

FUNCTIONING OF THE JUDICIARY IN THE LIGHT OF A PANDEMIC  
COVID-19. POLISH PERSPECTIVE

(Maciej Rzewuski, the Faculty of Law and Administration)  
University of Warmia and Mazury in Olsztyn, Olsztyn, Poland

The rapid and uncontrolled spread of the pandemic requires the introduction of specific countermeasures to enable the functioning of many different institutions with important social functions. In the case of judicial authorities, such measures are a highly complex and multi-faceted operation. The developing pandemic with unusual intensity points out successive shortcomings: in terms of appropriate and transparent legal regulations that suspend the course of deadlines related to, broadly understood, legal protection; in terms of electronic communication between justice authorities, in terms of electronic communication between those authorities and the public and its representatives (proxies, defenders, curators, etc.); in terms of the electronic delivery office, or even in terms of electronic documents in court proceedings. These deficiencies may provoke and, unfortunately, more and more often provoke citizens to engage in risky behaviour, often resulting from a natural desire to protect their personal or financial interests. It should be noted that while in times of pandemic it is possible to teach in the form of e-learning, issue e-prescriptions or even make e-shops, the courts still remain a place where in the overwhelming majority of cases it is necessary to go "physically" to settle one's case. This is not satisfactory.

Deficiencies in the scope of: introduction of effective and uniform procedures for anti-pandemic protection of persons staying in court buildings and on the premises of judicial authorities; formulation of basic principles of document circulation (including court records); implementation of mechanisms enabling remote execution of judicial activities and remote filing of pleadings (including appeals), proposing comprehensible and systemically coherent normative solutions concerning suspension of the course of procedural, judicial and material-legal time limits - risk serious limitation, and sometimes even deprive citizens of their right of access to a court. This in turn runs the risk that injured citizens may in the near future have specific claims for damages against their own state. This is also not satisfactory.

The current status of knowledge in this research area is negligible. The importance and significance of the problem covered by the research justifies the lack of comprehensive and uniform regulations governing the functioning of judicial authorities during a pandemic. The orders and guidelines issued swiftly by the presidents/directors or managers of individual court units on the organisation of work in court - on the one hand, are of a strictly local nature, and on the other hand, they seem not to notice a number of significant problems related to, for example, filing pleadings with the court, access to court files, or delivery of correspondence. These problems also seem not to be solved by bottom-up initiatives shyly taken by some local legal circles. Solving the problems identified, for example, concerning the functioning of the judiciary in a pandemic is of great practical and social importance, which amounts to ensuring that citizens can effectively pursue their claims in court.

It is difficult to imagine a situation in which a person accused of committing the crime of murder is "released" from custody simply because the court cannot hold a

hearing on the prosecutor's request to extend the isolation measure. It is also difficult to understand, and even more difficult to accept, a situation in which a minor child abused by natural legal guardians would have to wait for the pandemic to stop in order to initiate proceedings before the family court to limit or deprive their perpetrators of parental authority. There are many situations of this kind requiring the immediate intervention of the judicial authorities. They all lead to a consistent conclusion - the functioning of the judiciary in a pandemic is simply essential. However, the risk of contracting a coronavirus, for example, is so high and the consequences of the disease so serious, that appropriate, clear and uniform national procedures need to be established to reduce the risk of infection with the pathogen as much as possible.

Additionally, it should be remembered that the activity of courts affects a wide spectrum of society, not only the parties to specific court proceedings, but directly affects the activity of many different professional groups connected with the judiciary: advocates, legal advisers, patent attorneys, prosecutors, policemen, prison staff, bailiffs, curators or experts. Providing solutions consisting in the application of direct anti-pandemic protection measures in such a system is a logistically difficult task, not only because of the high turnover of persons, but also because of the mass flow of documents, including the circulation of court records.

The undertaken research project is an attempt to fill the indicated gap. In a comprehensive and at the same time detailed manner, it attempts to systematize and analyze the provisions regulating the discussed matter and the doctrine's views on it. Diagnosis of specific, real-life problems connected with a pandemic in a outlined research area, and then working out procedures for the operation of judicial authorities in the era of limiting physical contact between people, is a problem of great social value.