
CHANGE OF THE RULES OF THE LIMITATION OF CIVIL LAW CLAIMS

On 9th of July 2018 entered into force the amendment of the provisions of the Civil Code regarding the limitation of claims provided by the Act of 13th of April 2018 on the amendment of the Act - Civil Code and certain other acts (Journal of Laws, pos. 1104, hereinafter as: "**the amendment**"), which introduced **amendments**, among others in regulations regarding limitation **period for claims**, or the rules of limitation of claims against consumers.

I. AMENDMENT OF THE LENGTH OF THE LIMITATION PERIOD

Before the amendment

Until the amendment entered into force, the general limitation periods, i.e. the limitation periods for all property claims, except for those, for which special provisions provide different limitation periods, were:

- 1) 3 years for claims for periodical payments' and for claims connected with conducting business activity,
- 2) 10 years for other claims.

It means that depending on its type, the claim was expired after 3 or 10 years, counted from the day on which this particular claim became due.

Furthermore, the provided limitation period in case of claims confirmed by a final court's decision or by ruling of any authority appointed to examine cases of a given kind or an arbitration court's decision, as well as claims confirmed by a settlement concluded before a court of law or an arbitration court or by a settlement concluded before a mediator and confirmed by a court of law was 10 years.

After the amendment

The limitation periods

After the amendment came into force, the general limitation periods are:

- 1) still 3 years for claims for periodical payments' and for claims connected with conducting business activity,
- 2) shortened from 10 to 6 years limitation period for other claims.

Moreover, shortened from 10 to 6 years is the limitation period for claims confirmed by a final court's decision or by ruling of any authority appointed to examine cases of a given kind or an arbitration court's decision, as well as a claim confirmed by a settlement concluded before a court of law or an arbitration court or by a settlement concluded before a mediator and confirmed by a court of law.

The method of calculating

At the same time, the method of calculating the general limitation period for property claims (including also claims for periodical payments' and claims connected with conducting business activity) has changed. From 9th of July 2018 the end of limitation period shall fall on the last day of the calendar year, unless the limitation period is shorter than two years. This means that currently pursuing claims is possible to the last day of the calendar year in which limitation period was expired. Thus, the abovementioned counting method is an important facilitation for creditors. They will not have to make detailed calculations.

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Example:

Company A, which is a computer producer, as part of its business activity concluded on 15th of July 2018 a credit agreement for 100 000 PLN with Bank B. The parties agreed that the payment of the credit will be made in two instalments of 50 000 PLN, and the payment of the last instalment will take place on 15th of September 2018. Assuming that the Company A did not make the last payment within the set deadline, please note as follows:

According to the provisions applied before the amendment, the limitation period of the Bank B's claim would start on 16th of September 2018, and the statute of limitations would happen on 16th of September 2021.

According to the amendment provisions Bank B's claim will be expired on 31st of December 2021.

II. AMENDMENT OF THE PURSUIT OF CLAIMS AGAINST CONSUMERS

The rules of pursuing claims against consumers have also changed. According to added Article 117 § 21 of the Civil Code any claims against the consumer cannot be demanded to be satisfied after the limitation period has expired. Consequently, the expiration of the limitation period, and not as it was so far – only raised, during the trial, the objection of limitation, will constitute an inability to satisfy a claim against the consumer after the expiration of the limitation period.

From the above rule, the amendment introduced several exceptions. According to the added Article 117¹ of the Civil Code in exceptional cases, the court may, after considering the interests of the parties, not to take into account the expiration of the limitation period of the claim against the consumer, if it is required by the rules of equity. Using this right the court should particularly consider:

- 1) the length of the limitation period,
- 2) the length of the period between the expiration of the limitation period and the pursuing of the claim;
- 3) the nature of the circumstances that caused the entitled person not to pursue the claim, including the influence of behaviour of the obliged person on the entitled person's delay in pursuing the claim.

III. TRANSITIONAL PROVISIONS

According to the Article 5 sec. 1 of the amendment **to the claims arose before the entry into force of this amendment, i.e. before 9th of July 2018, and on this day not yet expired generally the amended provisions are applicable.** However, having in regard the exceptions to the abovementioned rule, made in the following sections of this article, it should be pointed out that **every case of a claim arose before the entry into force of the amendment and on this day not yet expired will require additional analysis with regard to the application of suitable provisions.**

Moreover, the amendment introduced special transitional provision regarding claims against the consumers. According to the Article 5 sec. 4 of the amendment in case of the expired claims against consumers, which until the day of entry into force of this amendment, i.e. until 9th of July 2018, no objection of limitation has been raised, on that date they became subject of the expiration. As a consequence, from 9th of July 2018, the court will take into account the expiration of the abovementioned claims regardless of whether the defendant raises such a objection during the proceedings.

Should you have further questions, we remain at your disposal.

