

THE INFLUENCE OF COVID-19 ON THE ACTIVITIES OF LAW FIRMS

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Abstract. The subject of this study is the analysis of the functioning of law firms during the Covid-19 pandemic. The lockdown introduced by the legislator resulted in the closure or limitation of the functioning of public administration bodies, including courts and related institutions, especially law firms (advocates or legal advisers). As a consequence, law firms significantly limited their activities and, moreover, were forced to equip their offices with ICT tools allowing for remote work and IT training for their employees. As a consequence, law firms experienced a drop in income, which was confirmed by the results of a survey conducted by the Supreme Bar Council. However, positive aspects of the changes caused by the pandemic should also be noted, including introducing flexible forms of work, greater use of ICT tools.

Keywords: pandemic; law firms; ICT tools; work organization; income of law firm

INTRODUCTION

Epidemics are a phenomenon which has accompanied human being from the earliest times [Sitek 2020, 389-99; Sáez 2016, 218-21]. The Covid19 pandemic broke out during deep social and economic changes caused by yet another event, namely the extremely dynamic development and wide application in practice of ICT devices, the range of which is constantly expanding.¹ Hence, the pandemic contributed to the massive use of ICT devices on an unprecedented scale, thanks to which it was possible to continue the work of public institutions, enterprises, educational units, as well as courts and law firms, despite the initially introduced restrictions on activity, and then the introduction of a lockdown.

The pandemic, and implemented administrative restrictions, forced law firms to introduce many changes in the organization of work, especially in

¹ These devices are a set of cooperating IT devices and software ensuring processing and storage, as well as sending and receiving data via telecommunications networks using a terminal device appropriate for a given type of network the article 3, point 3 of the Act of 17th February 2005 on the computerization of the activities of entities performing public tasks (Journal of Laws of 2021, item 670).

the area of communicating with clients and public authorities. In addition, the organization of the office's work has become more flexible, consisting in the introduction of remote work.

The subject of the study is to look for answers to the following questions: What has COVID-19 changed on the legal services market? What did the epidemic give to employees and clients of law firms, and what did it take? What fears and anxieties has the pandemic aroused in lawyers?

1. THE IMPACT OF ANTI-CRISIS LEGISLATION ON THE WORK OF LAW FIRMS

The extraordinary health situation in the world and in Poland caused by the Covid-19 pandemic forced the legislator to issue a number of legal acts referred to as anti-crisis legislation, also referred to in the doctrine as anti-crisis shields. The restrictions on the functioning of public bodies introduced therein also affected the judiciary and their environment, including law firms [Lara Ortiz 2020, 105-120].

The provisions introduced by the Act of 31st March 2020 amending the Act on special solutions related to preventing, counteracting, and combating COVID-19, other infectious diseases and the resulting crisis situations and some other acts, known as the anti-crisis shield 2² were of first importance for the activities of law firms during the COVID 19 pandemic. On the basis of this act, amendments were introduced to change the Act of 2nd March 2020 on special solutions related to the prevention, counteraction and combating of other infectious diseases and crisis situations caused by them, known as the anti-crisis shield 1.³ In the article 1 of the Anti-Crisis Act Shield 2, the Article 14a(1) has been added to the Shield 1 Act, in which the legislator provided for a complete cessation of activities by common or military courts due to a pandemic. Only in urgent cases, the president of the Supreme Court, at the request of the president of the Court of Appeal, could appoint another equivalent court, possibly located in the area of a neighboring appeal, as competent to hear urgent cases belonging to the jurisdiction of the court which ceased its activities [Książek 2020, 349].

A similar decision was provided for the functioning of administrative courts, but the power to appoint another Provincial Administrative Court rested with the president of the Supreme Administrative Court. As a consequence, the courts quickly suspended the dossiers to hear ordinary cases. Of course, further restrictions concerned the functioning of other bodies

² Journal of Laws of 2020, item 568.

³ Journal of Laws of 2020, item 374 and 567.

related to the administration of justice, including the penitentiary system and law firms.

In turn, in the Article 24(21) of the anti-crisis act of 15th May 2020, called Shield 3,⁴ the legislator introduced the possibility of e-hearing to civil and administrative court proceedings for the duration of the state of epidemic threat or state of epidemic. For this purpose, technical devices were to be used, enabling the conduct of court hearings at a distance with the simultaneous direct transmission of image and sound. The legislator also allowed the possibility of a session of the judging panel with the use of electronic means of communication, with the exclusion of the chairman. In this way, the courts could, to some extent, continue their work without endangering the health of the participants in the proceedings.

In turn, in Article 39(2) in Shield 4,⁵ the legislator added to the article 100(10) to the Code of Criminal Procedure, in which the model of solutions adopted in the article 151(2) of the Code of Civil Procedure, provided for the possibility of conducting meetings in criminal proceedings in a hybrid mode – it means the possibility of participation of some participants in the proceedings using remote contact tools was allowed. Persons taking part in a remote hearing with the simultaneous direct transmission of image and sound are considered to be present at the delivery of the judgment.

Apart from limitations in the operation of common and administrative courts, further limitations mainly concerned court procedures related to the activities of enterprises. First of all, the limitation periods for civil law claims or the time limits for submitting pleadings have been suspended. Moreover, in the Article 3 of the first anti-crisis act (Shield 1), the legislator allowed the employer to organize the performance of work for a specified period of time outside the place of its permanent performance. Remote work could therefore be organized by the employer, regardless of whether the employer was a public or private institution. This solution also had a negative impact on the functioning of law firms, especially their income.

The anti-crisis regulations adopted by the legislator did not solve all the problems that the world of law firms had experienced in that period. The situation of creditors and debtors has deteriorated as a result of the pandemic. Postponing online hearings due to the failure of ICT devices reduces the prospect of obtaining an enforcement title and thus satisfying creditors' claims. The situation did not change after the restoration of ordinary court

⁴ The Act of 14 May 2020 amending certain acts in the field of protective measures in connection with the spread of the SARS-CoV-2 virus (Journal of Laws of 2020, item 875).

⁵ The Act of 23 June 2020 on interest subsidies for bank loans granted to enterprises affected by COVID 19 and on simplified proceedings for approval of an arrangement related to the occurrence of Covid-19 (Journal of Laws of 2020, item 1086).

sessions, as the courts often dropped due to health reasons of judges [Kowalczyk-Kędzierska 2021]. In the anti-crisis acts, the legislator did not provide the courts with appropriate legal instruments enabling the acceleration of the pursuit of claims.

2. THE NEGATIVE IMPACT OF THE PANDEMIC ON THE ACTIVITIES OF LAW FIRMS

The restrictions introduced by the legislator in connection with the Covid-19 pandemic in the operation of courts or judicial institutions, such as law firms, and restrictions on the movement of citizens had to have an impact on the effectiveness of the operation of law firms. Some law firms quickly adapted to the use of new technological solutions, but not all of them. The speed of law firms' adaptation to the new organizational situation in the work of courts and the degree of use of new ICT technologies depended on the predisposition of leaders and employees to accept changes. The specialization of individual law firms was also quite important. Undoubtedly, it was easier for law firms with a wide range of cases, i.e., conducting civil, economic, criminal, administrative or family law cases simultaneously within the same office. Law firms specializing only in narrow areas could encounter numerous difficulties and limitations also in terms of acquiring new clients and thus the funds necessary to maintain the office.

Regardless of the size of the law firm or the range of cases conducted, the pandemic caused a decrease in the law firm's income with a simultaneous increase in expenses, for example, for the purchase of new ICT tools or training of employees in the use of new technologies.

The Supreme Bar Council in mid-2020 conducted a survey among lawyers about the economic effects of the pandemic.⁶ The data obtained at that time is quite meaningful not only for lawyers, but also for other legal corporations, including legal advisers. The data obtained from the survey show that in 87% of the surveyed cases the law firm's revenues decreased. However, the level of this decline varied. For 45% of the surveyed lawyers, the decrease was more than 50%. 24% of the surveyed attorneys stated that their

⁶ The authors of the survey were advocate Anisa Gnacikowska, deputy secretary of the Polish Bar Council and advocate Sławomir Ciemny, chairman of the Bar's Higher Audit Committee. The research sample was 1549 advocates. Almost 90% of the respondents are attorneys working in small law firms. 47% of the respondents performed own work in large cities with over 500,000 inhabitants. See: *Wyniki ankiety nt. sytuacji adwokatów w związku z COVID-19*, "Adwokatura Polska" (02.07.2020), <https://www.adwokatura.pl/z-zycia-nra/wyniki-ankiety-nt-sytuacji-adwokatow-w-zwiazku-z-covid-19/> [accessed: 28.11.2021].

revenues decreased by a quarter. Symptomatic is the fact that 18% of respondents stated a complete loss of income.⁷

As the cause of economic troubles for law firms, the respondents indicated the complete or partial closure of courts (90%) and the lack of a clear state policy to restore the normal functioning of the courts (80%). Many lawyers also pointed to irregularities in the operation of the post office (50%).⁸

A consequence of the economic troubles of law firms was taking measures to protect them against their closure (approx. 50%). Some of the attorneys we interviewed intended to change their profile and office services (13%). For these reasons, advocates, as well as other lawyers, including legal advisers, reached for support from anti-crisis funds [Irytowska 2020].

It should be realized that the above data concern the assessment of the legal market during the first wave of Covid-19, it is in the period of complete surprise for the public. Repeated testing would probably have yielded different results.

3. POSITIVE IMPACT OF THE PANDEMIC ON THE ACTIVITIES OF LAW FIRMS

The pandemic, apart from undoubtedly negative effects for law firms, also brought about positive phenomena. For a long time now in Poland, as in Western countries and in the United States [Siarkiewicz 2020, 42-46; Glich 2020, 7-8; Duran 2020, 1-34] there is a lot of writing about the dynamically progressing process of digitization including the digitization of business. It is worth noting that the concept of digitization is not clearly defined normatively or by doctrine. Hence, one can come across many definitions. According to the program – Digital Poland, the digitization can mean: a broadband structure enabling access to high-speed Internet, it can also be projects which increase the pool of public services available electronically, and finally it can be a process of encouraging people to use the Internet. In turn, digitization is also understood as digital form of reality. Therefore, it is a process aimed at the most faithful representation of the object by the description of metadata [Kłosińska 2016, 78-85; Mussur 2005, 5-13].

The process of digitization of society accelerated by the pandemic forced, among others, the phenomenon of improving technological and digital skills. This process also applies to lawyers in law firms, legal advisers, attorneys-at-law, judges, prosecutors, and bailiffs, as well as legal service

⁷ Ibid.

⁸ Ibid.

employees working in law offices and courts. The initial skepticism in this regard was quickly replaced by the belief that there is a need to implement rapid technological, mental, and organizational changes.

It has been noticed a long time ago that computerization of law firms brings numerous benefits, including flexibility and increase of work efficiency, automation of repetitive activities, improvement of the quality of communication with clients and courts, including acceleration of information exchange. Hence, the doctrine calls for an amendment to the Articles 22 and 29 of the Labor Code by introducing a new type of contract, which is remote work [Mitrus 2020, 3-10].

In the professional literature, it is assumed that labor productivity, or productivity at work, is the value of production made in a given period by one employee. Remote work undoubtedly saves time spent traveling from home to the office. This time an employee can use for housework, and consequently becomes more efficient in the period of her or his availability to the employer. An employee can correlate his or her professional work to his or her other tasks and duties, for example – family. The effect of his or her work is the implementation of the entrusted task, most often defined by the deadlines of cases. Remote work undoubtedly creates some tangible benefits for a law firm. It allows you to save, among other, expenses for utilities such as electricity, water, and heating. In this way, the employee and the employer can demonstrate a higher level of job satisfaction, which is important for the operation of any law firm [Paliga 2021, 14].

Automation of repetitive activities is to lead to the improvement of the operation of every institution, including law firms. Therefore, it is not about the automation of interpersonal relations between law firm employees or a lawyer and a client, but about improving the performance of internal office activities and activities with the institutional environment, for example – courts or state administration bodies, which are repetitive. Such activities include sending an e-mail, filling out the mailing book, automatically assigning signatures to new cases, keeping a calendar, monitoring payments, including generating an invoice and automatic preparation for shipment to the customer, or sending payment reminders. All ICT devices such as computers, smartphones, tablets are used to automate repetitive activities.

Appropriate software is required to use these devices. At the moment, there are many such software on the market, including Kleos or mecnas. Their functionalities are similar, and the differences most often lie in the development of individual modules. These programs allow you to document the history of proceedings, generate reports, coordinate the activities and work of the team, and share documents within the office (workflow). A huge help for the office is undoubtedly the introduction of full digitization of documentation, it means entering by scanning to the computer memory

on a regular basis all traditionally printed or handwritten documents. As a result of digitization, lawyers and employees of the law firm can only use documents in electronic form. It is also important that when preparing documents remotely, their credibility and authenticity are guaranteed at the same level as documents drawn up in traditional form [Rott-Pietrzyk 2020, 48].

The pandemic brought with it one more benefit, namely a rethinking of communications within the firm's team. In the case of on-site work, specific habits, and procedures for the exchange of information have been developed, in particular, sending between employees the templates of letters or files with documents of cases conducted by the office. In a pandemic situation, when some employees switched to remote work, it became necessary to rework internal and external communication systems. An example of an internal messenger is Slack, and for external and internal communication, such communicators as Google Hangouts, Microsoft Teams, ClickMeeting and Zoom Video Communications can be used. The use of these tools for communication is necessary due to the need to build a system which allows the functioning of the team based on a clear message. Efficient transmission of messages facilitates work and speeds it up. In a good-quality organizational and tool environment, it is easier to spot any errors or provide advice within the team.

4. DEMATERIALIZATION OF LAWYERS' WORK IN THE POST-COVID ERA

For at least three decades, humankind has been accompanied by the phenomenon of the dematerialization of human labor. The human being not only produces products or provides services, but most of all uses abstractions and ideas. Of course, the creations of the human mind can then take a materialized form, for example, the design of a modern building will eventually be constructed. The dematerialization of work is also visible in the relations between employees and their environment as well as in the interactions which take place between them. Thus, the traditional boundaries related to time and space disappear. The work leaves factories and offices and enters private or public space. Today, it is no longer surprising that there are numerous cafes where many people spend hours and hours doing specific work. The boundary between working and non-working time disappears. The development of the labor dematerialization process significantly accelerated precisely during the pandemic [Rojek-Adamek 2017, 235; Jamka 2013, 137-61]. It also applies to the work of lawyers, especially solicitors and advocates.

During the pandemic, no uniform changes in the organization of work in law firms could be noted, but only some similarities. Moreover, it should be noted that possible changes in the activities of law firms usually depend on the size. In small offices, with one or several people, the pandemic has generally not affected the current work system. Some changes can be noticed in the work of larger law firms, employing more than 10 people, having large premises and financial resources. In these offices, the work on the spot was not completely terminated, but was largely performed remotely. Most often, employees performed their work in shifts so that there were only people necessary to perform current tasks in the office.

Looking at the activities of law firms after a period of more than a year from the end of the pandemic, a question arises, namely is it possible for law firms to completely switch to remote work? Theoretically, it is possible, due to the existence of huge resources in databases containing legal provisions (*lex, legalis*), electronic comments and databases which aggregate case law. In addition, law firms are supported by IT programs enabling the coordination of administrative work and programs supporting the management of cases conducted by the law firm. Anyway, in the relationship between a lawyer or a petitioner and the court, computerization has taken place quite a long time ago, allowing for some evidence activities in civil proceedings to be performed online [Kościólek 2010, 253-66].

It should not be forgotten that personal contact plays an extremely important role in the work of a lawyer, primarily within the office group itself. It is essential in deciding how to solve specific legal problems. In decision-making processes, it is often necessary to consult external specialists and analysts in related fields, for example: in the field of construction, environmental protection, aviation, or the latest information technologies. It is not possible for a lawyer to have specialist knowledge of each case that he or she is deciding legally.

The relationship with clients is the second level of lawyers' contacts. In many cases, especially in family or personal matters, the client prefers direct contact with a lawyer. Only during a meeting in the real world is it possible to build a relationship based on trust, which in turn will allow to provide the lawyer with the information necessary to conduct the case. Such contacts cannot be provided by tele-information devices for remote connection.

To conclude this point, it should be stated that the progressing automation process has undoubtedly been accelerated due to the pandemic. It brings numerous benefits, such as quick decision-making, the ability to perform work virtually anywhere and at any time. However, there are areas of legal activity that cannot be replaced with cybernetic tools or artificial intelligence. The boundary between legal activities performed in the real world and those performed in the virtual world is variable and will undoubtedly

be shifted towards the enlargement of the field of the virtual world [Chandra, Gupta, and Agarwal 2020, 344-50].

FINAL CONCLUSIONS

The Covid-19 pandemic, due to the protection of human health and life, resulted in the need for the legislator to introduce numerous restrictions on the activities of state bodies, society, and the economy, including law firms. As a consequence, law firms switched to remote work. As a result of the introduction of a lockdown, which means statutory, limitation of interpersonal contacts and the necessity to spend money on the purchase of computer programs for remote work, the office's income decreased. These and other negative effects of the pandemic were shown, *inter alia*, in a survey conducted by the Supreme Bar Council in 2020. The anti-crisis acts introduced by the legislator, also known as anti-crisis shields, only partially supported the activities of law firms.

The pandemic also had a positive impact on the legal services market. Legal offices have started to use IT tools to a much greater extent than before, and the process of digitization of office work has gained momentum. Thus, the process of dematerialization of human work is taking place quickly, also in law firms. There are also positive changes in the organization of the office's work. It can also be assumed that in the post-pandemic period, law firms well equipped with ICT equipment will do better on the market also in the post-pandemic period. The current post-pandemic situation forces law firms to look for new areas of services and new ways of acquiring clients. For this reason, law firms still need to develop the competences of their employees. This, in turn, will cause many law firms to modify their offer or seek business partners to provide complementary services.

To sum up, it should be stated that the Covid-19 pandemic, apart from causing negative effects, forced the introduction of many changes to the organization and operation of law firms. New IT technologies will be permanently used by law firms. This does not mean, however, that all the activities of law firms will move to the virtual world. In many areas, law firms will continue to operate in a traditional manner, although these areas will be continuously reduced.

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