

## Flow chart debt collection in the Republic of Poland

### 1. "Amicable" stage

- **Are there formalities and conditions for the dispatch of a reminder to the debtor? No**
- **What are the costs and fees?**
  - Legal costs and fees – None, as this stage concerns pre-litigation actions.
  - Professional costs and fees depend on the agreement with the appointed attorney, if applies.
- **Is there a possibility to obtain financial information about physical persons or companies?**
  - Physical persons? No – before enforcement proceedings. Yes – during the enforcement proceedings.
  - Companies? Yes
- **Which professionals are entitled for debt collection?**

At this stage anyone can represent creditor and be entitled for debt collection, including but not limited to debt collection business entities providing debt recovery services within the framework of legal business activity [with the exceptions of amicable court proceeding where only advocate, legal advisor, a person who has entered with the party into a permanent mandatory relationship provided the scope of this mandate comprises of the subject matter of the case or joint participant can represent clients before courts].

- **Are there possibilities for the creditor to obtain guarantees for the payment?**

At this stage any guarantee may be granted only with the debtor's consent.

- **Are there interests or penalties for late payments ? (Examples: legal interests, conventional interests, applicability of the general sales conditions, ...)**
- There are interest for late payment (payable for the period commencing on the due date.):
  - the statutory interest which as of the date of 14 March 2011 amounts to 13% per annum,
  - conventional interest which as of today cannot exceed 27% annually.

### 2. Judicial stage

- **What are the different types of procedures for collecting debts?**
  - **National: court action? Summary proceedings? Special chambers in court?**

#### Court action

It is obligatory to deliver a call for payment to the debtor before commencing legal action in court. There is a separate procedure for cases in which both

parties of the dispute are entrepreneurs (companies or natural persons conducting business activity). These types of cases are reviewed by special chamber in court, i.e. business court.

#### Payment order procedure

In general the creditor may use the procedure if he disposes of documents in which the debtor acknowledged the debts.

#### Writ proceeding

The creditor shall dispose of the documents confirming the debt but the debtor's acknowledgement is not necessary.

#### Summary Proceeding

If the value of the subject of the litigation is less than 10,000 PLN or if the action concerns rent payments, the case will be adjudicated in the summary proceeding.

- **International: are Regulation (EC) 1896 (2006) creating a European order for payment procedure and regulation (EC) 861/2007 establishing a European Small Claims Procedure well known and well used in your country? Yes**

The regulations have general application, binding in its entirety and directly applicable in all Member States. All Member States' authorities are required to respect and apply the regulations. Therefore, any natural and legal person in Poland can act on the basis of these regulations which are well known and properly used.

#### - **What is the prescription period for introducing a claim in court?**

Unless a specific provision provides otherwise, the limitation period is ten years, and for claims concerning periodical performances and those connected with conducting business activity - three years. Moreover, the Polish Civil Code defines the specific terms of the debt prescription depending on the type of the contract.

The prescription periods cannot be shortened or extended by a legal act subject to the debtor's consent to satisfy the creditor's claim.

#### - **What are the costs and fees for the national procedure?**

- **Legal costs and fees** (Judicial costs which shall be paid to the court)
  - Is it a flat-rate amount? No, the judicial costs to be paid to the court in the Summary procedure depend on the value of the subject of the litigation:
    - 1) up to 2,000 PLN – fee amounts to 30 PLN,
    - 2) from 2,000 PLN to 5,000 PLN – fee amounts to 100 PLN,
    - 3) from 5,000 PLN to 7,500 PLN – fee amounts to 250 PLN,
    - 4) above 7,500 PLN – fee amounts to 300 PLN.
  - Is it a percentage of the debt that has to be collected?

- General procedure – 5% of the claim value (not less than 30 PLN and not exceeding 100,000 PLN), in the event the claimant wins a case the costs shall be returned by the defendant.
  - Payment order procedure – 1,25 % of the claim value (not less than 30 PLN), in the case the defendant's brings objections to the order for payment, shall be taken from him 3,75% of the claim value.
  - Writ proceeding – 5% of the claim value (not less than 30 PLN and not exceeding 100,000 PLN), however in the case the order of payment becomes final and enforceable the court shall return 3,75% of the court fee and the remaining part of this fee shall be returned by the defendant.
- **Professional costs and fees** depend on the agreement with the appointed attorney, if applies.
- **Are injunctions or seizures possible in order to protect the rights of the creditors as much as possible?** Yes
  - **Is there a time-limit/time consumption for the procedure in the judicial stage?** No

### 3. Enforcement of foreign judgement

- **Are there formalities or conditions?** Yes
  - Exequatur:
 

European orders for payment and other court decisions issued by the courts of the Member States of the European Union, whose enforceability has been established in these countries on the basis of separate regulations, shall be enforceable in the Republic of Poland after being accompanied by an enforcement clause.
  - European enforcement order:
 

European enforcement order issued in the Republic of Poland which became final and valid due to the lack of defendant's objection shall be construed as an execution title. The execution title will be enforceable in the event the court will provide it with the enforcement clause.
- **Which professionals are entitled to execute?**

Enforcement matters belong to competence of districts courts and bailiffs acting thereby. Enforcement actions are conducted by bailiffs with the exception of those reserved for courts by binding provisions of law. In the event of the monetary performances the bailiff is exclusively entitled to execute.
- **Is there a time-limit/time consumption for enforcement in the "amicable" stage?** No
- **Is there a time-limit/time consumption for enforcement in the judicial stage?** No

- **What are the costs and fees for enforcement of a foreign judgement?**

- Legal costs and fees

According to the Polish law there is no obligation to pay any court fee for the declaration of enforceability of a European order for payment and its provision with the enforcement clause.

- Professional costs and fees

The bailiffs collect enforcement fees for carrying out the enforcement and take the advance payments for the enforcement. In matters with reference to monetary performances the bailiffs collect proportional fees depending on the value of the enforced performance. The bailiff collects fee in the amount of 15% of the value of the performance enforced, however not less than 1/10 and not more than thirtyfold value of the average monthly remuneration with the exceptions specified in the provisions of law.

#### **4. Possibilities for recovery of**

- Legal fees (attorneys)? Partially, as the court orders reimbursement of legal fees of minimum rate which mostly does not fully cover the remuneration agreed with the attorney.
- Court fees (judicial expenses)? Yes
- Interest? Yes  
If yes: Which rate? Statutory interest, which as of 14<sup>th</sup> March 2011 amounts to 13% per annum.
- **Are there penalties for late payments ? (Examples: conventional interests, applicability of the general sales conditions, ...)**

There are no penalties for the late payment except for conventional and statutory interests.

Please note that to the contract obligations the Regulation (EC) No 593/2008 of 17<sup>th</sup> June 2008 on the law applicable to contract obligations (Rome I) applies.

#### **5. Do creditors usually involve other professionals in debt collecting procedures?**

- Bailiffs? Yes. Within the enforcement proceedings the enforcement is obligatory performed by the bailiff who is the enforcement authority.
- Debt collection business entities? Yes, however debt collection business entity shall employ advocate or legal advisor or a person who has entered with the party into a permanent mandatory relationship provided the scope of this mandate comprises of the subject matter of the case to represent its client.
- Credit insurers? Yes, however it relates only to the insured creditors and in the case the credit insurer employs advocate, legal advisor or a person who has entered with the party into a permanent mandatory relationship provided the scope of this mandate comprises of the subject matter of the case to represent its client .

**6. Does a court accept documents in a foreign language (invoice, ...)?**

According to the C.C.P. the court may require the document in a foreign language was translated by a sworn translator.