ESTUDIOS

COLLEGIALITY OF THE COURT IN CIVIL PROCEEDINGS AND THE RIGHT TO A COURT

TOMASZ SZANCILO

Judge of the Polish Supreme Court, Civil Chamber | Cardinal Stefan Wyszynski University

0000-0001-6015-6769

Abstract:

The right to a court is a fundamental right, guaranteeing the preservation of all other fundamental rights and the rights derived from them. There is no standard for the collegiality of the court in hearing cases, the national legislature is free to do so, but it can't infringe the principle of fair civil procedure. A collegiate composition of the court (three judges, but also with jurors) has many advantages and few disadvantages, but this does not mean that every case must be heard in both instances by courts adjudicating in collegiate panels. This problem is particularly important in appeal proceedings, since any errors made by the court of first instance can be corrected by examining ordinary appeals. Thus, while in civil proceedings at first instance the collegiality of the composition of the court should be the exception, since it's only in certain categories of cases that such a composition actually contributes to a more correct and equitable decision, in the case of a court of appeal the collegiate composition should be the rule and a

derogation from it should be the exception. The legislator shouldn't narrow down the number of categories of cases that should be considered in appeal proceedings in a collegiate panel in favour of a single-judge panel. On the contrary, deviations from the collegiate bench should be as narrow as possible, they should apply to categories of cases in which procedural economy does not adversely affect the issuance of a correct ruling.

Keywords:
Collegiality of the court, right to a court, judge, juror, court of first instance, court of appeal.

I. Introduction

The right to a court is a fundamental right in national, EU and international terms. It can be assumed to be the most important right in the systematics of rights and freedoms, as it guarantees the preservation of all other fundamental rights and the rights (but also obligations) derived from them, or at least gives the possibility to assert them before a court. This momentous importance of the right to a court in the systematics of fundamental rights of each legal system allows the question to be posed as to what composition the court should hear a case in order to be able to say that a party has been guaranteed this right.

In particular, the question is whether it should be a collegial composition or whether a single judge is sufficient. This raises the question of whether a collegial composition is preferable in every case, in the sense that it offers the chance to deliver a substantively better judgment while meeting the requirements of social justice.

This problem assumes particular importance in appeal proceedings. While possible errors committed by the court of first instance may be corrected by examining an appeal or a complaint, i.e. ordinary appeals, the possibility of correcting errors is considerably limited with regard to judgments of courts of second instance, which aren't subject to ordinary appeals, but extraordinary legal remedies (e.g. a cassation complaint), if the legislator allows for such a possibility in the given legal system. Thus, if a decision of the second instance court is not subject to an extraordinary remedy, the decision remains in force and has legal effects even if its defect is obvious.

It may be argued at this point that in first-instance civil proceedings, collegiality of court composition should be the exception, since, given the possibility of an appeal against a judgment or order, only in certain categories of cases does a collegial composition actually contribute to a more correct and fair judgment. By contrast, in the case of the appellate court, collegial composition should be the rule and derogation from it the exception.

The study omits proceedings before the Supreme Court of Poland, as it doesn't concern proceedings before the ordinary court.

II. The standard of collegiality of court composition and the right to a fair trial

The starting point must be that there is no standard when it comes to collegiality in the hearing of cases, in particular not required by Article 6(1) ECHR[1]. It can therefore be assumed that the abandonment by a country's legislature of a collegial composition in favour of a single-member composition does not in itself constitute a violation of the Convention standard, provided that objective arguments aren't shown to jeopardise the independence and impartiality of the court in relation to a particular category of cases. In doing so, it is emphasised that the term 'court established by law' in Article 6 ECHR should ensure that the organisation of the judiciary in a democratic society doesn't depend on the discretion of the executive, but is regulated by law emanating from parliament. In states where the law is codified, the organisation of the judiciary must also not be left to the discretion of the judiciary, which does not mean, however, that the courts don't have some discretion in interpreting the relevant provisions of national law[2]. States are therefore free to shape the judicial model, but this freedom doesn't amount to arbitrariness.

This means that no provision of international law (as well as of EU law) imposes on States a particular model of court composition in terms of the number of judges, but also in terms of the number of judges in the composition of the court hearing a particular case, as one should not forget the participation of the social factor in the administration of justice, which usually takes one of two forms: a jury or jurors as members of

the court's bench[3]. In addition to this, there may be courts in which only non-judicial citizens adjudicate – these are the so-called Magistrates' Courts, operating in England and dealing with minor neighbourhood disputes[4]. In this regard, the exercise of interlocutory review by a single-judge court isn't objectionable to the ECtHR if it is established by law and has so-called full jurisdiction[5]. It's essential that the right to a court is preserved. If, on the other hand, the national legislator makes changes to the procedural rules on the composition of the court, there may be a violation of the Convention standard when the shaping of the composition of the court is done without due axiological justification and as a result of a discretionary decision of the administrative agent, creating the risk of external manipulation, and isn't in the nature of a systemic regulation[6]. Consequently, even if there was originally a collegial composition and the national legislature subsequently introduces a provision changing the composition of the court in a particular case to a single judge, this doesn't in itself infringe the right to a court within the meaning of the Convention. Indeed, it must be shown that such a change had no justification and affects the infringement of the right to a court within the meaning of the Convention.

Nor can the collegiality of the composition of the court be derived from the constitutional right to a court – for under Article 45(1) of the Polish Constitution, everyone has the right to a fair and public hearing of a case without undue delay by a competent, independent, impartial and independent court. Everyone is entitled to this right irrespective of the existence and content of a substantive-legal relationship and the rights and obligations arising therefrom[7]. In other words, the right to a court doesn't mean that a case must be heard by a court in a collegial composition.

It's important in this regard that restrictions, inter alia, on the composition of the court must not infringe the right to a fair trial (trial). By this is meant proceedings in which the participants have the opportunity to protect their rights. The person against whom or on whose behalf a trial is pending must have the conviction that the procedural authorities have done everything possible to ensure that the law is respected by dealing with him or her conscientiously, lawfully and to the highest standards[8]. However, it isn't limited to procedural issues only, as the court's decision must be in accordance with the substantive law and fair in the substantive sense, which requires shaping the determination of the case on the basis of knowledge of the substantive law and the case law involved, based on true findings of fact[9]. Thus, the right to a fair trial must be realised from both the formal (procedural) and substantive side. The collegiality of the court must be considered in this aspect.

The consequence of a breach of the rules on the composition of the court is the invalidity of the proceedings, which occurs whenever the composition of the court was contrary to the rules of law[10] (Article 379 point 4 of the Code of Civil Procedure). Only exceptionally does the case law allow that the proceedings are not invalid when the case is heard by a court in a different composition[11]. This means that there is no better or worse composition, only a composition that complies with or contradicts the provisions of the law (therefore, the proceedings are also invalid if, without any basis, the case is heard by a three-member court, while a one-member court had jurisdiction). Undoubtedly, such a strict interpretation of these provisions is also of guarantee importance, as it doesn't allow sanctioning any manipulation of the composition.

III. Collegial composition of the court of first instance

At first instance, a Polish court shall hear cases in civil proceedings by a single judge, unless a specific provision provides otherwise (Article 47(1) of the Code of Civil Procedure). Thus, as a rule, a single (judge) composition is the rule, and a exception from it may concern the hearing of a case by: 1) three judges; 2) one judge and two jurors.

In doing so, a distinction should be made between procedural (called contentious) and non-contentious (called non-contentious) proceedings. As far as the former procedure is concerned, the legislator has not specified in the Civil Procedure Code the cases that the court shall hear in a three-judge panel. Such a composition is exceptionally provided for in special provisions - an example is the assertion of claims in group proceedings, i.e. civil court proceedings in cases in which (some) claims of one type are asserted by at least 10 persons, based on the same or the same factual basis[12].

The exception from the single-judge panel applies to the situation where the president of the court orders the case to be heard by three judges if he deems it advisable due to the particular complexity or precedential nature of the case (Article 47 § 4 of the Code of Civil Procedure), which in practice occurs very rarely. The order of the president of the court must relate to a specific case, it can't be of a general nature[13], whereby if a case is heard by a three-judge court without such an order, the proceedings are invalid.

The law doesn't specify further how the particular complexity or precedent character of the case is to be understood, as well as when such a decision is taken and how and on the basis of which criteria the president of the court selects the composition of the court. In practice, it's issued at the request of the judge to whom the case has been assigned, as he or she is in a position to assess whether any of these conditions are present, and the president of the court makes the decision based on the position of the reporting judge. The complexity of a case may refer to its multifaceted nature, which, coupled with the volume of procedural material, may require the additional involvement of other judges, e.g. specialised in a particular category. Precedential nature, on the other hand, refers to the presence of new and substantial issues in the case[14]. Each of these situations requires a particularly thorough and mature consideration based on extensive knowledge of the law.

This provision (Article 47(4) of the Code of Civil Procedure) also applies in non-procedural proceedings, so that also upon the order of the president of the court a specific case may be heard by a court composed of three judges, although the law provides for a single judge. By contrast, the composition of three judges was provided for one category of cases – for guardianship (until 28 September 2023); now a single judge composition is appropriate. One may have doubts about this change, especially bearing in mind the legal status of an individual who has been declared incapacitated.

The second type of collegiate composition, i.e. the so-called bench composition, derives from Article 182 of the Polish Constitution, according to which the participation of citizens in the administration of justice is determined by law (acts). A juror is a non-professional judge who is intended to serve the (professional) judge, who has knowledge of the law, with his or her knowledge and life experience, ethical judgement, as well as a sense of justice, and thus where the ruling corresponds in some sense to the law, but isn't necessarily perceived as socially just.

It's therefore intended to be a non-legalistic view of human problems decided in courts.

As far as the status of a juror is concerned, it is primarily regulated by Articles 4 § 2 and 169 § 1 of the Act of 27 July 2001. – Law on the Common Court System[15]. According to the former provision, jurors have equal rights with judges when deciding cases, and according to the latter provision, jurors are independent and subject only to the Constitution of the Republic of Poland and the laws. Consequently, it may happen that when a case is heard by a bench, i.e. one judge and two jurors (with the judge always being the presiding judge), the jurors can outvote the judge and de facto decide the content of the verdict. This is due to the fact that a judgment (verdict, order) is made by majority vote (Article 324 § 2, third sentence of the Code of Civil Procedure). A judgment may therefore be made as a result of a non-lawyer's view of the case rather than a straightforward application of the law.

In ordinary courts, jurors only appear in civil cases at first instance. A much broader range of juror cases is provided for in the procedural mode. Indeed, according to Article 47 § 2 of the Code of Civil Procedure, in a trial at first instance, the court, composed of one judge as presiding judge and two jurors, shall hear cases:

- 1) In the field of labour law for: a) establishing the existence, establishment or expiry of the employment relationship, for recognition of the ineffectiveness of termination of the employment relationship, for reinstatement and restoration of previous working or pay conditions, as well as claims asserted jointly therewith and for compensation in the event of unjustified or unlawful termination and dissolution of the employment relationship; b) violation of the principle of equal treatment in employment and claims related thereto; c) compensation or redress as a result of mobbing;

- 2) From family relations for: a) divorce; b) separation; c) determination of the ineffectiveness of acknowledgement of paternity, d) termination of adoption.

The purpose of leaving the above-mentioned employment cases (as it is pointed out, they constitute about half of the cases heard by labour courts in Poland) to be heard by jurors was the intention to have them heard by persons with extensive professional and life experience, also taking into account «*social justice*»[16]. A slightly different function is performed by jurors in family cases, where the welfare of minors and the family is paramount and the law should therefore be applied extremely prudently, taking these very factors into account.

As far as non-procedural proceedings are concerned, the composition of the jury is only provided for in one category of cases, namely adoption (Article 509 of the Code of Civil Procedure)[17]. This means that a jury is required in cases of adoption and conversion from partial to full adoption; a single judge is competent for all other adoption matters[18]. Those other cases for which a single-member composition is appropriate are cases before the guardianship court concerning consent to the adoption of a child in the future without naming the adopter or declaring the revocation of such consent (Article 589 § 1 of the Code of Civil Procedure).

It's evident that the catalogue of civil cases heard in the court of first instance in a collegial composition is very narrow, such composition being an exception. As far as the bench composition is concerned, it is pointed out that the very narrow catalogue of cases for which such composition is envisaged is a manifestation of the limitation of the participation of the so-called social factor in the administration of justice in favour of judicial professionalism[19].

IV. Collegial composition in the court of second instance

Obviously, much more controversy is related to the single-member composition in appellate proceedings. The collegiality of adjudication in courts of second instance has a long tradition in Polish legislation[20]. It was introduced before World War II and maintained during the People's Republic of Poland. Also after the collapse of the communist system, it was adopted in Article 367 § 3 of the Code of Civil Procedure that the hearing of a case in the second instance shall take place in a panel of three (professional) judges[21]. A derogation from this rule (in favour of a single-member composition) was provided for in two cases: (1) adjudication in closed session, with the exception of the delivery of a judgment (thus, the judgment of the appellate court, whether delivered at trial or in closed session, was delivered by a panel of three judges); (2) adjudication in summary proceedings, i.e. in cases (assumed to be) less complex.

This has changed since 3 July 2021, as a result of the entry into force of the amendment of the[22] Act of 2 March 2020 on specific arrangements relating to the prevention, prevention and control of COVID-19, other communicable diseases and emergencies caused by them[23]. Article 15zzs1(1) point 4 of that Act then assumed that in the first and second instance the court shall hear cases by a single judge, but the president of the court may order that the case be heard by three judges if he considers it advisable due to the particular complexity or precedential nature of the case. Such a solution has become the subject of discussion and even criticism from the Ombudsman, non-governmental organisations (e.g. Helsinki Foundation for Human Rights, Watch Dog Foundation Poland). It has been emphasised that one-person adjudication of appeal cases does not guarantee the realisation of the right to court[24].

In a resolution of a panel of seven judges of the Supreme Court of Poland of 26 April 2023[25], which was given the force of legal principle, it was accepted that the hearing of a civil case by a court of second instance with a single judge formed on the basis of Article 15zzs1(1) point 4 u.COVID-19 restricts the right to a fair hearing (Article 45(1) of the Constitution of the Republic of Poland), as it is not necessary for the protection of public health (Articles 2 and 31(3) of the Constitution of the Republic of Poland) and leads to the invalidity of the proceedings (Article 379 point 4 of the Code of Civil Procedure).

This resolution caused numerous controversies. There were, and still are, views expressed that

although the collegiality of the adjudicating panel, which is a well-established principle in appeal proceedings, ensures a higher standard of appeal control, strengthens the impartiality, independence and independence of adjudication and increases the legitimacy of the court's decision in the public perception, and thus is desirable from the point of view of proper protection of the rights of the parties and participants to the proceedings, this still does not mean that the considered deviation from the principle of collegiality is tantamount to a violation (especially an obvious one) of Article 45(1) of the Constitution of the Republic of Poland. It's in fact permissible to introduce exceptions to this model, which should be done by way of a clear legal regulation, possible to be reconstructed without the necessity to carry out far-reaching interpretations in the conditions of intersecting rationales of purpose[26]. And given the pandemic state that has occurred worldwide, the indicated regulation cannot be accused of such arbitrariness and of violating the objectives set before it, i.e. the protection of human health and life.

As a consequence of the aforementioned resolution, the legislator introduced from 28 September 2023[27] a new provision – Article 3671 § 1-3 of the Code of Civil Procedure, in which – as a rule in appeal proceedings – examination of a case by a single judge has been introduced, with the exception of cases:

- 1) Cases concerning property rights, in which the value of the object of appeal in at least one of the appeals filed exceeds one million zlotys;
- 2) Adjudicated at first instance by a regional court as the court with material jurisdiction, subject to item 1;
- 3) Heard at first instance by a panel of three judges pursuant to Article 47 § 4

In these cases the appellate court shall decide in a panel of three judges, except that in a closed session the appellate court shall decide in a panel of one judge, except for the issuance of a judgment or an order closing the hearing.

Since the majority of cases are property rights cases in which the value of the subject of the dispute (and consequently the value of the subject of the appeal) doesn't exceed one million zlotys, and the situation referred to in paragraph 3 occurs very rarely, it may be assumed that the cited provision provides – as a rule – for a single judge composition in the appellate court.

A solution analogous to Article 47(4) of the Code of Civil Procedure has also been applied, i.e. whenever the Act provides that the court of second instance shall hear a case in a panel of one judge, the president of the court may order that the case be heard by a panel of three judges if he considers it advisable due to the particular complexity or precedent character of the case. This regulation will be applied entirely exceptionally, since since at the stage of the proceedings before the court of first instance it wasn't considered that the case was particularly complex or of a precedential nature, the conclusion at the stage of the proceedings before the court of second instance that either of these circumstances existed seems to be excluded in principle.

V. Advantages and disadvantages of a collegial composition

The doctrine points to a number of advantages of a collegial composition[28]. They can be boiled down to the following elements:

- It assists in a comprehensive and objective assessment of the factual and legal circumstances;
- Decisions are usually the result of discussions, clashing of different views and points of view, which ensures a more careful and comprehensive examination of the case;
- Fosters uniformity of jurisprudence within a given court;
- The diversity of experience and aptitude of the various members of the bench reduces the risk of errors in both fact and law;
- Guarantees an objective, more impartial outcome, prevents arbitrariness of judgments;
- It allows mutual control of individual members of the panel, thus increasing the likelihood of a just and fair decision;
- Each additional signature of the decision increases the moral weight of the decision, as the consensus opinion of several persons on the same subject is an external sign of internal validity;
- Guarantees the impartiality and independence of the judiciary (a single-judge panel is more exposed to possible pressure and other unlawful attempts to influence the procedure and the content of the decision);

- Enhances the social legitimacy of the judiciary and strengthens citizens' trust in the courts.

The significant disadvantages of the collegial composition cannot be singled out too many. First and foremost, it affects the economy of the proceedings and the speed with which the case is heard. Assembling a collegial formation and setting a date for a hearing often causes problems (e.g. due to the prolonged absence of a member of the formation). Another issue that arises in practice is the so-called appearance of collegiality, when the other members of the formation vote according to the position of the judge of the rapporteur (the reference), who knows the case file best (and often knows it as the only member of the formation), or the position of the judge with the greatest authority. This danger increases when the volume of cases before the courts and, consequently, the number of cases on the docket of individual judges increases, which reduces the time a judge can devote to thorough preparation of a case.

VI. Analysis and conclusions

The formation of the composition of the court in certain categories of cases is a matter for the legislator and it is impossible to consider that if it isn't a collegial composition, the right to a court will be violated. It's the national legislator who determines which court and in which composition is competent to hear a particular case. There is no doubt that collegiality in court proceedings influences (at least in principle) the level of practical implementation of the requirement of a comprehensive and objective assessment of the circumstances and legal aspects of a case, provides an opportunity to make a correct and fair ruling, which is particularly important when it comes to courts of second instance. It makes the court's decisions – acquiring the value of validity – not arbitrary, being the result of the development of a position accepted by the majority of the composition. As emphasised in the doctrine, it's obvious that the greater the number of persons sitting on the bench, the greater the likelihood of a correct judgment being issued and the smaller the risk of a mistake being made[29]. It therefore implements the Convention and constitutional principle of the right to a court, which doesn't only consist of formal access to a court and, in conjunction with the principle of instancerelated proceedings, the right to challenge the decision of the court of first instance, but also

includes procedural fairness[30]. The right to a court without due process would be a façade right[31]. Undoubtedly, the purpose of an instance review is to ensure that the correctness of the decision of the court of first instance is genuinely, and not merely formally, reviewed as a result of a comprehensive examination of the case under review and a decision on the merits is made[32]. After all, the purpose of appeal proceedings (both appellate and complaint) is to eliminate errors and mistakes made at the stage of the first-instance proceedings.

While appreciating the advantages of a collegial composition, it's, however, far-fetched to take the view (expressed, for example, in the resolution in Case III PZP 6/22) that in any situation the failure to maintain such a composition in appeal proceedings leads to a violation of the right to a court and, consequently, to the invalidity of the proceedings. As pointed out, there is an exception when the court decides the merits of the case by a single judge in both instances, which exception is in principle not questioned by anyone – these are the cases heard in simplified proceedings[33]. The simplified procedure usually lasts for a shorter period of time, and at the same time there have been no reliable studies showing that the various derogations provided for therein (including as to the composition in the appellate court) negatively affect the quality of the judgments rendered. In other words, it's possible for single-member courts to hear a case (taking into account the appellate procedure) in accordance with the principles of due process.

Obviously, what is the rule in simplified proceedings can't be the rule in ordinary proceedings. Thus, the solution that a three-member (judge) panel in the appellate court may hear a case only on the order of the president of the court, when the case is complicated or of a precedent-setting nature, should be assessed negatively. In this regard, the regulation adopted in Article 3671 § 1-3 of the Code of Civil Procedure goes in the right direction, although it has one fundamental flaw, namely it reverses the principle. For this provision adopts – as a rule – a single-member composition in the appellate court, unless the provision indicates that a collegial (three-member) composition is appropriate in a particular case. However, the rule should be different, namely that the appellate court should hear the case in composition, unless a single-member composition is indicated as appropriate in the provision. Consequently, the categories of cases in which the appellate court decides in a collegial composition have been defined far too narrowly.

References:

[1] Convention for the Protection of Human Rights and Fundamental Freedoms, drawn up in Rome on 4 November 1950 (Journal of Laws of the Republic of Poland of 1993, No. 61, item 284, as amended).
[2] See e.g. judgment of the ECtHR of 20 July 2006 in Sokurenko and Strygun v Ukraine, application no. 29458/04.
[3] The jury functions primarily in countries with an Anglo-Saxon common law (commom law) system. Continental legal systems (including Poland) have adopted the jury system.
[4] KNOPPEK, K., Udział obywateli w sprawowaniu wymiaru sprawiedliwości w postępowaniu cywilnym, «Ius Novum» 2014, No. 1, p. 24–33.
[5] See judgments of the ECtHR: of 29 April 1988, Belilos v. Switzerland, application no. 10328/83; of 30 November 2006, Grecu v. Romania, application no. 75101/01.
[6] Judgment of the ECtHR of 3 May 2011, Sutyagin v Russia, application no. 30024/02.
[7] MĄDRZAK, H., Prawo do sądu jako gwarancja ochrony praw człowieka, w: WIŚNIEWSKI, L., (red.), Podstawowe prawa jednostki i ich sądowa ochrona, Warsaw 1997, p. 197.
[8] See ŁAZARSKA, A., Rzetelny proces cywilny, Warsaw 2012, p. 86 et seq.
[9] See e.g. the judgments of the Constitutional Court of Poland: of 17 October 2000, SK 5/99, «Orzecznictwo Trybunału Konstytucyjnego» (OTK) A 2000, No. 7, item 254; of 21 July 2009, K 7/09, OTK-A 2009, No. 7, item 113; BURY, R., Dążenie do prawdy a model prekluzji, in: ORZEŁ-JAKUBOWSKA, A. / ZEMBRZUSKI, T. (ed.), Konstytucyjne aspekty procesu cywilnego, Warsaw 2023, p. 126.
[10] See e.g. the resolution of the Supreme Court of Poland of 18 December 1968, III CZP 119/68; the decision of the Supreme Court of Poland of 9 June 2009, II PZP 5/09.
[11] See the resolution of the Supreme Court of Poland of 20 March 2009, I PZP 8/08, «Orzecznictwo Sądu Najwyższego Izby Pracy i Ubezpieczeń

Społecznych» (OSNP) 2009, No. 17-18, item 219, in which it has been held that, in a labour law case at first instance, a court composed of a single judge as presiding judge and two jurors may hear several claims jointly asserted by the plaintiff in one proceeding, if among them there is even one that should be heard by such a composition.

[12] See Articles 1-3 of the Act of 17 December 2009 on the enforcement of claims in group proceedings (consolidated text: Journal of Laws of the Republic of Poland of 2023, item 1212).

[13] The judgment of the Supreme Court of Poland of 1 April 1965, III PR 1/65, «Orzecznictwo Sądu Najwyższego Izby Cywilnej» 1966, No. 2, item 20.

[14] See HARLA, A. G., Precedensowy charakter sprawy cywilnej w rozumieniu kodeksu postępowania cywilnego – uwagi de lege lata i de lege ferenda, «Przegląd Sądowy» 2001, No. 4, p. 23 et seq.

[15] Consolidated text: Journal of Laws of the Republic of Poland of 2023, item 217 as amended.

[16] Explanatory Memorandum to the Government Bill, Fifth Chamber Parliamentary Paper, No. 639.

[17] Until 28 August 2015, cases for the termination or limitation of parental authority were also heard in this composition.

[18] This is the prevailing view in the doctrine – see e.g. REJDAK, M., in: MARCINIAK, A. (ed.), Kodeks postępowania cywilnego. Komentarz. Tom III. Art. 425–729, Warsaw 2020, art. 509, side No. 2; GUDOWSKI, J., in: ERECIŃSKI, T. (ed.), Kodeks postępowania cywilnego. Komentarz. Tom IV. Postępowanie rozpoznawcze. Postępowanie zabezpieczające, Warsaw 2016, art. 509, thesis No. 3; differently, MARSZAŁKOWSKA-KRZEŚ, E., in: MARSZAŁKOWSKA-KRZEŚ, E. / GIL, I. (ed.), Kodeks postępowania cywilnego. Komentarz, Legalis 2023, art. 509, thesis No. 4.

[19] GIBIEC, J. in: MARSZAŁKOWSKA-KRZEŚ, E. / GIL, I. (ed.), Kodeks postępowania cywilnego. Komentarz, Legalis 2023, art. 47, thesis No. 1.

[20] See DZIURDA, M. / GRZEGORCZYK, P., The influence of COVID-19 pandemic on the Polish civil proceedings from the perspective of the Supreme Court, in: K. Gajda-Roszczynialska (ed.), Impact of the COVID-19 Pandemic on Justice Systems. Reconstruction or Erosion of Justice Systems – Case Study and Suggested Solution, Göttingen 2023, p. 87-90.

[21] See the Act of 1 March 1996 amending the Code of Civil Procedure, the Orders of the President of the Republic - Bankruptcy Law and the Law on Arrangement Proceedings, the Code of Administrative Procedure, the Act on Court Costs in Civil Cases and certain other acts (Journal of Laws of the Republic of Poland No. 43, item 189, as amended).

[22] Act of 28 May 2021 amending the Act – Code of Civil Procedure and certain other acts (Journal of Laws of the Republic of Poland of 2021, item 1090).

[23]Consolidated text: Journal of Laws of the Republic of Poland of 2021, item 2095, as amended; next as: u.COVID-19.

[24] See GOŁACZYŃSKI, J., Ustawa o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych. Komentarz, Warsaw 2023, art. 15zzs1, thesis No. 1.

[25] III PZP 6/22, OSNP 2023, No. 10, item 104.

[26] See, e.g., decisions of the Supreme Court of Poland: of 29 April 2022, III CZP 77/22; of 19 September 2022, I CSK 3653/22.

[27] See the Act of 7 July 2023 amending the Act – Code of Civil Procedure, the Act – Law on the System of Common Courts, the Act – Code of Criminal Procedure and some other acts (Journal of Laws of the Republic of Poland of 2023, item 1860).

[28] See on this subject e.g. ŁAZARSKA, A., Rzetelny proces…, p. 229; ŁAZARSKA, A., Niezawisłość sędziowska i jej gwarancje w procesie cywilnym, Warsaw 2018, p. 547 et seq.; MARKIEWICZ, K., Wpływ regulacji «covidowych» na zasadę niezmienności (stabilności) oraz kolegialność składów sądów odwoławczych, «Polski Proces Cywilny» (PPC) 2022, No. 1, p. 38-58; A. Olaś, Kolegialność a jednoosobowość – skład sądu I instancji w procesie cywilnym: doświadczenia i perspektywy, PPC 2020, No. 3, p. 497-527.

[29] KIL, J. / KWAŚNIAK, A., Prawne i aksjologiczne aspekty obsady sądu w polskim porządku normatywnym, Sosnowiec 2022, p. 54 i 57.

[30] See e.g. the judgment of the Constitutional Court of Poland of 29 April 2008, SK 11/07, OTK-A 2008, No. 3, item 47; OSAJDA, K., Zasada sprawiedliwości proceduralnej w orzecznictwie Trybunału Konstytucyjnego, in: ERECIŃSKI, T. / WEITZ, K. (ed.), Orzecznictwo Trybunału Konstytucyjnego a Kodeks postępowania cywilnego, Warsaw 2010, p. 442.

[31] See e.g. the judgments of the Constitutional

Court of Poland: of 16 January 2006, SK 30/05, OTK-A 2006, No. 2, item 2; of 26 February 2008, SK 89/06, OTK-A 2008, No. 1, item 7.

[32] See e.g. the judgments of the Constitutional Court of Poland: of 12 June 2002, P 13/01, OTK-A 2002, No. 4, item 42; of 9 February 2009, SK 10/09, OTK-A 2010, No. 2, item 10.

[33] Pursuant to the current wording of Article 5051 § 1 and 2 of the Code of Civil Proceedings, simplified proceedings are used to hear cases for benefits if the value of the subject matter of the dispute does not exceed PLN 20,000, and in cases involving claims under a warranty or guarantee – if the value of the subject matter of the contract does not exceed that amount, with the exception of cases: 1) belonging to the jurisdiction of district courts; 2) matrimonial and parent-child relations; 3) labour law cases heard with the participation of jurors; 4) social security cases (with certain exceptions).