LEX LOCALIS

Evidence in Civil Law - Poland

Authors:
Katarzyna Bagan-Kurluta
Piotr Konrad Fiedorczyk


§
LEX
LOCALIS

Title: Evidence in Civil Law – Poland

Author: Katarzyna Bagan-Kurluta, Piotr Konrad Fiedorczyk

First published 2015 by
Institute for Local Self-Government and Public Procurement Maribor
Grajska ulica 7, 2000 Maribor, Slovenia
www.lex-localis.pres, info@lex-localis.press

Book Series: Law & Society

Series Editor: Tomaž Keresteš

CIP - Kataložni zapis o publikaciji
Narodna in univerzitetna knjižnica, Ljubljana

347(438)(0.034.2)

BAGAN-Kurluta, Katarzyna
Evidence in civil law - Poland [Elektronski vir] / Katarzyna Bagan-Kurluta, Piotr Konrad Fiedorczyk. - El. knjiga. - Maribor : Institute for Local Self-Government and Public Procurement, 2015. - (Lex localis) (Book series Law & society)

Način dostopa (URL): http://books.lex-localis.press/evidenceincivillaw/poland

ISBN 978-961-6842-54-9 (epub)
1. Fiedorczyk, Piotr Konrad
281124864

Price: free copy

This project has been funded with support from the European Commission. This publication reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

With the support of
the Civil Justice Programme
of the European Union

EVIDENCE IN CIVIL LAW – POLAND

Katarzyna Bagan-Kurluta
Piotr Konrad Fiedorczyk

Evidence in Civil Law – Poland

KATARZYNA BAGAN-KURLUTA & PIOTR KONRAD FIEDORCZYK

ABSTRACT The text presents legal issues concerning evidence and evidence taking in Polish civil proceedings. General principles of Polish civil proceedings are discussed, as well as the principles concerning evidence. The evolution of Polish proceedings is obvious: it is getting more and more formal. The provisions about preclusion are presented in this context and the contradictory model of the proceedings is expressed strongly. There are some doubts if the evolution of Polish Code of Civil Proceedings goes in right direction. The problem of possible adoption of pre-trial regulations is also mentioned.

The second part of the text deals with international dimensions of Polish Civil proceedings.

KEYWORDS: • Polish civil proceedings • evidence • document • witnesses • pre-trial

CORRESPONDENCE ADDRESS: Katarzyna Bagan-Kurluta, Ph.D., University of Bialystok, Law Faculty , Mickiewicza 1, 15-213 Bialystok, Poland, e-mail: kbkurluta@wp.pl. Piotr Fiedorczyk, Ph.D., University of Bialystok, Law Faculty, , Mickiewicza 1, 15-213 Bialystok, Poland, e-mail: fiedorczyk@uwb.edu.pl.

DOI 10.4335/978-961-6842-54-9 ISBN 978-961-6842-54-9 (epub)

Available online at http://books.lex-localis.com.

Prof. dr. hab. Katarzyna Bagan-Kurluta,

Author Biography Prof. dr. hab. Katarzyna Bagan-Kurluta was born on February 18th, 1966 in Bialystok, Poland. She graduated Warsaw University in 1992, than she started her scientific career at the Faculty of Law of University of Bialystok, where she obtained her doctor's degree in 1991. In 2010 she finished her habilitation and started to work as a professor of private international law. Her main interests are: private international law, family law and human rights, but also international civil law and international trade law. She is an author of monographs (regarding franchising agreement, intercountry adoption, Polish-British relationships concerning family law), text-books (private international law, trade law), articles and other publications – many of them published abroad.

She took part in the EU grants concerning the European instruments concerning civil procedure, inter alia "Simplification of debt collection in UE", and "Dimensions of evidence in european civil procedure", which was conducted by University of Maribor.
She is a member of the International Society of Family Law and practicing advocate.

Dr. hab. Piotr Konrad Fiedorczyk

Author Biography Dr. hab. Piotr Konrad Fiedorczyk was born on Jan. 18th, 1966 in Bialystok, Poland. In 1991 he graduated from Warsaw University, Faculty of Law and Administration. He started his university career in 1991 at the University of Bialystok. In 1999 he obtained the doctor's degree. In June 2015 he concluded his habilitation.
He teaches history of Polish and European law. He also teaches European family law. He specializes in history of law, and especially in history of family law in the 20th century Poland. He also makes research on history of family law in communist and post-communist countries.
In 2014 he published a book *Unifikacja i kodyfikacja prawa rodzinnego w Polsce (1945-1964)* [Unification and Codification of Family Law in Poland (1945-1964)], Białystok 2014, 820 pages. He is an author of about 100 publications on history of law, history of family law (about 30), and contemporary family law (about 15). About 20 of them were published abroad.
In years 2000-2002 he served as Vice-Dean of the Faculty of Law. From 1999 to 2013 he was an Institutional Coordinator of LLP-Erasmus Program at the University of Bialystok.
He is the Chief Editor of journal "Miscellanea Historico-Iuridca" (12 volumes till 2014). He is also a member of the Editorial Board of "Journal

on European History of Law", published by the European Society for History of Law.

He took part in the EU grant "Simplification of debt collection in UE", which was conducted by University of Maribor.

He is also legal counselor. Member of the International Society of Family Law from 2005, from 2011 he is the member of the Executive Committee of the ISFL. He is also a member of the Board of Directors of the International Academy for the Study of the Jurisprudence of the Family.

Foreword

The problem of evidence and evidence taking is one of the most important issues of all of the procedural laws, including civil proceedings. Changes of legal system of the post-communist countries touched also civil proceedings. Poland is one of the most vivid examples. The amendments to Polish Code of Civil Proceedings (CCP) of 1964 were very frequent. More and more contradictory rules are in power, the proceedings is getting more and more formal. There is almost nothing left from the previous times, when the role of the court in evidence taking stage of the trial was very important.

Other important change is connected with the influence of the EU law into Polish proceedings. These issues are discussed on the basis of EU regulations, which play more and more important role in the civil proceedings of the EU member states.

Contents

	Part I	1
1	Fundamental Principles of Civil Procedure	1
1.1	Principle of Free Disposition of the Parties and Officiality Principle	1
1.2	Adversarial and Inquisitorial Principle	3
1.3	Hearing of Both Parties Principle (audiatur et alter pars) – Contradictory Principle	3
1.4	Principle of Orality – Right to Oral Stage of Procedure, Principle of Written Form	4
1.5	Principle of Directness	5
1.6	Principle of Public Hearing	6
1.7	Principle of Pre-trial Discovery	7
1.8	Other General Principles in Polish Legal System	7
2	General Principles of Evidence Taking	7
2.1	Free Assessment of Evidence	7
2.2	Relevance of Material Truth	8
2.3	Other General Principles Regarding Evidence Taking in Polish Legal System	10
3	Evidence in General	11
4	General Rule on the Burden of Proof	13
5	Written Evidence	14
6	Witnesses	16
7	Taking of Evidence	21
7.1	Rejection of an Application to Obtain Evidence	25
7.2	The Hearing	29
7.3	Witnesses	32
7.4	Expert Witness	32
8	Costs and Language	35
8.1	Language and Translation	37
9	Unlawful Evidence	37
10	The Report about the Regulation No 1206/2001	38
11	Table of Authorities	38
	Part II – Synoptical Presentation	39
1	Synoptic Tables	39
1.1	Ordinary/Common Civil Procedure Timeline	39
1.2	Basics about Legal Interpretation in Polish Legal System	40
1.3	Functional Comparison	40
	References	47

Part I

1 Fundamental Principles of Civil Procedure

Under Polish law civil proceedings are codified. First Polish code on civil procedure was passed in 1930 and was based on Austrian code by Franz Klein from 1895. Now the basic legal act regulating these proceedings is the Act of 17 Nov. 1964 *Kodeks postępowania cywilnego* (Code of Civil Proceedings – hereinafter called CCP). It has been amended more than 170 times since it was passed and now it is adopted to new economic situation. One of the most visible changes refers to the principle of disposability, which has been regulated wider in last years. Right now the CCP is composed of the introductory title (general provisions – Articles 1-13); and five parts: I – examination of civil law cases (Articles 15-694[8]); II – Proceedings to secure claims (Articles 730-757); III – Execution proceedings (Articles 758-1088); IV – Provisions on international civil proceedings (Articles 1096-1153[9]); V – Court of Arbitration (Articles 1154-1217). The provisions concerning evidence are regulated in Articles 227-315 of the CCP. The current code is criticized by many as incoherent, vague, detailed and complicated.[2]

1.1 Principle of Free Disposition of the Parties and Officiality Principle

The CCP does not define the notion of the principles of civil procedure. They are formulated by the doctrine as the central and leading ideas of the system of the civil proceedings[3], or as a constructing basis for the mechanism of the civil proceedings.[4] In Polish doctrine the descriptional way of presenting the principles dominates. It is based on writings of N. T. Gönner, the German pioneer in jurisprudence of the principles of the court proceedings.[5]

According to Article 321 of the CCP the court cannot neither pass judgments in reference to object which was not covered by the party's claim nor pass judgments beyond claim (*ne eat iudex ultra petita partium*). It means that in Polish system the

[2] Bartosz Karolczyk, Pretrial as a part of judicial case management in Poland in comparative perspective, 15 Comparative Law Review (2013), p. 155.
[3] Zbigniew Resich, Istota procesu cywilnego, p. 118 et supra (Warszawa 1975).
[4] Henryk Mądrzak, O pojmowaniu naczelnych zasad postępowania cywilnego, in: Proces i prawo. Rozprawy prawnicze, p. 384-401 (Wrocław 1989).
[5] Henryk Dolecki, Postępowanie cywilne. Zarys wykładu, p. 45 (LexisNexis, 5th ed., Warszawa 2013).

essence of the free disposition of the parties is based on two assumptions. First, the court does not institute the proceedings *ex officio* without an application or a motion of an entitled person. There are some exceptions from this assumption in non-litigious proceedings. There is a prohibition to pass judgments in reference the object that was not included in the party's claim. Secondly the court can't adjudicate any performances or rights besides the claim presented by the person interested. The party's motions referring both to the subject and the scope of claims are absolutely binding on the court and the latter may not go beyond the party's claims even if it was justified, for example due to the principles of social coexistence (e.g. higher compensation).[6] The only exception from this principle is allowed in labour law cases, in which the court can *ex officio* pass judgment about alternative possible claims of the worker, even if they were not presented (Art. 477^1 CCP).

The parties and participants in the proceedings may shape the subject of the proceedings (called substantive disposability) and enjoy procedural rights (called formal disposability). The principle of free disposition of the parties is exercised by deciding whether to instigate the proceedings and whether to act in the proceedings, including whether to undertake dispositive acts such as the right to a court settlement, the waiver of a claim (Article 203 of the CCP) or the acknowledgment of a claim.[7] You may however admit that under Polish law the court is entitled to control these acts of parties.

This principle is limited by the introduction of the possibility for civil proceedings to be instigated by a public prosecutor, social organization or other persons entitled to act. Also, in non-litigious proceedings, the court may instigate proceedings, *ex officio*. However, the above mentioned limitations of the principle of free disposition are exceptions.

The system of contingent accumulation (Eventualmaxime) is an inherent element of the system of preclusion. The said rule makes it mandatory for the parties to submit all allegations and evidence, at certain stage of the proceedings, including potential procedural material (in omnum eventum), namely allegations and evidence that could become relevant.[8] This provision exists in Polish civil proceedings (Art. 207 § 3 of the CCP):

The President may also before the first hearing oblige the parties to submit subsequent preparatory writings, indicating the sequence of submitting written statements of claim, deadlines, in which they should be submitted, and the circumstances that have to be

[6] Grzegorz Trojanowski, Polish Civil Proceedings, in: A Synthesis of Polish Law, part 1, ed. Tadeusz Guz et al., p. 576 (Peter Lang, Frankfurt am Main 2009).
[7] Feliks Zedler, Civil Procedure, in: Handbook of Polish Law, ed. Wojciech Dajczak, Andrzej J. Szwarc, Paweł Wiliński, p. 611(Wydawnictwo Szkolne PWN, Warszawa – Bielsko-Biała 2011).
[8] Bartosz Karolczyk, Preclusion of late allegations and evidence as a tool to increase efficiency of civil proceedings in Poland: A short story of the ugly past and the long way towards the bright future. Presentation delivered during conference „Public and Private Justice. Dispute Resolution in Modern Societies" in Dubrovnik on May 27th, 2013.

explained. In the course of the case submitting preparatory writings occurs only if the court decides so, except that the writing includes only evidence offered.

Pursuant to Art. 5 of the CCP the court, in case of a justified need, may instruct the party acting without an advocate about the necessity of conducting certain acts during proceedings.

1.2 Adversarial and Inquisitorial Principle

This principles concern the question who is obliged to collect and present evidentiary material. The CCP has given strong preference to the adversarial principle. In trial proceedings the plaintiff should indicate the facts and evidence supporting his claims and motions. It is expressed in the first sentence of Art. 232 of. The CCP: "The parties are obliged to point out the evidence to prove the facts, from which they infer legal effects". The principle is connected with the principle coming from Art. 6 of the Civil Code[9] that the burden of proof is on the person who infers legal effects from a given fact.

Generally the role of judge in Polish Civil proceedings seems to be a role of an independent arbitrator who is only evaluating the evidence presented by the parties. In some instances application of the principle of adversarial proceedings is qualified, giving the way to the inquisitorial principle. This happens when the court undertakes *ex officio* actions to supplement the trial material provided by the parties (admission of evidence) or when it conducts a proof not offered by the parties (Art. 232 sentence 2 of the CCP). Numerous doubts may arise in connection with this wording. In practice this takes place in family law cases and when there is a suspicion of a fictitious trial or collusion between the parties.[10] In the non-litigious proceedings the cases do not have an adversarial trail nature, and in a number of instances non-litigious proceedings may be instigated ex officio. It may also be applied when the court takes judicial notice of certain facts. It means that the court may learn facts from the parties evidentiary submissions or acknowledge the notorious facts. Nevertheless the principle should be invoked only in exceptional circumstances. This is reflected in the court's obligation to close the hearing of the case after conclusion of evidentiary proceedings by the parties. Before 2004 amendments to the CCP the court was obliged to close the hearing of the case when it came to the conclusion that the case was sufficiently examined.

1.3 Hearing of Both Parties Principle (audiatur et alter pars) – Contradictory Principle

The principle of adversarial proceedings should be distinguished from the adversarial nature of the proceedings. The latter means that parties hold opposing views at trial. The most characteristic feature is a court hearing during which the parties orally present their motions and conclusions, while also offering evidence to prove them.

---

[9] Act of 23 April 1964, Journal of Laws, No. 16, item 93.

[10] Tadeusz Ereciński, Civil Procedure, in: Introduction to Polish Law, ed. Stanislaw Frankowski, p. 124 (Kluwer Law International, Zakamycze 2005).

The *audiatur et altera pars* principle is a part of the constitutional right to fair trial [Art. 45(1) of the Constitution]: "every person has the right to a fair and public resolution of the matter without undue delay", but in Polish doctrine it is rather not regarded as an independent principle. It is closely connected with the principle of equality of parties and with the contradictory principle.[11]

This principle is not defined by the CCP. You may however derive it from Art. 3 which obliges parties to produce the evidence. The right to be heard is realized by the provisions concerning hearing – the parties must be informed about the time (Art. 208 of the CCP). They generally should be present during hearing, although the parties may also ask the court to conduct the hearing during their absence (Art. 209 of the CCP). During the proceedings the parties must have identical measures to present their statements (*non debet actori licere, quod reo non permittitur*). Pursuant to Art. 212 § 1 of CCP the parties at the beginning of the hearing have the duty to submit the evidence.

The preclusions may limit the right to be heard. Pursuant to new Art. 217 § 2, applying to the trial – the court ignores untimely allegations and evidence, unless moving party can show with high probability that the lack of their submission in due time has not been negligent, their admission should not delay the disposition of the case or other extraordinary circumstances exist.

The passivity of the party is evaluated by the court and it may obviously have negative consequences. According to Art. 233 § 2 the court will evaluate the party's refusal to submit the evidence as well as interfering in conducting the evidence.

If the defendant fails to defend himself, the court gives a default judgment (Art. 339 of the CCP). As a rule, a default judgment ascertains the claim by assuming that the statements of the petition are true.

The important guarantee of the *audiatur et altera pars principle* is the provision of Art 321 § 1 of the CCP, which prohibits the court to adjudicate beyond and over a claim.

If the parties right to heard is violated, you can raise this objection in the procedure of appeal. According to Article 379 p. 5 of the CCP the nullity of civil proceedings takes place when the party has been deprived from defending his rights.

1.4 Principle of Orality – Right to Oral Stage of Procedure, Principle of Written Form

The principle of orality exists in Polish legal system and it is connected with the principle of directness and the principle of public hearing, because oral hearing best assures contact between the court and the parties. It is an essential factor in simplifying

[11] Aneta Łazarska, Rzetelny proces cywilny, p. 482-484 (Wolters Kluwer business, Warszawa 2012).

and de-formalizing civil procedure and a necessary prerequisite for its transparency.[12] The principle of orality is limited to court hearing.

The principle of oral proceedings (Art. 210 CCP) is the right of the party to present the court with their claims and demands in the course of the proceedings in an oral way, according to one's oratorical abilities.

Although during the hearing of evidence the court directs the participants also orally, the principle of proceedings in writing binds since all court activities should be documented, either in the minutes of the court session or in written decisions. The written form allows to control the proceedings by the appellate courts. The principle of oral proceedings does not exclude the right of the parties to present their standpoints also in a written form.[13]

Written form is required to start the proceedings (Art. 187 of the CCP), with one exception concerning labour law and social security law cases (Art. 466 of the CCP). Outside the public hearing the written form dominates. Written statements of claim are compulsory. Filling of a suit, an appeal, an interlocutory appeal or a cassation complaint should be in written form. According to Art. 125 § 2 of the CCP, sometimes it is required to use official forms. Generally, in the appellate proceedings the written form dominates. The same refers to the execution proceedings.

It should be stressed that the principle of orality refers to actions undertaken by the parties, the written form is obligatory in court's decisions.

1.5 Principle of Directness

This principle plays important role in Polish system of civil proceedings. It means that the court examines procedural material directly. This principle is realised primarily in the course of the evidentiary proceedings. According to Art. 235 § 1 of the CCP the evidentiary proceedings take place in front of the court issuing the decision. The principle of directness is a rule, and the existence of it cannot be limited by the parties.

There are some exceptions to this principle. They are regulated in the above mentioned Art. 235. If, due to the subject to be proven or serious inconvenience or incommensurability of costs, the hearing of evidence would be impossible or excessively difficult, the evidence may be heard by one judge appointed from the sitting court or another court called "summoned court" (§ 1). Also, according to § 2, technical equipment in distance hearing of evidence can be used. In that case the court is undertaking these hearing activities in presence of summoned court or a court's clerk. You may argue that is not an exception of the principle of directness in fact.

Important exception arises a contrario from Art. 323 of the CCP. It reserves the possibility of pronouncing a judgment only for the judges in front of whom the hearing

[12] Ereciński, supra n. 10, at p. 125.
[13] Trojanowski, supra n. 6, at p. 578.

(sitting) directly preceding the judgment took place. It should be understood that in the course of the proceedings, since its beginning to the end, the personal composition of the bench may be changed, even many times. It is only required that judgment must be given by the judges who heard the sitting directly before the delivery of the judgment.[14] It means that only the judge who closed the hearing is entitled to pass the judgment. After closing the hearing no evidence can be submitted, unless the judge opens the hearing again.

The principle of directness is limited also in the appellate proceedings. According to Art. 386 § 4 of the CCP you cannot conduct the hearing of evidence **in total** during this stage of the proceedings. If such situation occurs, the judgment of the lower court will be quashed. A contrario it means the court of appeal may complete the evidence in part. It is stressed that hearing of evidence in the court of appeal is the continuity of the hearing of evidence in the lower court[15]. The appellate court may evaluate the evidence in a different way than the lower court. There is one important exception: in the simplified proceedings the court of appeal does not conduct the hearing of evidence (exception: document), unless new evidence arose later than during the proceedings in the lower court (Art. 505^{11} of the CCP).

1.6 Principle of Public Hearing

Article 45 of the Constitution states that everyone has the right to a public hearing of his case. The CCP realizes the constitutional provision in Art. 9, in which the principle of open examination of a case is introduced unless a special rule provides otherwise. Under Art. 148 of the CCP hearings in general are public and may be attended not only by parties and participants but also by third parties. The parties have also a right to view case records and obtain copies of documents kept in the records (the principle of internal openness). The limitation to openness refers only to external openness (e.g. when examination of the case poses a threat to the public order or morality – Art. 153 § 1 CCP). There is also a possibility of limiting openness towards the third persons (so called trial in camera) on party's motion. Examination of the party's motion takes place excluding the outside openness. The announcement of the sentence always takes place openly. Breaking the principle of open proceedings causes the nullity of the proceedings if it deprived a party of the possibility of defending their rights.

The proceedings in camera (closed sitting) occurs more often in non-litigious proceedings. According to Art. 514 § 1 the hearing takes place only in cases pointed in the Code.

The hearing is the central point of the proceedings, during which all principles of the proceedings are in use.[16]

---

[14] Zedler, supra n. 7, at p. 612.

[15] Jan Turek, Czynności dowodowe sądu w procesie cywilnym, p. 60 (Wolters Kluwer, Warszawa 2011).

[16] Wielka encyklopedia prawa, ed. Eugeniusz Smoktunowicz and Cezary Kosikowski, p. 873 (Wydawnictwo Prawo i Praktyka Gospodarcza, Warszawa 2000).

1.7 Principle of Pre-trial Discovery

This principle does not exist in Polish legal system, although there are proponents of introducing them.[17] The CCP lacks provisions based on judicial discretion, that would provide for a general tool to achieve proper concentration of procedural material. The CCP does not provide for a modern pre-trial stage. Its structure is ancient. As a result, there is no effective exchange of information prior to trial. For example, questioning of the parties for informative purposes and potential discussion may only take place once the trial has just begun. The court may not rule on evidence outside of actual trial hearing, except for motion for expert witness. Although the parties are under the duty to specify the evidence in their pleadings, their access to each other's information is otherwise basicall non-existent.[18]

1.8 Other General Principles in Polish Legal System

You may argue that the **principle of procedural formalism** exists in Polish civil proceedings. The parties cannot act before the court without any restrictions. In order for the undertaken actions to have a legal consequence, they should be performed in a definite form, time and place.[19] Breaking these rules usually brings about negative consequences for the parties. The performance of a legal act that has been carried out without observing the form prescribed for it, or the time prescribed by the statute or outside the place specified by law, is null and void. There are however some legal measures to mitigate the rigorous effects of the application of this principle. According to Art. 126 of the CCP, the formal defects of the document may be dissolved in the interlocutory proceedings. If the proceedings are not performed in a timely manner, it is possible to extend the time limit, if a participant in the proceedings has failed to perform an act through no fault of his own (Art. 168 of the CCP).[20]

The system of preclusions is good example of existing the principle of procedural formalism.

2 General Principles of Evidence Taking

2.1 Free Assessment of Evidence

Polish civil proceedings, like all modern systems, is based on the principle of free assessment of evidence. This principle gives the court absolute freedom in appraisal of evidence. According to Art. 233 § 1 of the CCP the court evaluates the credibility and the force of evidence at its own discretion on the basis of a comprehensive analysis of the collected material. According to § 2 on the same basis, the court may assess how

[17] Bartosz Karolczyk, Koncentracja materiału procesowego w postępowaniu cywilnym przed sądem pierwszej instancji, p. 561-563 (Wolters Kluwer business, Warszawa 2013).
[18] Bartosz Karolczyk, Supra note 8, p. 15.
[19] Trojanowski, supra n. 6, at p. 578.
[20] Zedler, supra n. 7, at p. 613.

important it is that party refuses to reveal the evidence or hampers the examination of evidence.

Freedom of the assessment should not be mistaken with arbitrariness. The former consists of the lack (with few exceptions, discussed later) of strict guidelines or orders from the legislature in relation to the interpretation and estimation of the collected evidence. At the same time the court, while considering the evidence, is obliged to make its factual analysis in accordance with the rules of logical reasoning as well as life experience, in an impartial manner.[21] The statute requires the judge to evaluate the reliability and persuasiveness of a given piece of evidence in conformity with her own consciousness. Such an evaluation must always be based upon thorough examination of all the evidentiary material. The appropriateness of the judge's evaluation is subject to the appellate court review.[22] A court of higher instance, which investigates a case after an appeal is brought, may alter the evaluation only if the assessment has infringed logical reasoning.

In some instances the application of the principle is limited. According to Art. 11 of the CCP the court is bound by the final guilty judgment rendered in a criminal trial. This refers to the fact of committing the crime. Also certain legal presumptions, including presumptions relating to official documents, and the precedence of proof from testimony of witnesses or statements of the parties over other means of evidence, may limit the principle of free assessment of evidence.

2.2 Relevance of Material Truth

Polish law of civil proceedings has undergone spectacular evolution after 1989 with regards the principle of material truth. In the socialist times it was stressed that, according to Art. 3§ 2 of the old text of the CCP, the court had the duty to investigate the case comprehensively and to reveal the real content of the factual and legal relations binding the parties. The court was obliged to carry out the investigation, even against the will of the parties. It was called the principle of the objective truth and was demonstrated as an example of the superiority of the socialist law over capitalist law.[23] In fact this was an important way to control the society through civil proceedings, and it was an important feature of the totalitarian state. These provisions were eliminated from the CCP, especially in 1996, 2000, 2004 and finally in 2011. The amendments cannot be however interpreted as a resignation from the principle of truth, which is the obvious ground for just and adequate trial. According to some authors, Polish civil proceedings moved towards adopting the principle of formal truth, which enhances the principle of parties' autonomy and the adversarial nature of the proceedings.[24] Probably this conclusion goes too far.

[21] Trojanowski, supra n. 6, at p. 579.
[22] Ereciński, supra n. 10, at p. 126.
[23] Zedler, supra n. 7, at p. 613.
[24] Ereciński, supra n. 10, at p. 123.

After the novelisation of 2011 Art. 3 of the CCP stipulates that parties and the participants of the proceedings are obliged to undertake procedural activities in accordance with good morals, to give explanations about the circumstances of the case in accordance with truth and without concealing anything and to submit the evidence.

However, the party cannot be forced to give true explanations. That's why they are not an evidence. You should always bear in mind that according to Art. 232 sentence 2 the court can admit the evidence, which was not submitted by the party. Despite the clear wording of the provision, under certain circumstances this right turns into a duty. Specifically, the Supreme Court has ruled that "the court should introduce the evidence on its own accord in special circumstances". This include, among others, a risk that an unrepresented party's interest, deserving special protection, may be infringed due to lack of activity on her part, despite proper instructions by the court"[25]. The Supreme Court passed other judgment, in which it was ruled that "sometimes due to existence of public interest in social security cases the discretionary right to introduce evidence ex officio becomes the court's duty".[26] Even more characteristic was the Supreme Court judgment in which it was announced that if the only way avoid an incorrect decision on the merits is to take witness evidence, then the court's lack of initiative in that regard violates Art. 232 2nd sentence, regardless parties' initiative.[27] This provision and judgments show that neither Polish legislator nor courts have not resigned from the necessity to reveal the truth. However, in accordance with the principle of adversarial proceedings the parties are generally obliged to point out the evidence.

The limitations to the principle of truth derive from prohibition of certain evidence: Art. 248 § 2 of the CCP, concerning documents, which a person can refuse to demonstrate if he/she could refuse to be a witness about the circumstances revealed in the document at the some time; Art. 259(1) of the CCP according to which the mediator cannot be a witness about the circumstances connected with the mediation; Art. 260 of the CCP concerning joint participant of the proceedings; Art. 261 which allows certain persons to refuse to be a witness. Also there are some special situations in which the court can resign from settling the truth because of the principle of the best interest of the child.[28]

Currently under Polish law the principle of relevance of material truth should rather be understood as a postulate to decide the matter on the merits after a diligent, but reasonable factual inquiry.[29]

[25] See Supreme Court judgment of 8 December 2009, I UK 195/09, OSNCP 2011, No. 13-14, item 190. See Karolczyk, supra n. 8, at p. 6.
[26] Supreme Court judgment of 4 January 2007, V CSK 377/06, OSP 2008, No. 1, item 8.
[27] Supreme Court judgment of 15 January 2010, I CSK 199/09, LEX No. 570114.
[28] Dolecki, supra n. 5, at p. 47.
[29] Karolczyk, supra n. 8, at p. 5.

2.3 Other General Principles Regarding Evidence Taking in Polish Legal System

You may point out the principle of **concentration of procedural material** as a general principle of the whole proceedings and especially regarding evidence taking exists.

Pursuant to Art. 6 § 1 of the CCP the court should counteract delay in the proceedings and strive to resolve the matter at the first hearing, if it is possible without compromising the inquiry into the dispute.

Moreover, according to newly introduced Art. 6 § 2 of the CCP parties and participants in the proceedings are under the duty to submit allegations and evidence without delay, so that the proceedings can be concluded efficiently and swiftly.

The dominating role to assure the existence of this principle in Polish civil proceedings is attached to the system of discretional power of the judge. It is the judge who decides whether to accept or to reject new (untimely) averments of evidence late in the proceedings. Art. 217 of the CCP is crucial for the existence of this principle. General rule is expressed in § 1 which states that the party can, until closing of the hearing, submit facts and evidence. However, according to § 2, the court ignores untimely allegations and evidence, unless the moving party can show with high probability that the lack of their submission in due time has not been negligent, their admission shall not delay the disposition of the case or other extraordinary circumstances exist. Similar provisions refer to the reply to the statement of claim. Pursuant to Art. 207 § 6 the court ignores untimely allegations and evidence, unless moving party can show with high probability that their omission from the complaint, answer or other preparatory written submission has not been negligent, their admission should not delay the disposition of the case or other extraordinary circumstances exist. Analogous provisions have been introduced in special proceedings (order of payment, simplified) and in relation to appeal against default judgments.

The discretionary power of the judge is combined with the system of preclusion. Provisions concerning preclusions can be found in the newly amended CCP. According to Art. 25 § 2 the checking of the value of the object of litigation may take place only before *litis contestatio*. More important is Art. 207 § 3: before the first hearing the judge can oblige the parties to submit writings preparatory to pleading in certain time. The lapse of the deadline renders any omitted material belated. Similar rule refers to suit for discontinuance or limitation of execution in civil proceedings (Art. 843 § 3 of the CCP).

You should however remember that the concentration of the procedural material is not a purpose itself. The principle of truth plays dominant role.[30]

[30] See Karolczyk, supra n. 17, at p. 82.

3 Evidence in General

The issues to be proven may include facts, special messages (information) and, in exceptional cases, foreign laws. There are some facts which do not have to be proven. This includes: the commonly known facts (the facts known to the court ex officio) – art. 228 of the CCP; the facts acknowledged in the course of the proceedings by the opponent party, if the acknowledgment doesn't arose suspicions – art. 229 of the CCP; and the facts resulting from the legal presumptions – art. 234 of the CCP. Additionally, pursuant to Art. 230 of the CCP, when the party fails to make a statement concerning the opponent's party statements on the facts, the court may deem these facts proven having taken them into consideration for the result of the whole trial. There also exists so called factual presumption: the court may consider as proven the facts which are exceptionally important for the determination of the case if such conclusions may be drawn from other proven facts (Art. 231 of the CCP).[31]

Evidentiary proceedings are part of the examination proceedings. They constitute a sub-part of a hearing during which a given type of evidence may be admitted and proof properly conducted. Evidence is admitted on the basis of an evidentiary judicial ruling specifying the facts to be determined and the mean of evidence to be used (Art. 236 of the CCP).

Evidence may be secured by conducting the proof even prior to the beginning of the trial or during the initial phase of the trial, i.e. earlier than it normally would have been done. This may happen if conducting the proof could become impossible or that there might be serious difficulties in doing so.[32]

There is no hierarchy of the means of proof under Polish law. It is not necessary for certain facts to proven by formally prescribed evidence.

The hearing of evidence, according to the principle of directness, takes place before the court which is entitled to pass the judgment in the case, or before designated judge or summoned judge (Art. 235 of the CCP). This is one of the most important aspects of the principle of directness.

The CCP does not provide an exhaustive catalogue of means of evidence. It contains, however, specific rules on the following evidentiary means: documents, witness testimony, expert opinions, visual inspections, statements of the parties and other sources of evidence (e.g. from blood examination, films, television programs, photographs, drawings, audio recording and tapes). Evidentiary material may also be obtained by other means. In such instances the court may determine at its discretion the manner of obtaining proof, taking into account its nature and apply, mutatis mutandis, the relevant provisions on taking the evidence.

[31] Zedler, supra n. 7, at p. 629.
[32] Ereciński, supra n. 10, at p. 136-137.

Polish civil procedure does not recognize: written inquiry (interrogatories), taking of testimony out of court prior to trial, written statements (affidavits) made under oath in presence of a public officer, demand for written admission, and examination of location or object by the party.[33]

If, after all evidence has been exhausted, the court states that there are still unexplained facts important to the case, the court can admit the evidence obtained by hearing the parties (usually upon a request by the parties themselves). Because of the parties' direct interest in the result of the proceedings, this is subsidiary evidence the need of which the court should consider very carefully. The hearing of the parties as an evidence is introduced in the final stage of the evidentiary proceedings. In divorce cases the court is obliged to order proof from the statement of the parties. In other categories of matrimonial cases the court may not reject this kind of proof when it is offered by the party.

The party can refuse to testify (Art. 302 § 1 of the CCP). The refusal is evaluated by the court under the rule of Art. 233 § 2 of the CCP: the court may assess how important it is that party refuses to reveal the evidence or hampers the examination of evidence.

There are usually two steps of conducting a proof from the statements of the parties (Art. 303 of the CCP). First, the court hears unsworn testimony from both parties although the parties are instructed before the beginning of the hearing that their testimony must be truthful. Then, depending upon circumstances, the parties may be heard one more time, this time under oath. The court has the duty to inform the parties about the criminal liability for perjury. In the Polish penal law false testimony is penalized and constitutes an offence. If the hearing does not provide a sufficient clarification of the facts, then one of the parties may be heard under oath again.[34] On the other hand, it is prohibited to hear both parties on the same circumstances after taking the oath. Introducing such a provision, the lawmaker wanted to avoid provoking the interested parties to commit an offence of perjury.[35] The provisions on testimony of witnesses also apply to statements of the parties and the taking of an oath. However, the provisions on coercive measures (e.g. detention) do not apply.

In context of court proceedings you may distinguish between ordinary and special documents. There are two kinds of special documents: bills of exchange and cheques. The CCP gives precedence to these documents over witness testimony and statements of the parties. As a result, testimony and statements are generally inadmissible when they go against the thrust or beyond the scope of cheques and bills of exchange involved in the case.[36]

There is no hierarchy of evidence. However, it is obvious that in the circumstances of the case some evidence may have greater value than others.

[33] Karolczyk, supra n. 8, at p. 16.
[34] Ereciński, supra n. 10, at p. 136.
[35] Trojanowski, supra n. 6, at p. 600.
[36] Ereciński, supra n. 10, at p. 133.

According to the Supreme Court judgments in establishing the paternity and maternity cases it is required to conduct the evidence by DNA test. This evidence has priority over others.

According to the principle of free disposal of parties, the parties are obliged to point out the evidence to proof the facts from which legal effects derive (Art. 232 first sentence of the CCP). If they don't do it, it is evaluated by the court. You should always bear in mind that according to Art. 232 sentence 2 the court can admit the evidence, which was not submitted by the party.

Pursuant to art. 248 of the CCP everybody is obliged to present the document on the order of the court. There are some exceptions from it, regulated in § 2.

4 General Rule on the Burden of Proof

Each party has the burden of proving the facts supporting the claim. Specially, the burden of proof rests with the party attempting to infer legal effects from a given fact (Art. 6 of Polish Civil Code). Evidentiary means for proving facts subject to the court's approval, usually upon the request of the parties. According to the Supreme Court judgment, substantive principle of burden of proof (Art. 6 of the Civil Code) is complemented by the rules of procedure which require the parties to show activity in order to present all the relevant circumstances and facts from which the legal consequences are derived, in particular, to indicate the evidence. Failure to observe these obligations results in a risk of losing the case by the party charged by the burden of presenting that the circumstances were relevant to the case.[37] Only in exceptional situations the court will act *ex officio* (Art. 232 of the CCP).

Pursuant to Art. 328 § 2 of the CCP the circumstances constituting grounds for giving judgment must be established solely on the basis of proven circumstances. It means that the court must establish the facts, after having heard the evidence regulated by the CCP and observe the evidence hearing procedure. Facts established without the hearing of evidence are considered contingent facts (Art. 243 of the CCP) and may be the grounds for judgment only in those cases stipulated by the statute.

The issues to be proven may include facts, special messages (information) and, in exceptional cases, foreign law[38] (not the EU law). According to the principle *iura novit curia* the existing law cannot be the object of evidence. However the historical interpretation of the old law may be the object of evidence.

There are some facts which do not have to be proven. This includes: the commonly known facts (the facts known to the court ex officio) – Art. 213 § 1, Art. 228 of the CCP; the facts acknowledged in the course of the proceedings by the opponent party, if the acknowledgment doesn't arose suspicions – Art. 229 of the CCP; and the facts resulting from the legal presumptions – Art. 234 of the CCP. Additionally, pursuant to

[37] Appellate Court in Warsaw judgment of 4 September 2013, I ACa 259/13, LEX No. 1381585.
[38] Zedler, supra n. 7, at p. 629.

Art. 230 of the CCP, when the party fails to make a statement concerning the opponent's party statements on the facts, the court may deem these facts proven having taken them into consideration for the result of the whole trial. There also exists so called factual presumption: the court may consider as proven the facts which are exceptionally important for the determination of the case if such conclusions may be drawn from other proven facts (Art. 231 of the CCP).[39]

Pursuant to the principle of contradictory proceedings and principle audiatur et altera pars the court generally has no obligation to inform the parties about the inefficiency of their acting in the evidence proceedings. However Art. 212 § 2 of the CCP states that "should it prove necessary, the President of the bench may give the parties the necessary instruction, and according to the circumstances draws attention to the advisability of setting up an attorney ad litem". This principle applies only to unrepresented parties.

The institution of preclusion has seriously limited the possibility to present new facts and evidence. The provision of Art. 217 of the CCP is crucial: § 1. The party **can, until the end of the hearing, cite facts and evidence to justify** his/her **claims and contentions of the opposing party**. § 2. The court ignores untimely allegations and evidence, unless the moving party can show with high probability that lack of their submission in due time has not been negligent. Their admission should not delay the disposition of the case or other extraordinary circumstances exist. The answer to question 4.11 is answered positively in the previous section.

5 Written Evidence

The concept of a document has not been changed in the 50 years' history of Polish CCP. The main distinction is the division into public and private documents, having different evidential value. What concerns video and audio recording, Art. 308 of the CCP states that the court may admit the evidence from film, TV, photocopy, photograph, plans, drawings, audio tapes and other equipment which transmit pictures or sounds. This evidence is conducted by applying provisions concerning evidence from documents and inspection (§ 2).

In accordance with Art. 5 (2) of the Act of 18 September 2001 on electronic signature[40], the data in electronic form, bearing a secure electronic signature verified by a valid qualified certificate, are equivalent in terms of the legal consequences with the documents being signed with one's own hand, unless otherwise provided by law. The electronic documents allow for permanent recording of wills, allow reading and signing using an electronic signature. The recording takes place in the universal language of electronic readable by a third party using the appropriate equipment and software. On the basis of procedural law the document drawn up with and recorded on an electronic storage medium is considered – as well as the statement established by the writings on traditional media (paper) – the document within the meaning of Art. 244 of the CCP. Not all electronic data can be regarded as an electronic document, but only those which

[39] Zedler, supra n. 7, at p. 629.
[40] Journal of Laws, No. 130, item 1450.

have been duly created, recorded, transmitted, stored and secured and bear a safe electronic signature verified by a qualified certificate.

Electronic data that do not meet these conditions are not devoid of probative value (Article 8 of the Law on Electronic Signatures), as are the other type of evidence within the meaning of Art. 309 of the CCP.

The computer printout containing the data from the system maintained by the authorized body or from which the body can use, has the power of the public (official) document if it has been signed by an authorized person.

Among means of evidence, documents occupy the central place because the definition of the forms of legal acts under Polish law. In civil law on numerous occasions legal acts must be done in writing on sanction of invalidity. That's why the document must exist. For this reason documents enjoy the status of the presumption of authenticity and truthfulness. There are limits concerning:

- The admissibility of evidence by the deposition of witnesses.
- Interrogating the parties on the subject of the essentials of a document. The essentials are pertinent facts which are stated in a certain document.

The CCP distinguishes between official and private documents. Official documents must be drafted in the prescribed form by an appropriate body acting within the scope of its authority or by self-governed cooperative or some other civic organization acting within the scope of the tasks entrusted to them in a given field of public administration (Art. 244 § 2 of the CCP). Foreign official documents are treated exactly the same as Polish documents. However, if the foreign document concerns the transfer of ownership of real estate in Poland or if there are doubts as to its authenticity, the document must be certified by an appropriate Polish diplomatic mission or consular office.[41]

The official documents constitute the evidence of the facts officially confirmed by them. They enjoy the status of the presumption of authenticity (i.e. that they originated from the body that issued them) and truthfulness (i.e. that the affidavit issued by the official body reflects the truth).

All other documents are private documents. If a private document is signed, then the signature constitutes proof that the person who signed it did make the declaration contained in the document only. Private documents are subject to the presumption of authenticity only as to identify of the person who issued them (Art. 245 of the CCP).

The possibility to hear the evidence by deposition or interrogate parties on the subject of the essentials of an official document is very limited. This evidence can be heard exceptionally only when there are some special reasons constituting grounds for it and when it does not lead to the evasion of legal provisions concerning the form the form of legal act which is imposed by the law on sanction of invalidity (Art. 247 of the CCP).

[41] Ereciński, supra n. 10, at p. 133-134.

The copy of document must be legally certified by the authorized person and then it treated as the official or private document according to provisions of the CCP.

Whenever the court orders so, every person must deliver to the court, within the prescribed time limit, a document in that person's possession, unless document contains state secrets. However, there are some other exceptions from this duty (Art. 248 of the CCP). The party cannot refuse to deliver the document in her possession even if there can be a damage of losing the case.

6 Witnesses

Decision not to testify has not been left at the discretion of the witness: it is the duty of the witness to testify.[42] The rule is that no one can refuse to testify as a witness. This statutory duty is imposed on every Polish citizen, as well as on a foreigner and involves in particular: 1) the obligation to appear in person in court for the summons within the prescribed period, 2) the obligation to testify, 3) the obligation to make a promise/oath.[43] Appearance stems from Art. 274 CCP, in which unexcused absence of witness was penalized by law.[44] Witnesses are summoned by the court. Pursuant to Art. 262 CCP, the court, calling a witness indicates the name and residence of the requested, place and time of the hearing, the names of the parties and the subject matter and a concise matrix of regulations on penalties for violation of the duties of a witness.

Witness, with exceptions set out in the regulations, cannot refuse to appear in court – on the other hand he can excuse his own absence. Witness is also not allowed to refuse to testify, except in cases specified in legislation. For an unexcused absence the court will impose a fine on the witness, and then the court will call him again. In case of repeated failure to appear, the court will impose a fine again and may order this person to be brought in to court. Witness within one week of the date of service of a decision imposing a fine on him or during the next hearing for which he will be called upon, can justify/excuse his absence – in which case the court will abolish the fine and bringing him to court.[45] Pursuant to Art. 163 § 1 CCP, the amount of the fine is PL 5.000 zl (EUR 1200): If the Code provides for a fine not quantifying it, the court will impose a fine in the amount of PL 5.000 zl (EUR 1200). Fines are executed by means of judicial enforcement to the State Treasury. Justification of the absence of a witness due to his illness requires the presentation of a certificate confirming the inability to appear at court summons or notice issued by the medical examiner (Art. 214^1 § 1 CCP).[46] In a case of unjustified refusal to testify or to take an oath – the court, after hearing the parties present at the hearing as to reasonableness of the refusal, will impose a fine on a witness and may also, regardless of the fine – especially when it turns out to be insufficient means of coercion – order the arrest of a witness for no more than a week. The court shall revoke the detention, if a witness will make a testimony or an oath, or if

[42] Tadeusz Wiśniewski, Przebieg procesu cywilnego, p. 252 (LEX, 2013).
[43] Bogdan Bladowski, Metodyka pracy sędziego cywilisty, p. 172-173 (LEX, 2013).
[44] Turek, supra n. 15, at p. 80-81.
[45] Bladowski, supra n. 43 at p. 177-178.
[46] Wiśniewski, supra n. 42, at p. 254.

the case when the case was completed in instance in which the evidence of this witness was allowed.[47]

However, some people may not be witnesses in the light of the provisions of CCP – as deemed to be unfit, some people have the right to refuse to testify, and finally some of them has the right to refuse to answer particular questions. Witnesses may not be the person unable to perceive or communicate observations, the military and officials not exempted from the secrecy of classified information marked "reserved" or "confidential" if their testimony would be linked to its violation, statutory representatives of the parties and the people who can be heard as a party as a body of a legal person or other organization having judicial capacity, uniform joint participant (in a case of uniform joint participation of claimants in civil law proceedings) are unfit to testify, that is why they cannot be witnesses. In the same situation are minors under the age of thirteen and descendants of parties under the age of seventeen – in matrimonial matters (Art. 430 CCP). The mediator cannot be a witness as to the facts, which he learned in the course of mediation, unless the parties will exempt him from the obligation to maintain secrecy of mediation (Art. 259^1 CCP). So called near persons, i.e. spouses of parties, their ascendants, descendants, siblings and kinsmen in the same line or grade, as well as those remaining with the parties in relation of adoption have the right to refuse to testify. The right lasts after the termination of marriage or adoption. However, the refusal to testify is inadmissible in cases of civil status, except in cases of divorce. A witness may refuse to answer certain questions if it would expose him or his relatives on the criminal liability and the disgrace or serious and immediate damage to property, or if the testimony would be combined with a substantial violation of professional secrecy to which – on the basis of specific provisions – he is obliged, e.g. lawyers, notaries, doctors. In addition, the clergymen can refuse to testify as to the facts entrusted to them in confession.[48]

Before the hearing of a witness, he is instructed on his right to refuse to testify and on criminal responsibility for making false statements. Hearing begins by asking the witness questions about his person, and his relation to the parties. If the witness is to testify, judge-chairman receives from him an oath of a fixed text (aware of the importance of my words, and responsibility before the law I solemnly swear that I will speak the honest truth, hiding nothing from what is known to me) after being instructed on the meaning of this act. Minors under the age of seventeen, and persons convicted of a final judgment for perjury do not take an oath. Other witnesses may be exempted of oath by court, with the consent of the parties.[49]

Testimony shall be submitted in person and only in oral form, it follows from Art. 271 CCP: § 1 Witness testimony is made orally, starting with the answers to the questions of the judge-chairman, what and from what source is known to him in the matter, after which the judges and the parties may ask him questions in regarding the same subject. It

[47] Bladowski, supra n. 43 at p. 178.
[48] Bladowski, supra n. 43, at p. 172-173, Wiśniewski, supra n. 42 at p. 254.
[49] Bladowski, supra n. 43, at p. 174.

cannot be replaced by a statement in writing, even notarial deed.[50] The oral testimony of witnesses and other persons questioned by the court gives the court the opportunity to make their own observations directly, relevant later in the evaluation of credibility and importance of particular measures of inquiry.[51] Deviations from the oral form can occur when the CCP rather than evidence allows to make the fact probable, which is a substitute of proof, not giving certainty, but only credibility (probability).[52] It is about obtaining the so-called lower degree of probability or reasonableness of the given assertion than required for its proving. This lower level can be described as minimal in the sense that it is about adopting a belief in a higher degree of the existence of the fact than the conviction of its nonexistence.[53] Making probable is usually performed using various means unhampered by formal requirements governing taking of evidence (such as written statements made by third parties). But it is possible to carry out a typical proof, but withdrawing from certain formal requirements (e.g. only written expert opinion, without his hearing).[54] In accordance with Art. 243 CCP, the application of the specific provisions concerning taking of evidence is not necessary, whenever the law provides making facts probable rather than evidence. The principle of orality also applies to the parties. They make testimony and answer questions orally. Basing in the findings by the judge on testimony prepared in writing earlier and read by a party at the hearing is a defect in the process. The parties may, however, use written notes supporting memory.[55]

In accordance with Art. 227 CCP, subject to take evidence are facts important to resolve the case. That significance depends on the fulfillment of two conditions – the relationship with the subject of the process and legal importance for the purpose of knowledge.[56] In connection with the general rule about the distribution of the burden of proof, the following types of facts require proving: 1) the facts rulemaking (e.g. the fact of the contract), 2) the facts blocking the creation of the right (e.g. the absence of one of the conditions for the validity of the legal action), 3) the facts nullifying the law (e.g. limitation of the claim). The principles of experience may require proving (understood as the results of general human experience), unless the court is unable to determine them on the basis of their own information. It is usually necessary when to resolve the case specific knowledge of particular science and art, industry, crafts and agriculture, trade and commerce is needed. The rule is that the court should be familiar with existing legal provisions, the law should not be subject to proof; exception applies to knowledge of the content of foreign law, the existence of reciprocity in its application and the foreign court practice (Art. 1143 CCP: § 1, The Court ex officio determines and applies relevant foreign law. Court may ask the Minister of Justice to provide the text of the law and to clarify the foreign court practice. § 2 The court may ask the Minister of Justice

[50] Wiśniewski, supra n. 42, at p. 253.
[51] Turek, supra n. 15, at p. 84-85.
[52] Bladowski, supra n.43, at p. 164.
[53] Jacek Jaśkiewicz, Poznanie faktów w postępowaniu cywilnym, p. 149 (LEX 2013), Wiśniewski, supra n. 42, at p. 227-228.
[54] Bladowski, supra n. 43, at p. 164.
[55] Turek, supra n. 15, at p. 78.
[56] Jaśkiewicz, supra n. 53, at p. 148.

also for information as to the existence of reciprocity in relations with a foreign country. § 3 In order to determine the content of foreign law or foreign court practice or the existence of reciprocity, the court may apply other measures, including experts' opinions). The court decides whether the fact planned as the subject of evidence is relevant to the resolution of the case. The court therefore should consider: 1) whether the fact relates to the subject matter and 2) whether the fact has the legal significance. On the basis of the provisions (Art. 228, 229 CCP) certain facto do not require proving: 1) the facts commonly known, 2) the facts known to the court officially – the judge at the hearing should pay attention to the parties on these facts 3) facts granted in the course of the trial by the opposing party (so-called court granting of the facts), provided the granting is not in doubt as to its compatibility with the real state.[57] Before allowing the evidence provided by the parties the court should consider whether the fact is essential to the resolution of the case, and if so, whether it needs proving. You should also consider whether the evidence is not excluded by procedural or substantive law (e.g. according to Art. 246 CCP: if a law or agreement between the parties require for legal action to be in writing, evidence of the witnesses or the hearing of the parties in the case between the participants of the action concerning the fact the action was made is admissible in case when the document covering action was lost, destroyed or taken by a third party; and if the written form was reserved only for the purposes of evidence – also as in the cases specified in the Civil Code; and Art. 247 CCP: the evidence of the witnesses or the hearing of the parties against the matrix or over the matrix of document covering the legal action may be permitted between participants of this action only in cases where this does not lead to circumvent the provisions regarding the form under the sanction of nullity, and when, due to special circumstances of the case, the court finds it necessary;) or has not been provided only to delay the case, because of the fact that has already been sufficiently explained during the taking of evidence (Art. 217 CCP: § 2, the court disregards delayed statements and evidence, unless the party provides a plausible explanation that did not report them in right time without party's fault or that consideration of late allegations and evidence will not delay the examination of the case or that there are other exceptional circumstances. § 3 The court disregards the statements and evidence, if they are invoked only for the delay or the circumstances at issue have already been sufficiently explained).[58]

The penalty for perjury (also for concealing the truth), pursuant to Art. 233 § 1 of the Polish Penal Code[59] is imprisonment up to 3 years. A witness is called ahead the criminal responsibility before the hearing (Art. 266 § 1 CCP: Before the hearing of a witness, he is instructed on his right to refuse to testify and criminal responsibility for making false statements). The warning is the condition for criminal responsibility, unless the witness takes an oath (Art. 233 § 2 of the Penal Code: The condition of responsibility is that the person taking testimony, acting within its powers, forestalled a person giving evidence of criminal liability for false testimony and takes an oath. But: § 3 Not punishable by a law, who, not knowing about the right to refuse testimony or answer to questions, makes a false testimony for fear of criminal responsibility

[57] Bladowski, supra n. 43, at p. 162-163.
[58] Bladowski, supra n. 43, at p. 164.
[59] Act of 6 June 1997, Journal of Laws, No. 88, item 553.

threatening himself or persons near to him). The falsity of the testimony should not be identified with their disqualification from the viewpoint of credibility.[60]

The rule is the hearing of both parties of the process, and an exception is possible when: 1) because of the factual or legal reasons one can question only one party regarding the circumstances at issue, 2) the other party, or some of joint participants did not appear on the hearing of the parties (despite clear notice), or refused to testify. The court should consider in such cases, if – according to the circumstances of the case – to question one party or to omit the evidence entirely.[61] If the party does not comment on the opposite party's statements of the facts, the court, having regard to the results of the entire trial, may consider these facts granted (Art. 230 CCP), but only if it is justified by a comprehensive consideration of the circumstances of the case. The mere silence of the parties as to claims of the opposing party cannot form the basis of recognition of the facts for granted.[62] Proof of the hearing of the parties – because of its auxiliary character – may be authorized only as to those material facts which cannot be at all or sufficiently explained conducting other relevant evidence.[63] In accordance with Art. 299 CCP, if after exhausting the evidence or lack thereof, unexplained facts relevant to the case remained, the court to explain these facts may admit evidence of the hearing of parties. Its meaning is relative, because the subject of the hearing are the people directly concerned by the result of the process.[64] In accordance with Art. 3 CCP (the parties and the participants are obliged to engage in the process in accordance with good practice and give an explanation of the circumstances of the case in accordance with the truth, and without concealing anything, and provide evidence) the parties shall be obliged to give an explanation of the circumstances of the case in accordance with the truth, and also are required to indicate the evidence needed to settle the matter. This provision obliges both parties to explain the circumstances of the case (citing burden) and provide evidence for this fact (burden of proof), as well as obliges them to tell the truth. With the duty of speaking the truth is also related to the duty of completeness of explanation, expressed in the fact that the party has an obligation to present all the facts of the case, so also these unfavorable. This does not mean, however, the requirement of stating the circumstances degrading, defamatory to the party or exposing it on the criminal liability. However, they should be presented in good faith.[65] The court may not make the party to submit evidence with the use of coercion, cause it to bring to the court for the hearing and cannot punish for having failed to comply with obligations to provide information to the court or to provide evidence (except as specified in separate proceedings in matrimonial matters – Art. 429 CCP: If a party summoned in person fails to appear without justifiable reasons, the court can sentence her to a fine under the provisions of the penalties for absence of witness, but may not impose bringing the party to court). Instruction of the party concerning the obligation to testify the truth, possibility of hearing the party again, after taking an oath and criminal responsibility for submitting

[60] Wiśniewski, supra n. 42, at p. 253.
[61] Bladowski, supra n. 43, at p. 179.
[62] Bladowski, supra n. 43, at p. 163.
[63] Bladowski, supra n. 43, at p. 165.
[64] Bladowski, supra n. 43, at p. 178.
[65] Turek, supra n. 15 at p. 71-72.

false testimony, gives the evidence value to the hearing, otherwise the party's comments should be treated only as informational. Warning that according to the circumstances the party may be heard again, after taking an oath, should realize that false testimony may expose later on the need to revoke it or the threat of penalties for submitting it.[66]

According to Art. 261 § 2 the witness can refuse to reply to the question asked him, if the statement could expose him or his relatives, listed in the article 261 §1, to the criminal liability, dishonour or the severe and direct damage to property or if the statement would be supposed to interface with violating the material professional secret. The clergyman can refuse statements as for facts entrusted him for confessions.

According to Art. 479(33) of the CCP the trade (business) secret is protected in special proceedings of protection the business competition. The problem of this rule can be expanded to other types of proceedings is controversial.

The doctrine mentions the three commonly used methods of hearings: 1) spontaneous relations (statements), 2) directional questions, 3) cross-questioning. It is also assumed that the witness (party) should not be interrogated by using only one method, because the best results are achieved by using a combination of different methods of interrogation. The procedural rules adopted a mixed method of questioning, rejecting, however, cross-questioning. Pursuant to art. 271, 171 and 304 CCP one can talk about two stages of the hearing: 1) the stage of free speech, which is to present the person's – subject to a hearing – all known facts related to the purpose of the hearing, 2) stage of the directional questions in which the interviewer asks specific questions the person being questioned closely concerning the subject of the hearing.[67] Furthermore, witnesses, whose testimonies are contradicted each other can be confronted (Art. 272 CCP: Witnesses whose testimonies are contradicted each other can be confronted). If the contradictions will not be removed by asking further questions to the witnesses, they are ordered to repeat their testimony in this section, in which the contradictions were found, whereupon a statement from them is taken as to whether they support their testimonies and regarding their attitude towards testimony of other witnesses. Admissible is also a confrontation of witnesses with the parties.[68] The confrontation of the parties is possible only at the stage of hearing them without taking an oath.[69] This method is used only in situations where the persons – questioned in detail on specific relevant circumstances of the case – stick to their contradictory versions of events.[70]

7 Taking of Evidence

The court generally allows evidence at the request of the parties. In accordance with Art. 232 CCP: the parties are required to show evidence to establish facts from which they derive the legal consequences. What's more, the party invoking the evidence of the

[66] Turek, supra n. 15, at p. 76-77.
[67] Turek, supra n. 15, at p. 89-90.
[68] Bladowski, supra n. 43, at p. 175.
[69] Bladowski, supra n. 43, at p. 179.
[70] Turek, supra n. 15, at p. 97.

witnesses is required to accurately determine the facts to be established by the testimony of particular witnesses, and identify witnesses, to make them call to court possible (Art. 258 CCP). The order of the hearing does not depend on the initiative of the parties, but from the evidence thesis, which have to be acknowledged, first the thesis put forward by the plaintiff is proofed, then the thesis put forward by the defendant. This also applies to the hearing of witnesses admitted by the court ex officio.[71] The facts, as a rule, are proofed using the means of evidence indicated by the parties.[72] The burden of proof rests with the person who derives legal consequences from the given fact (Art. 6 of the Polish Civil Code). Therefore, in accordance with Art. 210 CCP: § 1 The trial takes place in such a way that after calling the case, parties – plaintiff first, then the defendant – verbally report their claims and conclusions and present statements and evidence in support thereof. Parties may also indicate the legal basis of their claims and conclusions (...). § 2 Each party is obliged to make a statement as to the opposite party's allegations concerning facts. Factual claims of the parties and the evidence that they point are the basic core of the process material. Operation of the court in the designation of evidence is subsidiary and very limited in relation to the parties activities in this regard.[73] Parties are entitled to equal rights. This equality is reflected in the realization of the right to hearing of the parties and equality of arms and chances in process.[74] Equality of arms consists in that each of the parties is given equal measures of battle and is ensured equal opportunity to use them.[75]

The judge has the power to decide for the parties' claims in regard stating the facts of the case. It is the duty of the court to make a conclusive evidence decision whether the claim will be subject to evidentiary proceedings and how it will be carried.[76] The court should properly direct the proceedings, explain the problematic issues concerning the facts and law to the parties, determine the conduct and direction of the taking of evidence, and not replace the parties, allowing the ex officio evidence. Legal writers describe the activity of court as the principle the judge or judicial management.[77] Its element, the so-called material management refers to activities related to verification and possibly complement the process material (concerning both: facts and evidence) and analyses of substantive law issues. Regardless of the applicability of the principle of free disposition of the parties and the contradictory principle, the court also bears responsibility for issuing materially fair and accurate judgment. The court should develop process material supplied by the parties, thereby to determine what circumstances are in dispute, and seek to explain them. The court should seek to resolve the matter as quickly as possible, which requires a fair consideration of the parties' evidentiary requests, so as to avoid carrying unnecessary evidence.[78]

[71] Bladowski, supra n. 43, at p. 174.
[72] Jaśkiewicz, supra n. 53, at p. 149.
[73] Turek, supra n. 15, at p. 73.
[74] Łazarska, supra n. 11, at p. 447.
[75] Łazarska, supra n. 11, at p. 452.
[76] Jaśkiewicz, supra n. 53, at p. 146.
[77] Łazarska, supra n. 11, at p. 412.
[78] Łazarska, supra n. 11, at p. 413.

In the jurisprudence of the Supreme Court it was explicitly stated that the obligation to present evidence rests on the parties, and that the court has the right – in accordance with the contradictory principle, not an obligation, as in the case of inquisitorial principle, to act ex officio. Also there was the view expressed that the admission of evidence by the court of its own motion may be treated as a violation of the constitutional principle of the right to a hearing before an impartial tribunal and the principle of equality. In another judgment, the Supreme Court stated, however, that the taking of evidence ex officio in order to issue right judgment or in cases of blatant awkwardness of party acting without professional attorney cannot be regarded as a violation of the principle of equality (equality between the parties) and the impartiality of the court.[79] In the justification of the resolution of the Supreme Court of 19 May 2000 it was stated that the court shall take ex officio initiative concerning evidence only in special situations. In the other justification of its judgment of 22 February 2006, the Supreme Court, on the other hand, pointed out that: "Power of judge in this case determined by the legislature in a way near to discretional, may not be by way of interpretation narrowed or otherwise restricted, if the legislature would want to reduce this power or to determine its borders, it should make it clear. (...) while the possible violation of the balance of the parties is a question of practice and evaluation of each particular case."[80] Legal writers recognized that the court creation of the weaker party, and providing it an discretional assistance, may be seen as a violation of the principle of impartiality. The court taking evidence should also ensure a specific symmetry of weapons to both parties. If the court allows the evidence of the hearing of the parties, it shall hear both parties. Only when because of factual or legal causes it is possible to hear only one party in regard the circumstances in dispute, the court should decide whether the party should be heard in spite of it or the evidence should be omitted. The court will do the same when the other party or some of the joint participants failed to appear for a hearing or refused to testify (Art. 302 § 1 CCP: If for reasons of fact or law, you can hear one party only as to the circumstances at issue, the court shall assess, if it should listen to this party anyway or omit this proof entirely. The court will do the same when the other party or some of the joint participants failed to appear for a hearing of the parties or refused to testify). It is therefore appropriate to question both parties, and one party can be heard when the other party refuses to testify or does not have knowledge of a given fact. You cannot refrain from questioning the party only because the court considers the testimony unreliable.[81] In specific situations, the court should exercise its power to take the initiative concerning taking evidence: if the parties aim to evade the law (then the court should seek to detect the actual state of affairs, assessing evidence not proposed by the parties), in case of blatant awkwardness of party acting without a lawyer, which (considering not taking the right steps by the party, despite appropriate instruction of the court) jeopardizes the interest enjoying special protection by law.

The court has a duty to permit for evidence not indicated by the party when there is a suspicion that the parties are conducting the fictional process. Court can be criticized for

[79] Łazarska, supra n. 11, at p. 467.
[80] Wiśniewski, supra n. 42, at p. 237.
[81] Łazarska, supra n. 11, at p. 472.

not allowing some proof ex officio, despite the existence of grounds for doing so. You can not accuse the court that it permitted some evidence.[82] Generally, complementing ex officio the factual material of the case so one cannot go beyond the boundaries of the request, nor go beyond the circle of the facts justifying the request made by a party in accordance with Art. 321 § 1 CCP: The Court cannot pass judgment as to the subject matter that was not covered by the request, nor adjudge over demand.[83]

According to Art. 206 CCP, the judge-chairman shall set a date of the hearing. At the same time with the determination of the first hearing he manages the service of the writ of summons and as required he shall designate the judge-rapporteur. At the same time with delivery of the writ and summons for the first hearing he advises the defendant on: 1) procedural actions, which may or must be taken if the defendant does not recognize the claim in whole or in part, in particular the possibility or duty to submit a response to the writ, including the binding in this respect requirements as to the time and form, or submitting his requests, statements and evidence at the hearing; 2) the consequences of not taking such steps, in particular the possibility of issuing the default judgment by the court and the terms of its enforceability, also charging defendant for the costs. The meaning of the court instruction is to raise awareness of the defendant of the negative consequences of his inaction, and to show him actions (including their form and date), which he could or should do to avoid these consequences.[84] Failure to instruction may constitute a breach of the rules of procedure submitted in the appeal aimed to set aside the judgment under appeal.[85]

If the judge-chairman considers that the submission of the object or document or a copy or extract of the document (presented in court) in the court file is unnecessary, he should describe the object or document in the minutes of the hearing, at the same time indicating the person who presented it. The judge-chairman shall mention in the document submitted at the hearing by whom it was filed. If the object was submitted, or when taking into account the nature of the submitted document it may be returned after completion of the procedure, such mention/reference shall be included in the minutes of the hearing (§ 115 of Regulation of the Minister of Justice of 23 February 2007. Terms and Conditions of courts).[86]

Decisions on evidence are not open to challenge, however, in case of a negative one the party may renew his applications until closing the hearing.[87] The court is not bound by its decisions on evidence, and may, appropriate to the circumstances, repeal or amend them, and also judge appointed or the court called upon may supplement, at the request of the parties, the decision of the trial court by hearing new witnesses to the facts stated

[82] Turek, supra n. 15, at p. 74.
[83] Turek, supra n. 15, at p. 75-76.
[84] Andrzej Jakubecki (ed.), Komentarz aktualizowany do ustawy z dnia 17 listopada 1964 r. Kodeks postępowania cywilnego. (LEX/el., 2013).
[85] Henryk Dolecki, Tadeusz Wiśniewski (eds.), Kodeks postępowania cywilnego. Komentarz. Tom I, Art. 1-366 (2 ed., LEX/el., 2013).
[86] Journal of Laws, No. 38, item 249, Bladowski, supra n. 43, at p. 155.
[87] Wiśniewski, supra n. 42, at p. 243.

in this decision (Art. 240 CCP). The trial court may also order repeating or supplementation of evidentiary proceedings (Art. 241 CCP).

Regarding the securing of the evidence before or during the main hearing, the motion/application to secure evidence should be submitted in a court competent to hear the case and, in cases of urgency or where proceedings have not yet been filed in the district court in whose district the evidence is to be carried out (Art. 311 CCP). The application should consist of: 1) identification of the applicant and the opponent, and other interested persons, if known; 2) an indication of the facts and evidence; 3) the reasons justifying the need for secure of the evidence (Art. 312 CCP). Securing of evidence may be permitted without call an opponent only in cases of urgency or where the opponent cannot be identified, or if his whereabouts are not known (Art. 313 CCP). The Court calls the parties concerned for the period prescribed for the taking of evidence, however, in cases of urgency taking of evidence may be initiated even before service of summons to the opponent (Art. 314 CCP). The institution of securing of the evidence, as referred to in Art. 310 et seq. CCP, cannot serve to the future plaintiff to ensure him as to the chances of the aimed process. In particular, it may not be requested, pursuant to Art. 310 CCP, to carry out forensic medical expertise to determine whether medical treatments were carried out correct and whether they could justify a claim for compensation.[88]

7.1 Rejection of an Application to Obtain Evidence

The facts commonly known do not require proving (Art. 228 § 1, 213 § 1 CCP). This means that the potential request for evidence should be omitted. The court, determining the facts of the case, puts forward these facts, even if the parties have not raised them. The fact commonly known means the statement of the party about the existence of such a fact, the truth of which no one could reasonably question.[89] These are also the phenomena of nature, circumstances, and events that are supposed to be known by every adult, reasonable, characterized by average values man residing at the premises of the court deciding the case. But in general, common knowledge of a fact depends on the place, time and circumstances. A party may contest the fact by reporting evidence to the contrary.[90]

Decisions on evidence shall not be separately challenged, however, may be under the instance control – as a result of the appeal submitted, and therefore, although they do not require justification under the law, it is suggested that the negative decisions should be supported by a brief explanation.[91]

Appropriate to the circumstances, especially to the contents of the writ and other pleadings, the judge-chairman is entitled to: 1) summon the parties – to attend the hearing in person or by proxy, 2) request from the state-owned organization or

[88] Supreme Court judgment of 26 February 1969, II CZ 6/69, OSNC 1969/12/227.
[89] Jakubecki, supra n. 84.
[90] Dolecki, supra n. 85, Wiśniewski, supra n. 42.
[91] Wiśniewski, supra n. 42, at p. 243.

organizational unit of local government to provide evidence being in their possession, if the party himself/herself cannot receive it, 3) summon witnesses indicated by the party, 4) summon persons agreedly appointed by the parties to be experts in the case, 5) order the presenting the documents, objects of examination, books, plans, etc. The judge-chairman may also, in a case of absolute necessity, order the visual inspection before the hearing, thereby waiving the rule that the taking of evidence is carried out in front of the forum – during the hearing.[92]

The court omits belated statements and evidence, unless the party provides a plausible explanation that he did not raise them in the writ, response to writ or further preparatory pleadings without his fault or that consideration of late claims and evidence will not cause delay in the examination of the case or that there are other exceptional circumstances. Evaluation of reasons justifying consideration of late statements and evidence by the court is discretionary and also show the discretionary power of the judge – but it is also the way of concentration of the material in a case.[93] According to Art. 207 CCP the judge chairman may also before the first hearing oblige the parties to submit further preparatory pleadings, indicating the order of their submission, the time limit within which they must be submitted, and the circumstances that have to be explained. In the course of the case submitting preparatory pleadings occurs only if the court so decides, unless the pleading covers only a request for evidence. Therefore, it is admissible to submit pleadings covering only a request for evidence – without the consent of the court – this exception is intended to facilitate the defense of the rights of the parties.[94]

There is quite a number of court decisions concerning rejection of request for evidence, activities of the parties and the court in this sphere. According to one of them[95] although the law formulates obligations of the parties (Art. 210 § 2 – obligation to make a statement as to the statements of the opposite party concerning the facts (Art. 221 – the defendant cannot refuse to engage in an dispute on the merits, even though he filed formal allegations) as duties, but in fact they are burdens in process, which means that the party can complete them, but cannot be forced to do it. However, if the party does not fulfill the obligations, must reckon with the legal consequences, since the law allows the court to consider facts as granted, when the opposing party did not utter about them, although could do it. The party must mind meeting the procedural obligations, resting on her/him. If the party fail to perform, bears the legal consequences of the negligence.

According to art. 217 § 2 CCP (§ 1. Party can adduce facts and evidence to justify his/her conclusions or to refute the conclusions and statements of the opposing party, until the end of the hearing. § 2. The court omits belated statements and evidence, unless the party provides a plausible explanation that he/she did not provided them in a timely manner without his/her fault or that consideration of late statements and evidence will not delay the examination of the case or that there are other exceptional

[92] Wiśniewski, supra n. 42, at p. 185.
[93] Wiśniewski, supra n. 42, at p. 185.
[94] Wiśniewski, supra n. 42, at p. 185.
[95] Appellate Court in Wrocław judgment of 11 April 2013, I ACa 207/13, LEX No. 1322096.

circumstances. § 3. The court omits statements and evidence, if they are invoked only for the delay or the circumstances at issue have already been sufficiently explained), omission of requested evidence may take place when the circumstances at issue were explained sufficiently. Omission of the requested evidence is permissible when the facts at issue in the case have already been sufficiently explained, or if a party requests evidence only for the delay. The omission of the requested evidence in the presence of sufficiently explanation for the cause is permissible when the circumstances for which evidence has been requested are explained with the result, which is consistent with the statement the party requesting evidence.[96] A violation of Art. 217 § 3 CCP occurs when the court reject the request of the party regarding the circumstances relevant for resolving, and secondly when the circumstances have not been explained in accordance with the result consistent with the statements of the party that requested evidence.[97] The provision of Art. 217 § 1 CCP concerns the conduct of the parties, specifying their powers and duties in the taking of evidence. It imposed on them, inter alia, the obligation to quote facts and evidence in a particular time and under certain procedural rigors. This does not apply to the court and does not define its powers or duties, and therefore cannot be used as a ground for appeal.[98] In accordance with Art. 227 CCP, facts having significant importance in the light of factual and legal basis of the case can only be subject to evidence. This provision provides for the power of the court to make selection of submitted evidence as the effect of assessment of significance of the facts, proving which submitted evidence have to serve. Evidence that do not meet these criteria the court is entitled to omit.[99]

You cannot omit the evidence in a situation when so far procedure leads to conclusions that are contrary to the statements of the party requesting new evidence.[100] Explanation of the circumstances at issue occurs when they do not raise doubts of the court.[101] Omission of evidence request does not lead in any case to the invalidity of the proceeding, it only may constitute the process infringement, but in this case the applicant's thing is to demonstrate the impact of the infringement on the outcome of the case.[102]

The court is not obliged to take account of further requests of evidence of the party, so long as the party proves thesis beneficial for her/him and omits them from the explanation of the facts of the case.[103] Although a court is under no obligation to carry out all the evidence that the party indicates and not only can, but should omit this

[96] Also, there is no reason to conclude that foreign language document without an official translation into the Polish language can not be considered as evidence in the case. Appellate Court in Katowice judgment of 22 January 2009, V ACa 551/08.
[97] Appellate Court in Białystok judgment of 4 October 2013, I ACa 428/13, http://orzeczenia.ms.gov.pl (accessed 18 Feb. 2014).
[98] Supreme Court judgment of 2 October 2012, II PK 82/12, LEX No. 1243029.
[99] Appellate Court in Białystok judgment of 4 September 2012, III APa 7/12, LEX No. 1217657.
[100] Supreme Court judgment of 22 March 2012, IV CSK 453/11, LEX No. 1213423.
[101] Appellate Court in Katowice judgment of 8 June 2011, I ACa 262/11, LEX No. 1120358.
[102] Supreme Court judgment of 3 February 2010, II CSK 404/09, LEX No. 590206.
[103] Appellate Court in Rzeszów judgment of 10 April 2013, III AUa 47/13, LEX No. 1306041.

evidence, which is not essential to the outcome of the case, it is the refusal to accept certain evidence should not be at the discretion of the court. In particular, the court cannot ignore the evidence on circumstances indicated by the party, in the case when the facto at issue relevant for the outcome of the case have not been explained yet.[104] The possibility of granting (by the court to the parties and participants in the proceeding acting without professional attorney) needed guidance on the procedural actions and instructing them about the legal consequences of those actions and the consequences of negligence cannot be understood as an obligation to replace the probative initiative of the parties, or the obligation to provide instruction in the situation, when the protection of procedural rights does not require it. This applies in particular to the behavior of the party in undertaking action obviously understandable for everyone.[105]

The civil court is bound only by the convicting judgment of a criminal court, only as to the fact of committing an offense covered by conviction. In this respect, it is inadmissible to make the civil court's own findings.[106] But it is not bound by the following judgments: an acquittal, discontinuing the criminal proceedings, conditionally discontinuing the proceedings and prescriptive one. It is also not bound by the criminal court determination of the amount of damage caused by the offense, unless the amount of the damage is a statute feature of criminal offence. [107] Regarding the judgments of the civil courts, in accordance with Art. 365 § 1 CCP, the final judgment binds not only the parties and the court which issued it, but also other courts and other state bodies and public authorities – and in cases provided for in the Act also other persons. Resolution of the case depends on the result of another civil proceedings if the decision that will be made in this second proceeding will provide a basis for determining the suspended proceedings. The result, therefore, of another procedure must be included in the basis for the settlement of suspended proceedings. It is about a situation in which the decision issued in another pending case will concern the issue of a preliminary ruling character for the proceedings – when it is impossible to resolve the matter in the pending civil proceedings without the prior settlement.[108]

Evidence carried out in another case may serve as auxiliary material in assessing the credibility and power of evidence taken directly in front of the forum. The court cannot therefore rely entirely on the evidence collected in another case, especially on the testimony of the parties filed in another case. Using the evidence collected in another case is dependent on the type of evidence: 1) proof of the witnesses should be basically repeated unless the parties do not contest its value and do not require repetition, and the court has no doubt in this regard; 2) expert opinion, because of its nature, can usually be used in the present case, unless the parties – if they did not take part in carrying out of this evidence in a different case – have justified objections; 3) proof of the document can always be carried out.[109] Counting towards evidence files of completed the criminal

[104] Appellate Court in Gdańsk judgment of 29 June 2012, V ACa 608/12, LEX No. 1311949.
[105] Supreme Court judgment of 4 April 2012, III UK 80/11, LEX No. 1227972.
[106] Wiśniewski, supra n. 42, at p. 228.
[107] Wiśniewski, supra n. 42, at p. 229.
[108] Appellate Court in Katowice judgment of 27 May 2010, V ACa 597/09, LEX No. 686895.
[109] Bladowski, supra n. 43, at p. 179-180.

case violates the principle of directness (Art. 235 CCP: taking of evidence is carried out in front of the forum). It is permissible however and is in accordance with Art. 235 CCP counting towards it individual, strictly defined documents. Although the provision of Art. 224 § 2 CCP (evidence from file or from explanations of public administration bodies) speaks of the evidence from the case file, there is no doubt, taking into account the catalog of evidence from CCP, that it is an evidence from certain documents contained in the case file.[110] Court files are not as such evidence.[111] File of another case (criminal, civil or administrative), do not constitute evidence while the evidence gathered in another case can be used, provided that there is an indication of the concrete evidence from this case. It is not permissible practice that at the request of the party the court brings the file of case pending before a court or other authority in order to familiarize the party with these acts and identify concrete evidence that would be disclosed in civil proceedings. Party should indicate the concrete evidence her/himself in her/his evidence request.[112] In accordance with Art. 235 CCP the principle of civil process is that the taking of evidence is carried out in front of the forum. Counting towards the evidence of the case evidence gathered in another case is not excluded, and thus there is no breach of the principle of directness, unless the parties have the opportunity to comment on the content of evidence and to apply relevant conclusions.[113] The directness of evidence is not absolute. It is acceptable to count towards evidence specific documentary evidence and witness testimony gathered in other proceedings.[114] The admission of evidence from the minutes of testimony of witnesses filed in another case, where a hearing is impossible, does not violate the principle of directness.[115] Evidence from documents included in the file of criminal case cannot be regarded as evidence that has not been carried out.[116]

7.2 The Hearing

The principle of directness applied in the civil process, in regard the taking of evidence. Its essence is that the evidence proceedings should be carried out in front of the court recognizing and resolving the case, because direct contact of the trial court with the evidence promotes making a comprehensive assessment of the evidence.[117] According to Art. 235, taking of evidence is carried out in front of the forum, unless it is opposed by a nature of the evidence or reasons of serious inconvenience or disparity of costs in relation to subject of the dispute. In such cases, a court adjudicating will order the carrying out of the evidence by one of members of the court (judge appointed) or by another court (the court called upon) (§ 1). If the nature of the evidence is not opposed to this, a court adjudicating may decide that carrying out of it will take place by using

[110] Appellate Court in Łódź judgment of 26 April 2013, I ACa 1467/12, LEX No. 1321976.
[111] Supreme Court judgment of 20 July 2007, I CSK 134/07, LEX No. 485999.
[112] Appellate Court in Warszawa judgment of 20 December 2006, VI ACa 567/06, LEX No. 558390.
[113] Supreme Court judgment of 21 February 2012, I UK 295/11, LEX No. 1170218.
[114] Appellate Court in Katowice judgment of 11 August 2005, I ACa 893/05, LEX No. 175591.
[115] Supreme Court judgment of 15 October 2009, I CSK 238/09, OSNC-ZD 2010/3/68.
[116] Supreme Court judgment of 17 January 2003, I CKN 472/01, LEX No. 583713.
[117] Wiśniewski, supra n. 42, at p. 239.

technical devices enabling to perform the operation at a distance. Court adjudicating carries out the evidence in the presence of the court called upon or the court clerk in this court (§ 2). The Minister of Justice shall determine, by regulation, types of equipment and technical means enabling the taking of evidence at a distance, the way of use of this type of equipment and resources, as well as a way to store, play and copy records made during carrying it out, taking into account the need for appropriate protection of recorded image or sound from the loss of evidence, its distortion or unauthorized disclosure (§ 3). It was provided in the Regulation of the Minister of Justice of 24 February 2010 on equipment and technical means enabling taking of evidence at a distance in civil proceedings[118].

The taking of evidence by means of legal assistance/aid is based on the provisions of § 99-105 of the Regulation of the Minister of Justice on 23 February 2007 – Terms and Conditions of tenure of common courts[119]. In the order to take evidence or perform other actions by the court called upon there should be specified exactly what actions have to be made, marked exhaustively the facts and circumstances subject to determination by individual persons and, if necessary – quoted facts and circumstances on which one should pay special attention. One should also indicate the addresses of the persons to be examined or notified about the date, and provide the information which of the persons is to be heard after taking an oath. The order is accompanied by, if necessary, copies of the case file. The file in whole or in part is attached only when necessary, and if it does not halt the course of the proceedings. If the distance from the place of residence of the witness (also the party or the expert) to the seat of the forum is less than to the seat of the court in whose jurisdiction the witness resides, the order to take evidence by that court is not permitted, unless warranted by specific conditions of communication. There should also not be requests for the examination of witnesses (the parties, experts) sent to another court if the distance between the place of residence and the seat of the forum does not exceed 50 km, unless witnesses should be present at the same time during the inspection or cannot be present in the seat of the forum because of the obstacles difficult to remove.

Evidence can be taken by videoconference in accordance to art. 235 § 2, 3 CCP and the Regulation of the Minister of Justice of 24 February 2010 on equipment and technical means enabling taking of evidence at a distance in civil proceedings. Polish law does not impose restrictions concerning certain people or types of evidence to be obtained by videoconference. The only restriction derives from art. 235 § 2 of CCP – it is a character of the evidence that should not stand against taking evidence this way.

According to Art. 224 CCP, the judge-chairman closes the hearing after carrying out evidence and giving voice to the parties (§ 1). You can also close the hearing in the case when it has to be carried out the evidence by judge appointed or by the court called upon or when it has to be carried out the evidence from file or from explanations of public administration bodies, and hearing in regard this evidence the court deems unnecessary (§ 2). Carrying out the evidence after the closing of the hearing in open

[118] Journal of Laws, No. 34, item 185.
[119] Journal of Laws, No. 38, item 249.

session concerning publication of the judgment shall be the violation of law.[120] The contradictory principle of the civil process requires to ensure that the parties could present their arguments and evidence relevant to resolve the case at the hearing, with the possibility to respond. Closure of hearing is possible only when the evidentiary proceedings will be terminated. The exception in Art. 224 § 2 CCP concerns such circumstances, which do not require a hearing.[121] If, after the closure of the hearing evidence relevant to the resolution of the case, not covered by the content of Art. 224 § 2 CCP was carried out, it means that the party as a result of closure of the hearing before the closure of evidentiary proceedings has been deprived of the opportunity to defend his/her rights, resulting in the invalidity of legal proceedings.[122] The situation of superfluity described in Art. 224 § 2 CCP does not occur where fact at issue between the parties has to be established. Then the parties should be allowed to comment on this fact.[123] Medical examiner's certificate is a document that can be evaluated after the closing of the hearing.[124]

In civil proceedings there is no hierarchy of evidence, the principle of equal power of measures taken was adopted. There is also no, with one exception, formalizing the course of evidentiary proceedings, and in particular, the indication of the order of the taking of evidence. The judge-chairman, directing the trial, decides.[125] An exception to this rule concerns the testimony of the parties, which derives from Art. 299 CCP: If, after exhaustion of the evidence or lack thereof the unexplained facts relevant to the case remained, the court to explain these facts may admit evidence of the hearing of parties.

The doctrine distinguishes between direct and indirect evidence – depending on whether the judge on the basis of the evidence has the opportunity to directly determine the veracity of a claim or conclude about this indirectly by reasons of logic[126], the law does not differentiate them.

Lack of presence of the parties does not withhold the taking of evidence, unless the presence of them or of one of them proves to be necessary (art. 237 of CCP), for example if the parties are to be heard, or one of them is to be recognized by a witness[127]. Also every party is authorized to demand the trial to be conducted in his absence (art. 209 of CCP).

---

[120] Appellate Court in Białystok judgment of 29 May 2013, I ACa 631/12, http://orzeczenia.ms.gov.pl (accessed 18 Febr. 2014).
[121] Supreme Court judgment of 13 September 2012, V CSK 381/11, LEX No. 1223735.
[122] Supreme Court judgment of 13 September 2012, V CSK 381/11, LEX No. 1223735.
[123] Appellate Court in Gdańsk judgment of 26 January 2012, III AUa 1073/11, LEX No. 1236148.
[124] Supreme Court judgment of 10 March 2011, V CSK 302/10, OSNC-ZD 2012/1/14.
[125] Wiśniewski, supra n. 42, at p. 244-245.
[126] Bladowski, supra n. 43, at p. 168.
[127] Bladowski, supra n. 43, at p. 179.

7.3 Witnesses

A party who relies on the evidence of the witnesses is required to accurately determine the facts to be established by the testimony of particular witnesses, and identify witnesses, so calling them to the would be possible (Art. 258 CCP), and the court, calling a witness indicates the name and residence of the requested, place and time of the hearing, the names of the parties and the subject matter (Art. 262). According to Art. 266 CCP, before the hearing of a witness he is informed of his right to refuse to testify and of criminal liability for making false statements (§ 1). Hearing begins by asking the witness questions about his person, and his relation to the parties (§ 2). If the witness is to testify, the judge-chairman receives from him an oath, after instructing him about the meaning of this act (§ 3). Witness makes the testimony orally, starting with the answers to the questions of judge-chairman, what and from what sources is known to him in the matter, after which the judges and the parties may ask him questions regarding the same subject (Art. 271 § 1 CCP). The judge-chairman indicates the order of examination of witnesses. Witnesses who have not testified yet, cannot be present at the hearing of other witnesses (Art. 264 CCP).

The witness in obliged to testify the truth and the is most important limitation of a preparation of witness. The witness is informed by the court about his obligation to testify the truth and about criminal responsibility for breaking this rule (Art. 266 CCP).

7.4 Expert Witness

According to Art. 278 CCP, (§ 1) in cases requiring special knowledge the court after hearing the requests made by the parties as to the number of experts and their choice, may call one or more experts to obtain their opinion. The trial court may retain the right to choose an expert to the judge appointed or to the court called upon (§ 2). The court shall identify whether the opinion is to be presented orally or in writing (§ 3). A party may also indicate what specialty expert should give an opinion. Opinion of the parties may be expressed orally at the hearing or in writing. The parties position regarding selection of the number of experts, and an indication of the specific names of experts, is not binding on the court. If a party considers that there are circumstances justify the challenge of the expert (it can be excluded for the same reasons, as a judge), the party may request it. Application may be submitted until the completion of activities by an expert. Where a party requests the exclusion the expert after the start of his activities, is required to make probable that the reason for the challenge was established later, or that it had not been known to the party.

The court shall appoint experts (only the natural persons) from the list of court experts in a certain field, which is conducted by the President of the District Court – than the expert is called permanent. According to § 1 of the Regulation of the Minister of Justice of 24 January 2005 on the court experts[128], a president of the court, hereinafter referred to as "president" establishes court experts, hereinafter referred to as "experts", at district

[128] Journal of Laws, No. 15, item 133.

court. They are established for a period of 5 years, a period of the establishment expires at the end the calendar year. The court may appoint the expert ad hoc (ad causam), i.e. skilled impartial person appointed for the needs of one particular case, because of the knowledge possessed in the field of expertise.[129] Duty to verify the qualifications of the person appointed as an expert rests with the court. Exceptionally it does not apply to expert witness whose qualifications are checked prior to entry in the list of court experts.[130]

The expert makes an oath before commencing his actions, using the following wording: "Aware of the importance of my words and responsibility before the law I solemnly swear that the expert duties entrusted to me I will execute with all diligence and impartiality". Besides, the provisions concerning the oath of witnesses shall be applied to the oath of experts (Art. 282 CCP), also the provisions about witnesses shall furthermore apply to summon and question the experts, except for the provisions on compulsory bringing (Art. 289 CCP). The expert does not make an oath, if both parties agree to it. Permanent court expert makes an oath only when taking position, in individual cases referring to it.[131]

The court may require an oral explanation of the opinion submitted in writing, and can, if necessary, request a second opinion from the same or other experts (Art. 286 CCP). The court may request the opinion of the appropriate scientific or scientific and research institute. The court may require further clarification from the institute, either written or oral by the designated person. The court may also order the submission of supplementary opinion by the same or another institute. Then, the persons who carried out the study and gave an opinion should be indicated in the opinion of the institute (Art. 290 CCP). When the court ordered the expert the preparation of oral opinion, the expert delivers his opinion on the designated court hearing date. In such a situation, the parties who are present at the hearing, have the right to ask him questions, and verify on an ongoing basis the allegations formulated by him.[132]

For expert evidence cannot be applied all the principles of taking evidence, and in particular Art. 217 § 1 CCP (Party may until the end of the hearing indicate facts and evidence to justify his/her statements or to refute the conclusions and statements of the opposing party). The Court is therefore not obliged to admit the evidence of another expert witness, when the opinion is unfavorable to party requesting it, the party does not agree with the conclusions of opinion and also does not consider the arguments of experts as to the allegations raised by the party, which was fully shared by the court.[133] Expert testimony because of the ingredient in the form of special knowledge is evidence

---

[129] Tadeusz Wiśniewski (ed.), Olga Maria Piaskowska, Przeprowadzanie dowodu z opinii biegłego, (LEX, 2012), Supreme Court judgment of 25 February 1974, III KR 371/73, OSNKW 1974, No. 6, item 117.
[130] Jakubecki, supra n. 84.
[131] Wiśniewski, Piaskowska, supra n. 129.
[132] Wiśniewski, Piaskowska, supra n. 129.
[133] Court of Appeals in Katowice judgment of 21February 2013, I ACa 943/12, LEX No. 1289421.

of the kind that cannot be replaced by another probative action such as hearing of the witness. In such a case, the court should get a special message (information) exclusively by use of help of an expert.[134] Conclusions in expert opinion should be clear, categorical and convincing the court as an impartial arbiter in the case, therefore when the expert opinion meets these requirements, and also the expert in fact responded to the reported objections of the defendant, it leads to the conclusion that circumstances significant for the merits of the case are explained, so it is not necessary to allow the evidence of subsequent experts.[135] When in a case there is a question at issue requiring special knowledge (Article 278 § 1: In cases requiring special knowledge court after hearing the statements of the parties as to the number of experts and their choice may invite one or more experts to obtain their opinion), one cannot refrain from taking evidence from experts, only because other evidence were collected in a case concerning the matters in dispute.[136] The court has a duty to allow evidence from further experts or opinion of the scientific institute, when needed, so when the opinion already done contains significant gaps, is incomplete, because it does not respond to the probative thesis raised, unclear or inadequately justified or unverifiable, i.e. when the report does not allow deciding authority to verify the reasoning contained therein as to the accuracy of conclusions.[137]

The experts are usually paid during the trail, after presenting their opinion. The court issues a decision about it. The parties have right to apposed against this decision.

Modern understanding of the principle of directness does not preclude settling for preparation an expert opinion in writing, if it raises no objections or doubts of the court and the parties.[138] Extra-judicial expertise should be treated as part of the argument of the party invoking it either as evidence from a private document, which states that the person who has signed it, also expressed the opinion contained therein. If, however, the expertise was not submitted to the file, it cannot be regarded either as the position of the party or as part of the evidence. The question of the use of it by the expert lies in the sphere of assessment of evidence.[139] According to the jurisprudence, the opinion of an expert (including the permanent (from the court list) expert) made at the behest of the party and submitted to the court records cannot be treated as evidence in case. Private expertises developed at the request of the parties, before proceeding, or in his progress, should be treated so, if they are accepted by the trial court, as an explanation representing support, taking into account the special knowledge, for the positions of the parties.[140] Statement by the appraiser, prepared at the request of the party and submitted

[134] Supreme Court judgment of 15 November 2012, V CSK 525/11, LEX No. 1276234.
[135] Court of Appeals in Łódź judgment of 27 September 2012, I ACa 602/12, LEX No. 1237045.
[136] Supreme Court judgment of 13 December 2010, III SK 16/10, LEX No. 818602.
[137] Supreme Court judgment of 27 July 2010, II CSK 119/10, LEX No. 603161.
[138] Supreme Court judgment of 23 January 2012, II PK 97/11, M.P.Pr. 2012/6/311-314.
[139] Supreme Court judgment of 25 June 2010, I CSK 544/09, LEX No. 737245.
[140] Supreme Court judgment of 29 September 1956, III CR 121/56, OSNCK 1958, No. 1, item 16; Supreme Court judgment of 11 June 1974, II CR 260/74, LEX No. 7517; Supreme Court judgment of 8 November 1988, II CR 312/88, LEX No. 8925; Supreme Court judgment of 20 January 1989, II CR 310/88, LEX No. 8940; Supreme Court judgment of 8 June 2001, I PKN 468/00, OSNP 2003, No. 8, item 197; Supreme Court judgment of 12 April 2002, ICKN 92/00, LEX No. 53932. Also: Jakubecki, supra n. 84.

to the file is not – even if he was included on the list of expert witnesses – expert opinion, but it is treated as a theorem of the party. The court however should comment on his statements – as to the allegations of same party – in the grounds of the judgment. Refusal of the summons expert to hearing for oral explanation of opinion submitted by him in writing (Art. 286 CCP: The court may require an oral explanation of opinion submitted in writing, and can, if necessary, request a second opinion from the same or other experts) challenged by the party is usually such a failure of process, which could affect the outcome of the case.[141] If a party raises objections as to written opinion of an expert, and therefore requests to call an expert to the hearing in order to obtain from him an oral explanation regarding reservations raised, the failure of this request is an process infringement justifying appeal. Failure to comply with it may indeed lead to a conflict between the material collected and the actual state.[142]

The court is not bound by the opinion of the expert, and should evaluate it as each evidence. Uncritical acceptance of the expert's opinion as a basis for settlement would be conflicting with the law authorization of the expert to resolve the case, instead of the court[143].

8 Costs and Language

Pursuant to Art. 262 CCP, the court, when calling a witness indicates a concise matrix of regulations on the reimbursement of necessary expenditure, associated with the summons to court and on the remuneration for loss of earnings. The witness is entitled to demand reimbursement of the necessary expenses, associated with the appearance in the court, and also of compensation for loss of earnings. The reimbursement is paid by the court but later it is included in the costs of proceedings. The final decision depends on the judgment. The judge-chairman may grant the witness an advance for travel expenses and to maintain in the location of the hearing (Art. 277 CCP). Witnesses is entitled to reimbursement of travel expenses, accommodation expenses and loss of wages or income, associated with the appearance in court. He is, however, obliged to apply for a refund of these receivables, because the court of its own motion does not give the witness the refund. The witness must submit a request at the hearing, or within three days after the hearing. If he does not do it, he loses the right to grant it to him. In the application there should be determined the scope of the request, i.e. whether he requests reimbursement of costs associated with the appearance (i.e. cost of transport) or the return of the lost wages.[144]

Remuneration for loss of earnings or income for each day of participation in the activities of court, on the call of the court is granted to the witness in the amount of his

[141] Supreme Court judgment of 20 January 1989, II CR 310/88, LEX No. 8940.
[142] Supreme Court judgment of 28 October 2008, I UK 84/08, LEX No. 558574.
[143] Supreme Court judgment of 29 November 1949, WaC 167/49, NP 1951, No. 2, p. 62 and Supreme Court judgment of 10 February 2002, II UKN 399/99, OSNAPiUS 2001, No. 15, item 497.
[144] Tadeusz Wiśniewski (ed.), Olga Maria Piaskowska, Przeprowadzanie dowodu z zeznań świadków, (LEX, 2012).

average daily earnings or income. In the case of a witness being in an employment relationship, the average daily loss of earnings is calculated according to rules applicable in determining the employee due allowance in lieu for vacation/leave of absence. In any event the upper limit of receivables for loss of daily earnings or income is equivalent to 4.6% of the base amount for those in managerial positions in the state, the amount of which is determined by separate rules from the Budget Act. Witnesses is entitled to reimbursement of travel expenses – from the place of his residence to the place of performing the duties – according to the rules governing the calculation of payments for an employee of a unit of a state or local government budgetary sphere, due to a business trip in the country. Under the same rules, the witness is entitled to reimbursement of expenses of accommodation and living in the location of the hearing. Granted receivable must be paid immediately. In case of inability to immediate payment, amount due shall be submitted by postal order or bank transfer without charging (also a witness, expert or interpreter) postage costs or payment.[145]

The expert is entitled to demand compensation for the court appearance and the work done and the judge-chairman may grant an advance on the expert expenditure. Also scientific and scientific research institute may demand compensation for their work and for the appearance of their representatives (Art. 288, 291 CCP).

Costs of procedure are all the costs connected with the procedure, if they are met in judgment ending the procedure, or as defined in CCP – costs indispensable to deliberately assert one's rights and deliberately defend (art. 98 § 1 of CCP). There is a general rule that a participant in the legal proceedings is obliged to pay the amount determined in legal acts before taking an action. A fee should be paid upon filing a pleading (petition, writ or any other letter). A failure to pay might lead to the return of a plea after an ineffective deadline for supplementation. The general rule comes from provision of CCP, providing that a court will not take any action concerning an unpaid writ (petition) – art. 126^2. The costs of bringing an action to the court depend on the type of proceedings described in legal acts. The Act of 28 July 2005 on court fees in civil cases[146] provides for fees and expenses. There are five kinds of fees: a) permanent fees, b) proportional fees, c) basic fees, d) provisional and final fees and e) clerical fees. The court fees are the charges for specific actions taken by the court as a result of written statement of claim or defense in a court action. Expenses are the costs connected with hearing of evidence and some other court actions. The issue of reimbursement of the costs incurred by the parties is regulated by provision of art. 98-110 of CCP. The general rule prescribed in art. 98 is that a party losing a lawsuit is obliged to reimburse on the opponent’s request costs indispensable to deliberately assert his rights and deliberately defend.

The costs of a interpreter is included in the cost of proceedings and they are paid temporary by the court. In final judgment the court decides who pays the cost of the proceedings.

[145] Wiśniewski, Piaskowska, supra n. 142.
[146] Journal of Laws, No. 167, item 1398.

8.1 Language and Translation

According to Art 5 of Act of the ordinance of common courts dated 27 July 2001[147], the language of a hearing is Polish. Judge may ask the parties and other persons only in the Polish language, even if he knows the language, in which they speak. However, individuals without an adequate command of the Polish language have the right to appear before the court in their native language and take advantage of the free assistance of an interpreter sworn. [148] The decision to grant interpreter to such a person, is provided by the court competent to hear the case in the first instance. Application for an interpreter submitted during the course of the case is decided by the court of the instances in which the case is pending. Also, according to Art. 265, also to hear a witness without at adequate command of the Polish language, the court may summon an interpreter. The provisions concerning the experts shall be appropriately applied to interpreters. Employee of the administration of justice may act as an interpreter, without an oath but with reference to the staff oath. But knowledge of a foreign language by the judge does not exempt him from the obligation to appoint a sworn translator, because the role of the judge in the case is not connectable with any other role proceedings. Parties should also be able to challenge the accuracy of the translation of testimony of a witness, which would be impossible if the translation would be conducted by the court itself. Appointment of the employee of the administration of justice as an interpreter is not recommended, because his knowledge of a foreign language – unlike in the case of a sworn translator – has not been officially verified. The list of sworn translators is carried by the Minister of Justice and every year he announces its current version in the Public Information Bulletin. [149] The accrual of entitlement of sworn translator and principles of pursuit of that profession has been regulated by the Act of 25 November 2004 on the profession of sworn translator[150], while the amount of their charges – in the Regulation of the Minister of Justice of 24 January 2005 on the remuneration for the actions of sworn translator[151]. Remuneration and expenses of sworn translators are expenses within the meaning of Art. 5 of the Act of 28 July 2005 on court fees in civil cases (remuneration and reimbursement of expenses incurred by experts, interpreters and curators established for the parties in a particular case).

9 Unlawful Evidence

There is no legal concept or definition of "illegal evidence". Only evidence obtained according to the rules of taking evidence can be taken into consideration while establishing the facts, appraisal of evidence and material of the case[152]. Establishments of facts according to the evidence not formally permitted and not taken during a trial violate general rules of procedure of taking of evidences in the scope of directness,

[147] Journal of Laws, No. 98, item 1070.
[148] Bladowski, supra n. 43, at 154.
[149] Dolecki, supra n. 85, Wiśniewski, supra n. 42.
[150] Journal of Laws, No. 273, item 2702.
[151] Journal of Laws, No. 15, item 131.
[152] Court of Appeals in Katowice judgment of 22 January 2009, V ACa 551/08.

openness, equality of the parties and contradiction[153] and also of free appraisal of evidence – their use as a reference point for the consideration of different evidence disqualifies the stated facts[154].

Both answers about the use of the fruits of the poison tree in the civil proceedings are possible.

10 The Report about the Regulation No 1206/2001

https://mail-attachment.googleusercontent.com/attachment/u/0/?ui=2&ik=2a2db81c06&view=att&th=13f0f97163496afb&attid=0.4&disp=inline&realattid=f_hhj6lu5y3&safe=1&zw&saduie=AG9B_P8EO8b4IziLZq4qoq2cr9qs&sadet=1380110165810&sads=7W4b6HEaZBZTan6x62SUMJhic1s (Please, see pages 104-107.)
Please advise the accuracy of the information regarding your legal system and in what sense are the reported treaties more favourable than the system established under the Regulation No 1206/2001.

There are still no reported treaties more favourable than the system established under the Regulation No 1206/2001 – still there is no reference to other agreements or arrangements. However the data concerning the treaties are not required by the European Judicial Atlas publishers right now.

11 Table of Authorities

The Central body described in article 3 is: Ministry of Justice / Department of Judicial Assistance and European Law.

Ministerstwo Sprawiedliwości
Departament Współpracy Międzynarodowej i Prawa Europejskiego
Al. Ujazdowskie 11
00 - 950 Warszawa
Tel./fax: +48 22 6280949

Knowledge of languages: Polish, English, German, French.

The relevant statute is the Polish Code of Civil Procedure (CCP), Polish name: Kodeks Postępowania Cywilnego – ustawa z dnia 17 listopada 1964 r., Dz. U. nr 43, poz. 296 z późniejszymi zmianami (Journal of Laws, No. 43, item 296 with subsequent amendments – more than 170 of them). There is no English translation available – official or for practical use. The important cases were given in the report – regarding the taking of evidence. There are no important Polish cases arising from the Regulation.

[153] Verdicts of the Supreme Court: dated 13 November 2003, IV CK 212/02, dated 20 August 2001, I PKN 571/00, dated 23 June 1999, II UKN 9/99, dated 3 February 1997, I CKN 60/96, dated 20 August 2001, I PKN 571/00, OSNP 2003/14/330.
[154] Supreme Court judgment of 9 March 2005, III CK 271/04.

Part II – Synoptical Presentation

1 Synoptic Tables

1.1 Ordinary/Common Civil Procedure Timeline

Phase #	Name of the Phase Name of the Phase in National Language	Responsible Subject	Duties of the Responsible Subject (related only to Evidence) and Consequences of their Breach	Rights (related only to Evidence) of the Responsible Subject
1.	Application – pozew	Applicant/ plaintiff – powód	Duty to prepare and submit application and also to include documents and submit evidence – consequence: lack of court action, preclusion	Right to civil proceeding, right to submit any evidence
2.	Securing the claim – zabezpieczenie powództwa (optional)	Applicant/ plaintiff – powód	Duty to fill in the request	Right to have the request examined
3.	Reply – odpowiedź na pozew	Defendant – pozwany	Duty to include documentsfor both parties.	Right to defence, right to present evidence
4.	The collection of the process material – gromadzenie materiału procesowego	Parties and court – strony i sąd	Duty to submit evidence	Right to request for the other party/institution to deliver documents
5.	Opening of the hearing – otwarcie rozprawy	Judge-chairman of the bench – przewodniczący	Duty/right to conduct the hearing	Duty/right to conduct the hearing
6.	Clarification of the position of the parties and the attempt to their reconciliation (preliminary hearing) – wyjaśnienie stanowiska stron i próba ich pojednania	Parties and court	Duty of the parties to respond to the attempt of reconciliation (agreement in the court)	Right to present the positions, right to defense

7.	Initiating the taking of evidence – wszczęcie postępowania dowodowego	Judge-chairman of the bench – przewodniczący	Duty to decide about admission of the evidence	Right to admit or to reject the evidence
8.	Conducting particular evidence – przeprowadzenie poszczególnych dowodów	Parties and court	Duty to conduct the evidence by the parties, duty of the court to conduct the hearing	Right to prove the facts important for the parties, right of the court to admit the evidence ex-officio
9.	Closing the hearing – zamknięcie rozprawy	Judge-chairman of the bench – przewodniczący	Duty to make the decision concerning the closing – the evidentiary material is complete	Right to evaluate the material
10.	Making decisions in the first instance – wyrokowanie w pierwszej instancji	Court – sąd	Duty to deliver the judgment	Right to consider the case and prepare judgment in two weeks' time
11.	Actions taken after the issuance of the decision – czynności po wydaniu wyroku	Court – sąd	Duty to service the judgment to the parties (optional). It depends weather the parties were present during the passing the judgment.	
12.	Request for reasons/grounds for judgment - wniosek o uzasadnienie wyroku	Parties – strony	Duty to fill in the request	Right to an appeal
13.	Appeal – apelacja	Parties – strony	Duty to fill in the appeal	Right to be heard by the court in the second instance
14.	Reply for appeal – odpowiedź na apelację	Parties – strony		Right to defense, right to present new, not known earlier evidence
15.	Appeal hearing – Rozprawa apelacyjna	Court – sąd	Duty/right to conduct the hearing and to evaluate the new evidence	Duty/right to conduct the hearing and to evaluate the new evidence
16.	Passing the judgment in the second instance – wyrokowanie w drugiej instancji	Court – sąd	Duty to deliver the judgment	Right to consider the case and prepare judgment in two weeks' time
17.	Cassation – Kasacja	Parties – strony	Duty to fill in the request (optional)	Right to be heard in the Supreme Court

1.2 Basics about Legal Interpretation in Polish Legal System

There is no protocol for interpretation od substantive legal rules.

1.3 Functional Comparison

Legal Regulation / Means of Taking Evidence	National Law	Bilateral Treaties **Examples:** Agreement between the Polish People's Republic and the Turkish Republic on legal assistance in civil and commercial matters, signed in Warsaw on 12 April 1988[155], Agreement between the Polish Republic and the Republic of Estonia on legal assistance and legal relations in civil, labor and criminal matters, signed at Tallinn on 27 November 1998[156]. Agreement between the Polish Republic and Republic of Lithuania on legal assistance and legal relations in civil, family, labor and criminal matters, signed in Warsaw on 26 Jan. 1993[157].	**Multilateral Treaties** Convention On The Taking Of Evidence Abroad In Civil Or Commercial Matters (18 March 1970)	**Regulation 1206/2001**
Hearing of Witnesses by Mutual Legal Assistance (Legal Aid)	General rule concerning the first and the third situation is provided by Art. 235: Taking of evidence is carried out in front of the forum, unless it is opposed by a nature of the evidence or reasons of serious inconvenience or disparity of costs in relation to subject of the dispute. In such cases, a court adjudicating will order the carrying out of the evidence by one of members of the court (judge appointed) or by another court (the court called upon) (§ 1). There is no timeline detailed, no form to be filled in.	In every chosen bilateral agreement, there are only rules concerning the essence of request. There are no specific provisions concerning the requesting party. Only in the Polish-Lithuanian agreement you can find one specific regulation regarding witnesses or experts. If, in the proceedings before the judicial authorities of a Contracting Party the necessity of personal appearance of a witness or an expert residing in the territory of the other Contracting Party occurs, one should apply to the competent judicial authority of the Contracting Parties of the	The judicial authority of the state may, in accordance with the provisions of its domestic law, request the competent authority of another state to obtain evidence, or to perform some other judicial act. The judicial authority which executes a Letter of Request shall apply its own	In Section 1 of Chapter 2 of the Regulation you can find very detailed provisions regarding the request itself (conditions, language, form etc.). It is much more detailed than the bilateral agreements.

[155] Journal of Laws of 1992, No. 3, item 13.
[156] Journal of Laws of 2000, No. 5, item 49.
[157] Journal of Laws of 1994, No. 35, item 130.

		service of the summons. The call may not contain sanctions concerning coercive measures in the event of failure to appear. A witness or an expert who appeared as a result of a call before the authority of the requesting Contracting Party may not be in the territory of that Party, irrespective of his nationality, held criminally administratively responsible or arrested, nor may he be responsible for the offense committed before crossing the state border of the requesting Contracting Party or which is in conjunction with the testimony.	law as to the methods and procedures to be followed.	
Hearing of Witnesses by Video-conferencing with Direct Asking of Questions	According to Art. 235 § 2, 3: If the nature of the evidence is not opposed to this, a court adjudicating may decide that carrying out of it will take place by using technical devices enabling to perform the operation at a distance. Court adjudicating carries out the evidence in the presence of the court called upon or the court clerk in this court (§ 2). The Minister of Justice shall determine, by regulation, types of equipment and technical means enabling the taking of evidence at a distance, the way of use of this type of equipment and resources, as well as a way to store, play and copy records made during carrying it out, taking into account the need for appropriate protection of recorded image or sound from the loss of evidence, its distortion or unauthorized disclosure (§ 3). It was provided in the	See above.	See above.	

	Regulation of the Minister of Justice of 24 February 2010 on equipment and technical means enabling taking of evidence at a distance in civil proceedings[158]. There is no timeline detailed, no form to be filled in.			
Direct Hearing of Witnesses by Requesting Court in Requested Country	The same as in the first situation – legal aid.	See above.	See above.	

Legal Regulation / **Means of Taking Evidence**	**National Law**	**Bilateral Treaties** Agreement between the Polish People's Republic and the Turkish Republic on legal assistance in civil and commercial matters, signed in Warsaw on 12 April 1988, Agreement between the Polish Republic and the Republic of Estonia on legal assistance and legal relations in civil, labor and criminal matters, signed at Tallinn on 27 November 1998.	**Multilateral Treaties** Convention On The Taking Of Evidence Abroad In Civil Or Commercial Matters (18 March 1970).	**Regulation 1206/2001**
Hearing of Witnesses by Mutual Legal Assistance (Legal Aid)	According to Art. 239 of CCP the requested judge or the appointed court have the rights concerning evidence, of the requesting court, especially the rights of the	According to the provisions of two selected bilateral agreements, the requested court shall execute the request in accordance with its own law. In general, there is no distinction of various situations and specific regulations concerning them. Also there is no timeline detailed, no form to be filled in. According to the Polish-Lithuanian agreement, in	In executing a Letter of Request the requested authority shall apply the appropriate measures of compulsion in the instances and to the same extent as are provided by its internal law for the execution of orders issued by the authorities of its own country or of requests	The requested court shall execute the request in accordance with its own law. Detailed timeline, specific regulations concerning three given

[158] Journal of Laws, No. 34, item 185.

	chairman of the court. The Court is not bound by its own decision of evidence and it may, appropriate to the circumstances, repeal or change it, even during the closed session. The requested judge or the appointed court may supplement the decision of the adjudicating requesting court, on a request of the party, by hearing new witnesses in regard the facts stated in this decision (Art. 240 of CCP). Other specific rules concerning all three situations are provided for both requesting and requested courts (see above: Art. 235 of CCP and Regulation of the Minister of Justice of 24 February 2010 on equipment and technical means enabling taking of evidence at a	executing the request for legal assistance the requested authority applies laws of their State. However, it applies the method of the transaction specified by the requesting authority, if it is not contrary to the law of the requested Party. If the requested authority is not competent to execute the request, it forwards the request to the appropriate authority together with notifying the requesting authority. If the exact address of the person concerned is unknown, the requested authority shall take appropriate action to find it. At the request of the requesting authority, the requested authority shall inform in due time directly the requesting authority and the parties about the date and place of execution of the request. After the concluding of the application the requested authority sends the file to the requesting authority; in the event that the request cannot be executed, the requested authority returns the application to the requesting authority together with notifying the cause of an unsuccessful application. If, in the proceedings before the judicial authorities of a Contracting Party the necessity of personal appearance of a witness or an expert residing in the territory of the other Contracting Party occurs, one should apply to the competent judicial authority of the Contracting Parties of the service of the summons. 2. The call may not contain sanctions concerning coercive measures in the event of failure to appear. 3. A witness or an expert who appeared as a result of a call before the authority of the requesting Contracting Party may not be in the territory of that Party, irrespective of his	made by parties in internal proceedings. The execution of a Letter of Request may be refused only to the extent that - ***a)*** in the State of execution the execution of the Letter does not fall within the functions of the judiciary; or ***b)*** the State addressed considers that its sovereignty or security would be prejudiced thereby. Execution may not be refused solely on the ground that under its internal law the State of execution claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not admit a right of action on it. The documents establishing the execution of the Letter of Request shall be sent by the requested authority to the requesting authority by the same channel which was used by the latter. In every instance where the Letter is not executed in whole or in part, the requesting authority shall be informed immediately through the same channel and advised of the reasons.	situations, very useful tool to accelerate the proceedings. Very practical forms.

	distance in civil proceedings).	nationality, held criminally administratively responsible or arrested, nor may he be responsible for the offense committed before crossing the state border of the requesting Contracting Party or which is in conjunction with the testimony.		
Hearing of Witnesses by Video-conferencing with Direct Asking of Questions		See above	See above	
Direct Hearing of Witnesses by Requesting Court in Requested Country		See above	See above	

References

Table of Cases

Appellate Court in Białystok judgment of 29 May 2013, I ACa 631/12, http://orzeczenia.ms.gov.pl (accessed 18 Feb. 2014).
Appellate Court in Białystok judgment of 4 October 2013, I ACa 428/13, http://orzeczenia.ms.gov.pl (accessed 18 Feb. 2014).
Appellate Court in Białystok judgment of 4 September 2012, III APa 7/12, LEX No. 1217657.
Appellate Court in Gdańsk judgment of 26 January 2012, III AUa 1073/11, LEX No. 1236148.
Appellate Court in Gdańsk judgment of 29 June 2012, V ACa 608/12, LEX No. 1311949.
Appellate Court in Katowice judgment of 11 August 2005, I ACa 893/05, LEX No. 175591.
Appellate Court in Katowice judgment of 22 January 2009, V ACa 551/08.
Appellate Court in Katowice judgment of 27 May 2010, V ACa 597/09, LEX No. 686895.
Appellate Court in Katowice judgment of 8 June 2011, I ACa 262/11, LEX No. 1120358.
Appellate Court in Łódź judgment of 26 April 2013, I ACa 1467/12, LEX No. 1321976.
Appellate Court in Rzeszów judgment of 10 April 2013, III AUa 47/13, LEX No. 1306041.
Appellate Court in Warsaw judgment of 4 September 2013, I ACa 259/13, LEX No. 1381585.
Appellate Court in Warszawa judgment of 20 December 2006, VI ACa 567/06, LEX No. 558390.
Appellate Court in Wrocław judgment of 11 April 2013, I ACa 207/13, LEX No. 1322096.
Court of Appeals in Katowice judgment of 21 February 2013, I ACa 943/12, LEX No. 1289421.
Court of Appeals in Katowice judgment of 22 January 2009, V ACa 551/08.
Court of Appeals in Łódź judgment of 27 September 2012, I ACa 602/12, LEX No. 1237045.
Supreme Court judgment of 10 March 2011, V CSK 302/10, OSNC-ZD 2012/1/14.
Supreme Court judgment of 10 February 2002, II UKN 399/99, OSNAPiUS 2001, No. 15, item 497.
Supreme Court judgment of 11 June 1974, II CR 260/74, LEX No. 7517.
Supreme Court judgment of 12 April 2002, ICKN 92/00, LEX No. 53932.
Supreme Court judgment of 13 December 2010, III SK 16/10, LEX No. 818602.

Supreme Court judgment of 13 November 2003, IV CK 212/02.
Supreme Court judgment of 13 September 2012, V CSK 381/11, LEX No. 1223735.
Supreme Court judgment of 15 December 2000, IV CKN 195/00, LEX No. 439189.
Supreme Court judgment of 15 January 2010, I CSK 199/09, LEX No. 570114.
Supreme Court judgment of 15 November 2012, V CSK 525/11, LEX No. 1276234.
Supreme Court judgment of 15 October 2009, I CSK 238/09, OSNC-ZD 2010/3/68.
Supreme Court judgment of 17 January 2003, I CKN 472/01, LEX No. 583713.
Supreme Court judgment of 2 October 2012, II PK 82/12, LEX No. 1243029.
Supreme Court judgment of 20 August 2001, I PKN 571/00.
Supreme Court judgment of 20 January 1989, II CR 310/88, LEX No. 8940.
Supreme Court judgment of 20 July 2007, I CSK 134/07, LEX No. 485999.
Supreme Court judgment of 21February 2012, I UK 295/11, LEX No. 1170218.
Supreme Court judgment of 22 March 2012, IV CSK 453/11, LEX No. 1213423.
Supreme Court judgment of 23 January 2012, II PK 97/11, M.P.Pr. 2012/6/311-314.
Supreme Court judgment of 23 June 1999, II UKN 9/99.
Supreme Court judgment of 25 February 1974, III KR 371/73, OSNKW 1974, No. 6, item 117.
Supreme Court judgment of 25 June 2010, I CSK 544/09, LEX No. 737245.
Supreme Court judgment of 26 February 1969, II CZ 6/69, OSNC 1969/12/227.
Supreme Court judgment of 27 July 2010, II CSK 119/10, LEX No. 603161.
Supreme Court judgment of 28 October 2008, I UK 84/08, LEX No. 558574.
Supreme Court judgment of 29 September 1956, III CR 121/56, OSNCK 1958, No. 1, item 16.
Supreme Court judgment of 29 November 1949, WaC 167/49, NP 1951, No. 2, p. 62.
Supreme Court judgment of 3 February 1997, I CKN 60/96.
Supreme Court judgment of 3 February 2010, II CSK 404/09, LEX No. 590206.
Supreme Court judgment of 30 January 2004, I CK 129/03, LEX No. 457759.
Supreme Court judgment of 4 April 2012, III UK 80/11, LEX No. 1227972.
Supreme Court judgment of 4 January 2007, V CSK 377/06, OSP 2008, No 1, item 8.
Supreme Court judgment of 8 December 2009, I UK 195/09, OSNCP 2011, No. 13-14, item 190.
Supreme Court judgment of 8 June 2001, I PKN 468/00, OSNP 2003, No. 8, item 197.
Supreme Court judgment of 8 November 1988, II CR 312/88, LEX No. 8925.
Supreme Court judgment of 9 March 2005, III CK 271/04.

Bibliography

Books

Bladowski B., Metodyka pracy sędziego cywilisty, (LEX, 2013).
Dolecki H. Postępowanie cywilne. Zarys wykładu (LexisNexis, 5th ed., Warszawa 2013).
Dolecki H., Wiśniewski T. (eds.), Kodeks postępowania cywilnego. Komentarz. Tom I, Art.1-366 (2 ed., LEX/el., 2013).
Ereciński T., Civil Procedure, in: Introduction to Polish Law, ed. Stanislaw Frankowski (Kluwer Law International, Zakamycze 2005).
Jakubecki A. (ed.), Komentarz aktualizowany do ustawy z dnia 17 listopada 1964 r. Kodeks postępowania cywilnego. (LEX/el., 2013).

Jaśkiewicz J., Poznanie faktów w postępowaniu cywilnym (LEX 2013).
Karolczyk B., Koncentracja materiału procesowego w postępowaniu cywilnym przed sądem pierwszej instancji (Wolters Kluwer business, Warszawa 2013).
Łazarska A., Rzetelny proces cywilny (Wolters Kluwer business, Warszawa 2012).
Mądrzak H., O pojmowaniu naczelnych zasad postępowania cywilnego, in: Proces i prawo. Rozprawy prawnicze (Wrocław 1989).
Resich Z., Istota procesu cywilnego (Warszawa, 1975).
Trojanowski G., Polish Civil Proceedings, in: A Synthesis of Polish Law, part 1, ed. Tadeusz Guz et al. (Peter Lang, Frankfurt am Main 2009).
Turek J., Czynności dowodowe sądu w procesie cywilnym (Wolters Kluwer, Warszawa 2011).
Wielka encyklopedia prawa, ed. Eugeniusz Smoktunowicz and Cezary Kosikowski (Wydawnictwo Prawo i Praktyka Gospodarcza, Warszawa 2000).
Wiśniewski T. (ed.), Piaskowska O. M., Przeprowadzanie dowodu z opinii biegłego (LEX, 2012).
Wiśniewski T. (ed.), Piaskowska O.M., Przeprowadzanie dowodu z zeznań świadków (LEX, 2012).
Wiśniewski T., Przebieg procesu cywilnego (LEX, 2013).
Zatorska J., Komentarz do art.12 rozporządzenia Rady (WE) nr 1206/2001 w sprawie współpracy między sądami Państw Członkowskich przy przeprowadzaniu dowodów w sprawach cywilnych lub handlowych (LEX, 2008).
Zedler F., Civil Procedure, in: Handbook of Polish Law, ed. Wojciech Dajczak, Andrzej J. Szwarc, Paweł Wiliński (Wydawnictwo Szkolne PWN, Warszawa – Bielsko-Biała 2011).

Periodicals

Karolczyk B., Preclusion of late allegations and evidence as a tool to increase efficiency of civil proceedings in Poland: A short story of the ugly past and the long way towards the bright future. Presentation delivered during conference „Public and Private Justice. Dispute Resolution in Modern Societies" in Dubrovnik on May 27th, 2013.
Karolczyk B., Pretrial as a part of judicial case management in Poland in comparative perspective, 15 Comparative Law Review (2013).

Legislation

Act of 18 September 2001 on electronic signature, Journal of Laws, No. 130, item 1450.
Act of 25 November 2004 on the profession of sworn translator, Journal of Laws, No. 273, item 2702.
Act of 28 July 2005 on court fees in civil cases, Journal of Laws, No. 167, item 1398.
Act of the ordinance of common courts dated 27 July 2001, Journal of Laws, No. 98, item 1070.
Agreement between the Polish People's Republic and the Turkish Republic on legal assistance in civil and commercial matters, signed in Warsaw on 12 April 1988, Journal of Laws of 1992, No. 3, item 13.

Agreement between the Polish Republic and the Republic of Estonia on legal assistance and legal relations in civil, labor and criminal matters, signed at Tallinn on 27 November 1998, Journal of Laws of 2000, No. 5, item 49.
Civil Code of 23 April 1964, Journal of Laws, No. 16, item 93.
Code of Civil Procedure of 17 November 1964, Journal of Laws, No. 43, item 296.
Penal Code of 6 June 1997, Journal of Laws, No. 88, item 553.
Regulation of the Minister of Justice of 23 February 2007. Terms and Conditions of courts, Journal of Laws, No. 38, item 249.
Regulation of the Minister of Justice of 24 February 2010 on equipment and technical means enabling taking of evidence at a distance in civil proceedings, Journal of Laws, No. 34, item 185.
Regulation of the Minister of Justice of 24 January 2005 on the court experts, Journal of Laws, No. 15, item 133.
Regulation of the Minister of Justice of 24 January 2005 on the remuneration for the actions of sworn translator, Journal of Laws, No. 15, item 131.