

Volume 20, Issue 2
December 2022

ISSN 1731-8297, e-ISSN 6969-9696
<http://czasopisma.uni.opole.pl/index.php/osap>

ORIGINAL ARTICLE
received 2022-06-27
accepted 2022-08-29



The remote inspection of businesses in Poland during the COVID-19 pandemic

Kontrola zdalna przedsiębiorców w Polsce w czasie pandemii COVID-19

ANNA HOŁDA-WYDRZYŃSKA

Uniwersytet Śląski

ORCID: 0000-0003-0079-1685, anna.holda-wydrzynska@us.edu.pl

Citation: Hołda-Wydrzyńska, Anna. 2022. Kontrola zdalna przedsiębiorców w Polsce w czasie pandemii COVID-19. *Opolskie Studia Administracyjno-Prawne* 20(2): 47–61. DOI: 10.25167/osap.4834

Abstract: The extraordinary situation in which entrepreneurs and public administration bodies found themselves during the COVID-19 pandemic had its impact also on Polish legal regulations. The exceptional circumstances had their bearing on the provisions of the Polish Law on Entrepreneurs Act of 6 March 2018 under which the manner in which inspection bodies contact inspected businesses, has changed in the wake of the ongoing global COVID-19 pandemic. The amendment to the provisions of the Law on Entrepreneurs introduced into the Polish legal order a formula of the so-called remote or hybrid inspections of businesses. The purpose of this article is to present the conditions and principles of conducting remote and hybrid inspections in Poland.

Keywords: remote inspection, hybrid inspection, the Law on Entrepreneurs Act

Abstrakt: Nadzwyczajna sytuacja, w której znaleźli się przedsiębiorcy oraz organy administracji publicznej w czasie pandemii COVID-19 miała również swoje przełożenie na obowiązujące regulacje prawne. Wprowadzenie stanu epidemii w Polsce wpłynęło na przepisy ustawy Prawo przedsiębiorców z dnia 6 marca 2018 r., w której zmianie uległ sposób kontaktowania się organów kontrolnych z kontrolowanymi przedsiębiorcami. Nowelizacja przepisów ustawy Prawo przedsiębiorców wprowadziła do polskiego porządku prawnego formułę tzw. zdalnych lub hybrydowych kontroli przedsiębiorców. Przedmiotem artykułu jest

przedstawienie warunków i zasad prowadzenia czynności sprawdzających z wykorzystaniem narzędzi kontroli na odległość.

Słowa kluczowe: kontrola zdalna, kontrola hybrydowa, Prawo Przedsiębiorców

1. Introduction

As a result of the social market economy model in Poland, the state is authorized to undertake actions aimed at shaping social relations in the field of management in such a way as to enable realization of the appearing social needs (Grabowski 2001), particularly noticeable during the coronavirus pandemic. The introduction of the state of epidemic in Poland forced adoption of a package of legislative solutions that can be referred to as the “state of epidemic” law or the “economic crisis” law. A variety of forms of support for entrepreneurs facing the pandemic were adopted within the development of the legal order meant to meet new needs. In addition to the public support targeted at different industries and economic sectors, attention was also focused on the need to equip the competent authorities with tools to carry out their tasks, taking into account the exceptional pandemic situation (Powałowski and Przeszło 2020: 3). Thus, the extraordinary circumstances had their bearing on the provisions of the Law on Entrepreneurs Act of 6 March 2018 (*Journal of Laws* of 2018, item 646 as amended) as well, under which the manner in which inspection bodies contact inspected entrepreneurs, changed in the wake of the ongoing global COVID-19 pandemic.

Taking into account the entrepreneur’s will and in compliance with specific conditions, it was allowed to carry out checking activities in a manner departing from the standard procedure in such a way as to accelerate and make the course of inspection more flexible, as well as to maintain the safety of its participants. In the light of the addition under the Act on interest subsidies for bank loans granted to entrepreneurs affected by COVID-19 and on a simplified procedure for approval of the arrangement in connection with the occurrence of COVID-19 of 19 June 2020 (*Journal of Laws* of 2020, item 1086), Article 51 of the Law on Entrepreneurs – section 3a – with the consent of the entrepreneur, an inspection or the respective inspection activities may be carried out remotely via a postal operator within the meaning of the Postal Law Act of 23 November 2012 (*Journal of Laws* of 2012, item 1529 as amended) or by means of electronic communication within the meaning of Article 2(5) of the Act on Electronic Services of 18 July 2002 (*Journal of Laws* of 2002, No 144, item 1204 as amended), if it can make the inspection more efficient or if it is justified by the nature of the entrepreneur’s business activity.

In order to ensure the safety of both inspectors and entrepreneurs, the Polish law now allows for the possibility of conducting inspections in a manner departing from the standard procedure. The amendment to the provisions of the Law on Entrepreneurs introduced in the Polish legal order a formula of the so-called remote or hybrid inspections of entrepreneurs, the vast majority of whom are entrepreneurs belonging to the SME (micro, small and medium-sized enterprises) sector. This new, previously unknown solution, modifying the principle regarding the place of conducting inspection of economic activity, requires an analysis of the conditions and principles of conducting remote inspections.

2. New quality of inspection: the theoretical and practical perspective

The analysis of individual issues was made primarily on the basis of the literature on the subject, as well as national legislation. The study uses crucial legal acts in the field of business law, including the fundamental Polish Law on Entrepreneurs. The bibliography includes the most important publications in the field under discussion. The work draws on Polish literature in the field of public economic law, especially business law and administrative law.

2.1. General comments

The Polish Law on Entrepreneurs is a piece of legislation that sets out the generally applicable conditions for conducting business in Poland, also in the sphere of business inspection, where the provisions of Chapter 5 – Restrictions on business inspections – play a key role. The protective provisions formulated therein relating to inspection of entrepreneurs are, at the same time, universally applicable standards that are binding on all inspection authorities unless excluded by specific provisions. Among the directives of proper conduct binding the inspection authorities, the rules concerning the place of conducting inspections (Article 51 of the Law on Entrepreneurs), which were significantly modified during the ongoing COVID-19 epidemic, deserve special attention. The use of the form of remote or hybrid inspections allows for continuity of contact between the parties to the proceedings during a pandemic.

The new methods of inspection do not exclude carrying out verification activities in their entirety in accordance with the existing principles referred to in Article 51 of Law on Entrepreneurs. As a general rule, the inspection is to be conducted at the entrepreneur's registered office or place of business and during working hours or when the entrepreneur is actually carrying out

business activities. It is only with the consent or at the request of the entrepreneur that the inspection may be carried out in a place of storage of records, including tax books, other than the registered office or place of business, or at the headquarters of the inspection authority, if this may improve conducting of the inspection.

Given the exceptional epidemic situation, an additional derogation was necessary. The new regulation, which came into force on 24 June 2020, is aimed not only at ensuring the safety of the participants to the proceedings, but may also contribute to making the inspection procedure itself more flexible, while minimizing the nuisance associated with the actions of the inspector (Memorandum 2020: 43).

2.2. Rationale for conducting remote and hybrid inspections

In order for the inspection authority to carry out the inspection using means of remote communication, it first has to request the consent of the inspected entity – such a consent may be expressed with respect to the entire proceedings or it may refer to individual inspection activities. As a result, the entire inspection may constitute a remote inspection, or it may take on the character of a hybrid inspection, if only some of the inspection activities are carried out remotely while the remaining part is performed in a direct manner, according to the existing rules.

The entrepreneur's statement should be clear and unambiguous. The said consent may be neither implicit nor implied. To emphasize how important it is that the entrepreneur's consent should not raise any doubts, one should refer to Article 52(4) of the Law on Entrepreneurs. The lack of a clear consent from the entrepreneur means that evidence obtained in the course of an inspection must not be used as evidence in the entrepreneur assessment process. Moreover, it also cannot constitute evidence in the proceedings referred to in Article 46(3) of the Law on Entrepreneurs, as the information obtained does not constitute evidence as such.

The act omits the question of the manner and mode of submission of the statement by the inspected entrepreneur. Having regard to the purpose of the amendment, it may be assumed that such a consent may be given either using traditional methods or by electronic means of communication. Therefore, it would be best if such a statement be made in writing, i.e. by drawing up a document by hand, a typewriter or by yet another technique on a piece of paper (Łaszczycza et al. 2007: 506), and sent via a postal operator, or in the electronic form, taking into account the new conditions for service of letters recorded in the electronic form, which have been adopted in the Code

of Administrative Procedure Act of 14 June 1960 (Journal of Laws of 1960, No 30, item 168 as amended) in connection with the entry into force of the Act on Electronic Delivery of 18 November 2020 (Journal of Laws of 2020, item 2320). Therefore, the possibility of verbal consent into the record or by telephone, should be excluded.

The lack of mention of the deadline for submitting the statement makes it possible to assume that the entrepreneur may give their consent at virtually any stage of the inspection procedure. However, in the event that the inspection is to be conducted remotely from the very beginning, it should be assumed that the entrepreneur should make a relevant statement no later than upon delivery of the authorization to conduct the inspection, because it is at that moment that the inspection activities formally begin. The absence of consent to carry out inspections remotely means that the general directive relating to the principle of time and place of an inspection of business activity, as referred to in Article 51 of the Law on Entrepreneurs, should be applied.

The consent of an entrepreneur refers to a strictly defined case, i.e. only to a given inspection procedure. Consent cannot be extended to all types of cases handled by a particular inspection authority. As a result, the filing of such a statement is effective only with respect to the procedure that is conducted in a particular case by the competent inspection authority. Admittedly, the act does not mention the withdrawal of consent to conduct remote inspection, but it seems that this is permissible at any stage of the procedure. The waiver submitted by the entrepreneur must also be explicit. The effect of not agreeing to continue remote verification activities will be the need to conduct the inspection in the traditional manner.

Consenting to a remote inspection is not the only condition set forth in the regulations. Indeed, specific circumstances must be demonstrated which allow a derogation from the general directive relating to the place where the inspection activity is carried out. In the light of the regulations, a remote inspection may be carried out if it contributes to improving the course of the inspection itself or if the nature of the inspected entrepreneur's activity justifies it. It is therefore the duty of the inspection authority to assess whether such circumstances actually exist.

3. Methods for conducting inspection during a pandemic

When an inspection is successfully initiated, the authority must determine the location where the activities will be conducted. In the case of choosing a remote or hybrid inspection, the place is actually undefined, because the

activities are conducted in a non-standard manner, i.e. at a distance. Under the regulations, a remote or hybrid inspection may be conducted:

1. through a postal operator which, in the light of the Postal Law, is an entrepreneur authorized to conduct postal activity on the basis of an entry in the register of postal operators, e.g. Poczta Polska (e.g. eds. Chołodecki, Piszcz and Skoczny 2018), or

2. by means of electronic communication, which are technical solutions, including ICT devices and software tools cooperating with them, enabling individual communication at a distance using data transmission between ICT systems, in particular electronic mail (e.g. Tackowska-Olszewska and Chałubińska-Jentkiewicz 2019).

As we can see, a remote inspection or the respective activities of an inspection, can be conducted using a variety of tools that allow remote communication. In addition to the traditional postal solution, the entrepreneur can be contacted by email, or through video calls, video conferences or phone calls that provide direct contact. These tools can be used primarily to receive written or oral information from the entrepreneur being inspected. Using various means of remote communication, the inspection body may request access to documentation in the paper form, including copies of the necessary documents, printouts from the IT system, extracts, prepared statements, as well as data recorded on electronic information carriers, such as floppy disks, CDs, USB flash drives.

Communication using electronic means is the use of data transmission between ICT systems (Konarski 2004: 73 et seq.). Consequently, actions conducted at a distance using this form of communication mean that what is crucial is the manner of data transmission, i.e. its transfer, and not the form of its recording on an appropriate electronic carrier (Kotulska 2015: 76).

Judicature recognizes that the fax is not a means of electronic communication, because a document sent by means of electronic communication has the form of an electronic document, and this excludes a copy sent by fax from being considered an electronic document (I OSK 966/15). A fax machine is not a computing device, as such devices should be understood to mean computers equipped with memory capable of storing and reproducing data. Therefore, sending information between fax machines cannot be regarded as communication through devices that constitute an ICT set (III SA/Wa 1836/06). However, it is worth noting that nowadays, it is possible to send a fax also via a computer, which allows in some cases to consider a fax machine to be a computer device due to the fact that it is equipped with memory enabling recording and reproducing data (Łuczak 2014: 70).

When interpreting Article 51(3a) of the Law on Entrepreneurs, it can be assumed that the entrepreneur's unambiguous consent for the inspection to be conducted remotely means that, during the conducted activities, the inspection body may choose among different means of communication indicated in the provision, taking into account the technical capabilities of the entrepreneur, the type of evidence to be provided, as well as legal regulations.

Taking into account the content of Article 29 of the Law on Entrepreneurs, the authority may not require or condition its decision on the submission of documents in the form of an original, a certified copy or a certified translation, unless such an obligation arises from the provisions of law. Therefore, unless otherwise required by law, documents submitted in the course of an inspection may take the form of an electronic document, a copy of a document, or a scan of a paper document. Documents sent electronically or through a postal operator should be supported by documents kept by the entrepreneur, if only to confirm that they are true copies of the original.

Speaking of a remote inspection, it is also important to pay attention to the problem of time consumption of such an inspection. It is undoubtedly the entrepreneur's duty to organize the company's work in such a way that the inspection can take place within the specified time (II SA/Go 160/17; II SA/Ke 637/17). In turn, the inspection authorities are obliged to respect directives of proper conduct referred to in the Law on Entrepreneurs, which include the rules concerning the time of inspection (Article 51 of the Law on Entrepreneurs) and the efficiency of the inspection procedure (Article 52 of the Law on Entrepreneurs).

Under Article 52 of the Law on Entrepreneurs, the inspection activities are to be performed in an efficient manner and in such a way that the functioning of the enterprise is not disturbed. The directive of efficiency in question is an expression of the obligation to conduct verification activities in the way that is the least burdensome for the inspected entity (Zdyb, Sieradzka 2013: 635). In close connection with the rule in question is the content of the principle of the time of inspection of business activities, as provided for in Article 51 of the Law on Entrepreneurs. As a general rule, an inspection is to be conducted during business hours or during the actual performance of business activity by the entrepreneur. The choice of a remote or hybrid inspection conducted with the use of means of electronic communication does not justify departure from the protective provisions indicated, the more so because the adopted principles allow maintaining the balance between the severity of inspection and freedom of business. Hence, it should be assumed that an inspection, also a remote one, should take place during working hours or during the simultaneous performance of the entrepreneur's business activity, especially if the contact takes place using

the tools that require involvement and presence of each of the parties to the proceedings at the same time, e.g. during a video conference.

4. The course of a remote and hybrid inspection of businesses during the COVID-19 pandemic. Discussion and dilemmas

Given the unique conditions of the pandemic, and given the desirability of adopting a remote inspection provisions, consideration should also be given to modifying the inspection procedure regarding the other rules that have not been amended.

Before the inspection authorities commence their inspection activities, they are obliged to prepare an analysis of the probability of violation of the law – the so-called “risk analysis”, the purpose of which is to indicate the areas where the probability of an entrepreneur’s violation of the law is the highest. The inspection planning process, carried out at an early stage, also allows determining the sequence of future actions and measures to be taken during the inspection.

The inspection authority is obliged to notify the entrepreneur of the intention to initiate remote inspection (Article 48 of the Law on Entrepreneurs). The Law on Entrepreneurs does not specify the form or method of notifying the entrepreneur of the planned inspection. The lack of guidelines as to the manner of delivery of such a notice allows assuming that it may be effected in any manner that ensures effectiveness, especially if it is done in accordance with the rules adopted in the administrative procedure, including electronic delivery (Kosikowski 2009: 512). As a rule, the inspection is to be initiated not earlier than after 7 days, and not later than after 30 days, from the date of delivery of the notice of the intention to initiate the inspection. If the inspection is not initiated within 30 days of the date of service of the notice, initiation of the inspection will require a new notice. The purpose of the notice is to allow the entrepreneur to prepare for the inspection activities, which is particularly important from the point of view of organization of work in pandemic conditions.

Pursuant to Article 49 of Law on Entrepreneurs, inspection activities can be performed by employees of the inspection body upon presentation to the entrepreneur or a person authorized by the entrepreneur, of an official ID card authorizing them to perform such activities and upon delivery of an authorization to perform the inspection, unless separate regulations provide for the possibility of undertaking inspection upon presentation of an official ID card. In such a case, the authorization is to be delivered to the entrepreneur or a person authorized by them within the deadline specified in these provisions, but no later than 3 working days from the date of initiation of the inspection. Taking into account exceptional circumstances and the nature of remote inspection,

it may be assumed that the presentation of an official ID card may take place during a video conference or video call. In turn, delivery of an authorization issued to the entrepreneur, due to the importance of the document, should be effected through a postal operator or taking into account the conditions of admissibility of service of letters by means of electronic communication, as referred to in the provisions of the Code of Administrative Procedure.

It goes without saying that the entrepreneur does not have to participate in all the inspection activities in person, including those carried out remotely. Therefore, in the light of the regulations, inspection activities are performed either in the presence of the entrepreneur or in the presence of a person authorized by them. The inspection authorities are obliged to respect this rule unless one of the cases specified in Article 50(2) of the Law on Entrepreneurs occurs.

It is the duty of the authorities to comply with other protective regulations on inspections, including the regulation concerning the principle of one inspection at the same time, according to which it is not allowed to undertake and conduct more than one inspection of an entrepreneur's activity at the same time (Article 54 of Law on Entrepreneurs), as well as the regulations specifying the so-called inspection duration limits (Article 55 of Law on Entrepreneurs). These regulations become particularly important during remote inspections, when the rights of entrepreneurs may be accidentally violated by the inspection authorities.

The duration of an inspection depends on the scale of the business activity conducted by the entrepreneur. The duration of all the inspections by an inspection authority at the entrepreneur's in one calendar year, may not exceed:

- 1) for micro-entrepreneurs – 12 working days;
- 2) for small entrepreneurs – 18 working days;
- 3) for medium entrepreneurs – 24 working days;
- 4) for other entrepreneurs – 48 working days.

In the event of concurrence of inspections, i.e. when a given entrepreneur's activity has already been inspected by another authority, the inspection authority must refrain from undertaking inspection activities until the inspection is completed by the other authority, unless the case referred to in Article 54(1) of the Law on Entrepreneurs occurs.

In order to document the course of the inspection, it is important that the entrepreneur maintains and keeps, in their registered office, an inspection book (in the paper or electronic form), which provides evidence of the activities carried out, including the subject matter of the inspection, as well as the dates of its commencement and completion. In addition, the entrepreneur should keep all the authorizations and inspection reports that have been delivered to them.

The drawing up of an inspection report by the inspection body is the activity formally ending any inspection procedure. This document forms the basis

of the findings made during the inspection. Recognizing its importance, the report should be prepared in at least two counterparts containing primarily a description of the facts, including the revealed instances of irregularities or violations of law.

The lack of mention of how the report is to be served in pandemic conditions makes it possible to develop new rules for delivery of that document, taking into account the applicable regulation based on administrative procedure. The principles of remote inspection developed by the National Labor Inspectorate, may serve as a model for other inspection bodies (<https://www.pip.gov.pl/pl>). Thus, the report should be presented to the inspected party so that it can become familiar with it, raise potential objections, and sign it. In order to allow the entrepreneur to raise justified objections to the findings contained in the report, the inspector may provide the entrepreneur with a copy of the inspection report by means of electronic communication or by delivering the document via a postal operator. Providing a copy of the report allows discussing its contents with the inspected entity. Before signing the final version of the inspection report, the entrepreneur may lodge reasoned objections to the findings contained therein. The deadline for and the form of lodging are determined by specific provisions, which should take into account the conditions of a remote inspection. After expiry of the deadline for raising objections, the report should be signed and then delivered to parties to the inspection procedure.

Taking into account business practice, reports are delivered directly to the inspected person or a person authorized by them. The report prepared in the paper form should be signed and initialed on each page by the head of the inspected entity or a person authorized by them, as well as by the inspector. Failure by the inspected entity to sign the report will not stop the course of inspection, and the head of the inspected entity who refuses to sign the inspection report should submit a written explanation for such refusal. In turn, the report recorded in the electronic form, depending on legal regulations, should be signed, among others, with a qualified electronic signature or a trusted signature, or in any other manner enabling unambiguous identification of the inspected person or the inspector.

It is clear that the inspection report documents the course of the inspection, thus constituting a piece of evidence in the inspection procedure. Therefore, recognizing the importance of this document, it may be advocated that signed copies of the remote or hybrid inspection report should be delivered not only via electronic means of communication, but also against receipt by a postal operator. Such additional service would constitute a safeguard for both the inspection authority and the entrepreneur themselves.

Due to the fact that during the inspection procedure, the applicable standards may be violated, the entrepreneur has the right to object to the undertaking and execution of activities by all inspection bodies. Unfortunately, the list of deficiencies that may be objected against is closed and does not include the new rules on a remote and hybrid inspection.

5. Contacting entrepreneurs using email addresses for delivery of correspondence. A new concept

As a side note, it should be mentioned that new provisions of the Act on Electronic Delivery of 18 November 2020 are in effect (Journal of Laws of 2020, item 2320), which implements Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down the procedure for provision of information in the field of technical regulations and of rules on Information Society services (OJ EU L 241, 17.09.2015). The purpose of the new law is to redefine the rules regarding exchange of correspondence with public entities in relationships with other public entities and non-public entities, including entrepreneurs (ed. Wilbrandt-Gotowicz, 2021). Implementation of Directive 2015/1535 allows modifying the existing standards for delivery to reduce the time required for delivery processes, as well as to dispel doubts regarding the effective sending and receiving of electronic correspondence (Memorandum to the Government Bill on Electronic Deliveries 2020, p. 6 et seq).

When the new regulations came into force, the principle is that a public administration body delivers letters to the address for electronic delivery, unless the delivery takes place to an account in the authority's teleinformation system or in the registered office of the body (Article 39 of the Code of Administrative Procedure). With the transfer of these principles to the law on economic activity, the need arose to amend the Act on the Central Electronic Register and Information on Economic Activity of 6 March 2018 (Journal of Laws of 2018, item 647 as amended) and the Act on the National Court Register of 20 August 1997 (Journal of Laws of 1997, No 127, item 769 as amended) in the scope of introducing the obligation for entrepreneurs to have an electronic delivery address entered in the database of electronic addresses (Memorandum to the Government Bill on Electronic Deliveries: 74 et seq.).

6. Conclusion

In order to reduce the impact of COVID-19 on Polish enterprises, various forms of support were adopted for the Polish economic sector, dominated by SMEs (micro, small and medium enterprises). It represents the overwhelming

majority of businesses in Poland – 99.8%. Among them, micro-enterprises are the most numerous group (97%). The share of small companies in the structure of Polish enterprises is 2.2%, medium – 0.7%, and large – only 0.2%. Considering the legal form – 87,0% of all companies are sole proprietors (98,9% of them are micro-enterprises) (Report 2021: 6). Taking into account the statistics, it can be seen that the vast majority of newly established companies are sole proprietors, to whom legal changes are crucial (Report 2021: 15).

The coronavirus pandemic has forced entrepreneurs to modify their existing business models and make necessary changes in the way they operate. Undoubtedly, maintaining relationships with market participants as well as with public authorities would not be possible without moving to online channels (Report 2021: 4). In order for the inspection bodies to be able to perform their tasks, a change in the business environment has been taken into account and the digitalization trend in Polish companies has strengthened (Report 2020: 4). That is why solutions have been introduced to the Law on Entrepreneurs that allow inspection authorities to use remote contact tools, including digital technologies. On the other hand, the introduction of Directive 2015/1535 in the meantime, made it possible to modify the existing standards for deliveries which, in a pandemic environment, had to be considered insufficient.

Given the fact that during the state of epidemic risk and the state of epidemic, inspections have required special precautions, remote inspections are proving to be a very useful tool. Practice shows that inspection authorities are more and more frequently willing to contact the entrepreneur by email and telephone (Cyfrowa Rzeczpospolita 2021), especially since the current regulation is very flexible, because with the consent of the inspected entity, the inspection body may carry out certain inspection activities remotely, in principle, regardless of the stage of the ongoing procedure.

The solution adopted in 2020 was aimed primarily at protecting the parties involved in the control proceedings. Regardless of the pandemic crisis, the advantages of this form of contact still remain. Since an inspection is a major inconvenience for the entrepreneur, the use of the newly introduced so-called remote and hybrid inspection formula may prove to be very beneficial, provided of course that the remaining inspection standards are respected, including the inspection timing and efficiency directive.

List of abbreviations

The Law on Entrepreneurs Act of 6 March 2018. Hereinafter referred to as: Law on Entrepreneurs.

The Act on interest subsidies for bank loans granted to entrepreneurs affected by COVID-19 and on simplified procedure for approval of the arrangement in connection with the

occurrence of COVID-19 of 19 June 2020. Hereinafter referred to as: Anti-Crisis Shield 4.0.

The Code of Administrative Procedure Act of 14 June 1960. Hereinafter referred to as: the Code of Administrative Procedure.

Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down the procedure for provision of information in the field of technical regulations and of rules on Information Society services. Hereinafter referred to as: Directive 2015/1535.

References

Legal Acts

Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down the procedure for provision of information in the field of technical regulations and of rules on Information Society services. OJ EU L 241, 17.09.2015, p. 1.

The Code of Administrative Procedure Act of 14 June 1960. Journal of Laws of 1960, No 30, item 168 as amended; consolidated text: Journal of Laws of 2022, item 2000.

The Act on the National Court Register of 20 August 1997. Journal of Laws of 1997, No 127, item 769 as amended; consolidated text: Journal of Laws 2022, item 1683.

The Postal Law Act of 23 November 2012. Journal of Laws of 2012, item 1529 as amended; consolidated text: Journal of Laws of 2022, item 286.

The Act on the Central Electronic Register and Information on Economic Activity of 6 March 2018. Journal of Laws of 2018, item 647; consolidated text: Journal of Laws of 2022, item 541.

The Law on Entrepreneurs Act of 6 March 2018. Journal of Laws 2018, item 646 as amended; consolidated text: Journal of Laws of 2023, item 221.

The Act on interest subsidies for bank loans granted to entrepreneurs affected by COVID-19 and on simplified procedure for approval of the arrangement in connection with the occurrence of COVID-19 of 19 June 2020. Journal of Laws of 2020, item 1086.

The Act on Electronic Services of 18 July 2002. Journal of Laws of 2002, No. 144, item 1204; consolidated text: Journal of Laws of 2020, item 344.

The Act on Electronic Delivery of 18 November 2020. Journal of Laws of 2020, item 2320; consolidated text: Journal of Laws 2022, item 569.

Secondary sources

Chołodecki, Mateusz and Mariusz Czyżak, Maciej Etel, Agata Jurkowska-Gomułka, Paulina Korycińska-Rządca, Michał Kosiarski, Dominik Jakub Kościuk, Anna Piszcz, Krzysztof Prokop, Artur Salbert, Tadeusz Skoczny, Szymon Syp, Anna Tworkowska-Baraniuk. 2018. *Prawo pocztowe. Komentarz [Postal code. Commentary]*, (eds.) Mateusz Chołodecki and Anna Piszcz, Tadeusz Skoczny. Warsaw: C.H.Beck.

Czaplicki, Kamil and Agnieszka Gryszczyńska, Marek Świerczyński, Krzysztof Światała, Martyna Wilbrandt-Gotowicz, Kajetan Wojsyk. 2021. *Doręczenia elektroniczne. Komentarz [Electronic Delivery. Commentary]*, (ed.) Martyna Wilbrandt-Gotowicz. Warsaw: Wolters Kluwer Polska.

- Grabowski, Jan. 2001. Rola i funkcje prawa w systemie gospodarki rynkowej. In: *Institucje współczesnego prawa administracyjnego. Księga jubileuszowa Profesora zw. dra hab. Józefa Filipka* [Role and functions of law in market economy system. In: *Institutions of modern administrative law. Jubilee book of professor zw. dr hab. Józef Filipek*], (eds.) Iwona Skrzydło-Niżnik and Piotr Dobosz, Dorota Dąbek, Marcin Smaga, 213-222. Krakow: Wydawnictwo Uniwersytetu Jagiellońskiego.
- Konarski, Xawery. 2004. *Komentarz do ustawy o świadczeniu usług drogą elektroniczną* [Commentary to the Act on electronic provision of services]. Warsaw: Difin.
- Kosikowski, Cezary. 2009. *Ustawa o swobodzie działalności gospodarczej. Komentarz* [Act on Freedom of Business Activity. Commentary]. Warsaw: Wydawnictwo Prawnicze LexisNexis.
- Kotulska, Magdalena. 2015. *Zakres stosowania środków komunikacji elektronicznej* [Scope of application of means of electronic communication]. *Samorząd Terytorialny* (7-8), 74-86.
- Łaszczyca, Grzegorz, and Czesław Martysz, Andrzej Matan. 2007. *Kodeks postępowania administracyjnego. Komentarz. Tom I. Wydanie II* [Code of Administrative Procedure. Commentary. Volume I. 2nd edition]. Warsaw: Wolters Kluwer Polska.
- Łuczak, Lucyna. 2014. Problematyka prawna doręczeń elektronicznych w procedurze administracyjnej ze szczególnym uwzględnieniem skutków prawnych e-doręczeń oraz oceny propozycji zmian ustawowych [Legal issues of electronic delivery in administrative procedure with particular emphasis on the legal consequences of e-delivery and evaluation of proposed changes in the law]. *Przegląd Prawa Publicznego* (5), 65-80.
- Powałowski, Andrzej and Ewa Przeszło. 2020. Wsparcie przedsiębiorców w warunkach epidemii i kryzysu [Support for entrepreneurs in the conditions of the epidemic and crisis]. *Przegląd Ustawodawstwa Gospodarczego* (6), 2-9, DOI 10.33226/0137-5490.2020.6.1.
- Taczowska-Olszewska, Joanna and Katarzyna Chałubińska-Jentkiewicz. 2019. *Świadczenie usług drogą elektroniczną. Komentarz* [Providing electronic services. Commentary]. Warsaw: C.H.Beck.
- Zdyb, Marian and Małgorzata Sieradzka. 2013. *Ustawa o swobodzie działalności gospodarczej. Komentarz* [Act on Freedom of Business Activity. Commentary]. Warsaw: Lex a Wolters Kluwer business.

Case law

- Judgment of the Supreme Administrative Court of 11.10.2016, I OSK 966/15.
- Judgment of the Province Administrative Court in Warsaw of 5.12.2006, III SA/Wa 1836/06.
- Judgment of the Province Administrative Court in Gorzów Wielkopolski of 18.05.2017, II SA/Go 160/17.
- Judgment of the Province Administrative Court in Kielce of 29.11.2017, II SA/Ke 637/17.

Documents

- Memorandum to the Bill on subsidies to interest rates on bank credits granted for providing liquidity to entrepreneurs affected by COVID-19 and amending certain other acts (2020). Paper No. 382
- Memorandum to the Government Bill on Electronic Deliveries (2020). Paper No. 239

Internet sources

- Firma, która korzysta z tarczy antykryzysowej, musi się liczyć z kontrolą (A company that takes advantage of the anti-crisis shield must expect an audit) [2021-02-17]. *Cyfrowa Rzeczpospolita* [online][2021-12-01]. Available at: www.rp.pl/Firma/302169906-Firmator-korzysta-z-tarczy-antykryzysowej-musi-sie-liczyc-z-kontrola.html
- Official website of the National Labor Inspectorate. Zasady prowadzenia kontroli zdalnych przez organy Państwowej Inspekcji Pracy. [online] [2021-12-01]. Available at: <https://www.pip.gov.pl/>
- Raport z badania „*Raport o stanie sektora małych i średnich przedsiębiorstw w Polsce*” przeprowadzonego przez Paweł Chaber, Jacek Łapiński, Melania Nieć, Joanna Orłowska, and Robert Zakrzewski w 2020 r. *na zlecenie Polskiej Agencji Rozwoju Przedsiębiorczości* [*Report on the state of the sector of small and medium enterprises in Poland*] (eds). Anna Skowrońska, and Robert Zakrzewski. Warsaw: Polska Agencja Rozwoju Przedsiębiorczości, 2020 [online] [2021-12-01]. Available at: www.parp.gov.pl
- Raport z badania „*Raport o stanie sektora małych i średnich przedsiębiorstw w Polsce*” przeprowadzonego przez Paweł Chaber, Jacek Łapiński, Łukasz Widła-Domaradzki, Robert Zakrzewski, w 2021 r. *na zlecenie Polskiej Agencji Rozwoju Przedsiębiorczości* [*Report on the state of the sector of small and medium enterprises in Poland*] (eds.) Anna Skowrońska, and Anna Tarnawa. Warsaw: Polska Agencja Rozwoju Przedsiębiorczości, 2021 [online] [2021-12-01]. Available at: www.parp.gov.pl