punishable, with an alternative, a fine or imprisonment for up to 3 years (and not as so far imprisonment for up to 5 years and a fine cumulatively). The new wording of § 2, art. 585 of the CCC introduces a change of the procedure for prosecuting from public prosecution to the private complaints procedure.