

Mateusz Rubaj*

Mediation Settlement as an Enforceable Title in Polish Civil Proceedings

This article explores the legal nature and procedural framework of mediation settlements within the Polish civil justice system, with particular emphasis on their transformation into enforceable titles. The study examines the dual character of a mediation settlement as both a manifestation of party autonomy and a procedural instrument requiring judicial validation to acquire enforceability. Drawing on a detailed analysis of the provisions of the Polish Code of Civil Procedure, the article delineates the formal prerequisites for judicial approval, the role of the mediator, and the evidentiary significance of the mediation protocol. Special attention is given to the conditions under which a settlement may be granted an enforcement clause and thereby become a legally binding enforcement title. The paper also discusses the limits of judicial discretion, emphasizing the need to verify compliance with public policy, social norms, and legal coherence. Comparative references to court settlements and arbitral awards further contextualize the enforceability of mediation agreements. The analysis highlights both the legal benefits and systemic challenges of integrating consensual dispute resolution mechanisms into formal enforcement structures. Ultimately, the article underscores mediation's evolving role in modern civil litigation as a bridge between voluntary resolution and state-sanctioned enforcement.

Key words: mediation, enforcement, enforceable title, enforcement title, mediation settlement

1. Introduction

A settlement is the principal objective of mediation proceedings, at least in principle. This does not mean, however, that the termination of mediation without concluding an agreement should be considered unsuccessful, as this process may also bring other significant benefits. In common terms, a settlement is perceived as an agreement reached as a result of resolving a dispute through a compromise that satisfies both parties to the conflict. From the legal perspective, however, a settlement is a legal act, specifically an agreement concluded between the parties in the course of mediation proceedings¹.

In order to illustrate the issues presented in the following part of this study, it is justified to first refer to the normative constructions functioning in civil procedure. Pursuant to Article 10 of the Code of Civil Procedure (hereinafter referred to as the “Code of Civil Procedure”),² in each case in which a

* PhD Candidate, Institute of Law and Administration, Pomeranian University in Słupsk, Poland.

¹ Bieliński A., Uгода mediacyjna na gruncie KPC a ugoda z art. 162 K.K.W. zagadnienia wybrane, [in:] “Probacja”, No. 1 (2023), 182.

² Ustawa z dnia 17 listopada 1964 r. – Kodeks postępowania cywilnego (Dz.U. 2024. poz. 1568).

settlement is admissible, the court is obliged to take – at each stage of the proceedings – actions aimed at amicable settlement of the dispute, in particular by initiating mediation and persuading the parties to undertake it. In the light of this regulation, unless specific norms provide for different outcomes, or if the nature of the case does not preclude it, concluding a mediation settlement remains a legally permissible solution. In view of the above, it should be emphasized that the jurisdiction of civil courts extends not only to disputes arising from substantive civil law in the strict sense of the word, but also to cases in the field of family law, guardianship law, labor law, social security law and other cases in which special statutes require the application of civil procedure provisions (Art. 1 of the Civil Procedure Code). Without entering into an in-depth definitional analysis of the concept of “civil case”, it should be noted that the essence of civil law relations is the equality and autonomy of the parties' will. As a consequence, it is the participants of a given legal relationship who have the competence to independently determine the content, scope and form of the mediation settlement³.

The normative regulation of mediation proceedings, contained in the Code of Civil Procedure, is complete and systemically coherent. The regulations contained in Articles 183¹–183¹⁵ of the Code of Civil Procedure⁴ construct a comprehensive model of civil mediation, including both procedural issues related to its course and formal requirements relating to the mediator, his qualifications and standards of impartiality and independence. These provisions also specify the substantive legal prerequisites that must be met by a mediation settlement in order to be considered an effectively concluded legal transaction producing the intended legal effects in the sphere of civil law relations. On the basis of the current legal status, within civil law relations, two basic modes of initiating mediation proceedings are distinguished. The first of these is the so-called contractual (voluntary) mediation, initiated on the basis of a prior consensual agreement of the parties – in the form of a separate mediation agreement or by including a mediation clause in the agreement regulating the basic obligation relationship. The second mode is court (directed) mediation, initiated on the basis of a decision issued by the court on the merits, which – when considering a dispute – considers it advisable to refer the parties to mediation in order to settle the proceedings amicably⁵.

In the context of the considerations presented in this study, it is also justified to distinguish between the concept of an enforceable title and an enforceable title, which – although often identified in everyday language – have a separate normative meaning in the light of the provisions of the Civil Procedure Code.

An enforcement title is an official document in which the existence and scope of the obligation to perform a financial or non-material performance that can be compulsorily performed is stated. In court practice, it most often takes the form of a final court decision or other equivalent act, such as a settlement concluded before a court or a mediator – provided that it meets the statutory conditions. On the other hand, an enforcement title is a procedural instrument enabling the initiation of enforcement proceedings, constituting a formal basis for court enforcement. In the light of Article 776 of the Civil

³ *Bieliński A.*, op. cit. cit., p. 184.

⁴ Dz.U. 2024. poz. 1568.

⁵ *Falkiewicz K., Romatowska M.*, Uгода w postępowaniu mediacyjnym w sprawach cywilnych, [in:] “Temidium”, No. 5 (2012), 23.

Procedure Code, an enforceable title is an enforceable title with an enforcement clause, unless the statute provides otherwise. This clause is declaratory in nature and confirms the possibility of compulsory performance of the obligation resulting from the enforcement title. Only when it is granted does the document acquire the characteristics of an enforceable title in the strict sense, and thus becomes an effective means of initiating enforcement⁶.

2. Characteristics of a Mediation Settlement

The institutionalisation of mediation in civil proceedings has been shaped by the legislator as a formalised procedure, which is reflected, m.in in the obligation to draw up a protocol documenting its course. Pursuant to Civil Procedure Code Art. 183¹², this action is not only the formal termination of mediation proceedings, but also a prerequisite for their further procedural effectiveness – especially in the context of possible approval of the settlement by the court. Pursuant to § 1 of the above-mentioned provision, the mediator is obliged to draw up a protocol on the course of the mediation⁷, which should include the place and time of its conduct, the parties' identification data (name, surname or business name and addresses), as well as identical information about the mediator. The key element of the protocol is to indicate the outcome of the mediation, i.e. whether it ended with a settlement or did not lead to a consensual resolution of the dispute. The protocol is signed by the mediator, giving the document official value⁸.

If a settlement has been reached in the course of mediation, its content may be incorporated directly into the minutes or attached to them as a separate document (§ 2). In both cases, it is necessary to sign the settlement with the signatures of the parties, which is an expression of their will to conclude an agreement with a specific content⁹. In a situation where any of the parties is unable to sign the settlement, the mediator is obliged to record this circumstance in the content of the protocol, which is of evidentiary and procedural importance. The legislator has also introduced a presumption of the parties' consent to apply to the court for approval of the settlement by the mere fact of signing it (§ 2¹). The mediator is obliged to inform the parties of this legal effect, which safeguards the correctness of the procedure and protects the autonomy of the will of the participants in the mediation. The culmination of the mediator's activities in this respect is the delivery of a copy of the minutes of each of the parties to the mediation proceedings (§ 3). This action not only implements the principle of transparency and informational protection of the parties, but is also of a guarantee nature – it enables the parties to take further procedural steps, including initiating the procedure of judicial approval of the settlement¹⁰.

⁶ Dz. U. z 2024 r. poz. 1568, Article 776 and Article 777.

⁷ *Gajda-Roszczyńska K., Flejszar R.*, Alternatywne metody rozwiązywania sporów ze szczególnym uwzględnieniem mediacji – postępowanie cywilne, Warszawa 2017, 20-25.

⁸ *Ereciński T.* [in:] *Grzegorzcyk P., Gudowski J., Markiewicz K., Walasik M., Weitz K., Ereciński T.*, Kodeks postępowania cywilnego. Komentarz. Tom II. Postępowanie rozpoznawcze, LEX/el. 2022, art. 183(12).

⁹ *Stefańska E.* [in:] Kodeks postępowania cywilnego. Komentarz aktualizowany. Vol. I. Art. 1-477(16), red. *Manowska M.*, LEX/el. 2022, art. 183(12).

¹⁰ *Rutkowska A.* [in:] Kodeks postępowania cywilnego. Komentarz. Art. 1-505(39). Vol. I, red. *O. M. Piaskowska*, Warszawa 2024, art. 183(12).

With the exception of settlements concluded before a mediator, it should be noted that in the case of settlements concluded during a conciliation meeting (Civil Procedure Code Art. 185 §3) and during a hearing (Civil Procedure Code Art. 223 §1), their content – in accordance with the statutory directive – is disclosed in the court report or in a separate document constituting its integral annex. In order to maintain the validity of the settlement act, it is required to confirm it with the signatures of both parties, and if it is impossible for any of the parties to sign it, this fact should be clearly recorded in the protocol. However, a different regulation applies to the conclusion of a settlement as part of a preparatory hearing (Civil Procedure Code Art. 205⁸ §2) and in the course of proceedings conducted under appeal against decisions of market regulators (cf. Civil Procedure Code Art. 479⁸⁰a §§ 1 and 2, Art. 479⁵²a §2a §§ 1 and 2, and Art. 479⁸⁵a §§ 1 and 2). In these cases, the legislator has not provided for an alternative consisting in the possibility of concluding a settlement without the parties signing – which means that the lack of a signature excludes the effective conclusion of a settlement under the above procedures¹¹.

In a situation where the settlement was concluded in the form of contractual mediation, i.e. conducted on the basis of an agreement concluded between the parties, and one of them applies for its approval, the mediator is obliged to submit a report on the course of mediation to the competent court¹². According to settled case law, in the case of a settlement concluded before a mediator in the course of proceedings conducted on the basis of a mediation agreement (contractual mediation), the jurisdiction to approve it is vested in a common court with material and territorial jurisdiction in accordance with the general or exclusive rules of jurisdiction specified in the provisions of the Code of Civil Procedure. In other words, the court competent to consider the application for approval of such a settlement is the court that would have jurisdiction to consider the merits of the case covered by the settlement if it had not been previously resolved by consensual agreement of the parties¹³. On the other hand, in the case of court mediation (i.e. initiated by a court decision), the protocol should be filed with the court conducting the main proceedings, and it should be indicated whether the court was previously designated by the parties pursuant to Civil Procedure Code Art. 183¹⁴ § 2¹. Importantly, the parties may also include claims not yet included in the statement of claim as part of the settlement, which increases the material scope of the possible settlement of the dispute¹⁴.

3. Mediation Settlement Approval

The procedure for approving a settlement concluded before a mediator is optional and is initiated at the request of one of the parties. This application must meet the general conditions of a

¹¹ *Miczek Z.*, Zawieranie ugód sądowych w trakcie tzw. rozpraw zdalnych, [in:] “Palestra”, No. 5, 2024, 50-51; *Gudowski J.*, O kilku naczelnych zasadach procesu cywilnego – wczoraj, dziś, jutro (in:) *Prawo prywatne czasu przemian. Księga pamiątkowa ku czci Profesora Stanisława Sołtysińskiego*, red. A. Nowicka, Poznań 2005, 1033.

¹² *Dziurda M.*, Kodeks postępowania cywilnego. Praktyczny komentarz do nowelizacji z 2023 roku, Warszawa 2023, 166-172.

¹³ Postanowienie SA w Katowicach z 14.09.2023 r., I ACz 661/23, LEX nr 3690224.

¹⁴ *Dziurda M.*, op. cit., 166-172.

pleading¹⁵. The court having jurisdiction within the meaning of Article 183¹³ shall, upon submission of such an application, immediately take steps to approve the settlement. If the settlement is to be the basis for enforcement, approval is made by granting it an enforcement clause. Otherwise, the court limits itself to issuing a decision on its approval (§ 2).¹⁶ It is justified to emphasize that the proceedings for approval of a settlement concluded before a mediator, as opposed to the mediation proceedings themselves, are of a judicial nature and are qualified as exploratory proceedings in the broad sense. Its basic function is to incorporate a mediation settlement into the legal order in such a way that it produces legal effects identical to those provided by the Act for settlements concluded directly before the court – in particular with respect to enforcement effects and enforceability (vide Art. 183¹⁴ and Art. 183¹⁵ §1 of the Civil Procedure Code).¹⁷

At the same time, the legislator has provided for a mechanism for reviewing the legality of a settlement – the court obligatorily refuses to approve the settlement or grant it an enforcement clause (in whole or in part) if its content is contrary to the law, the principles of social coexistence, aims to circumvent the provisions of law or contains incomprehensible or contradictory elements. This kind of preventive control is a guarantee that the settlement act concluded before the mediator will be consistent with the axiology of the legal system and will not violate the fundamental principles of the legal order¹⁸. The concept of illegality of a settlement should be interpreted broadly as covering not only the violation of mandatory norms (*jus cogens*), but also the inadmissible shaping of the legal situation of the parties without regard to provisions of a semi-imperative nature, in particular with regard to the minimum standards of protection established by the legislator. On the other hand, a settlement aimed at circumventing the law will seemingly be consistent with the literal wording of the provisions, but in essence it will lead to prohibited effects – violating statutory orders or prohibitions or interfering with the sphere of rights of third parties. In particular, this applies to situations in which, as a result of the settlement, there are transfers of assets limiting the possibility of satisfying the claims of creditors of one of the parties. The review carried out by the court should therefore cover all the relevant factual and legal circumstances of a particular case, taking into account the nature of the legal relationship that the settlement is intended to shape or modify¹⁹.

A settlement may be contrary to the principles of social coexistence when its provisions grossly violate the contractual balance of the parties, favouring one of them in a manner contrary to the

¹⁵ *Gajda-Roszczyńska K.*, *Flejszar R.*, op. cit., 24-27.

¹⁶ *Morek R.*, *Mediacja i arbitraż* (art. 1831–18315, 1154–1217 KPC) *Komentarz*, Warszawa 2006.

¹⁷ *Mendrek A.*, *Jurysdykcja krajowa w sprawach o zatwierdzenie ugody zawartej przed mediatorem*, [in:] “*Polski Proces Cywilny*”, No. 3 (2022), 477-478; *Ereciński T.*, *Kodeks postępowania cywilnego. Komentarz. Tom II. Postępowanie rozpoznawcze*, red. *Ereciński T.*, Warszawa 2016, komentarz do art. 18314, teza 6; *J. Jagieła*, *Jurysdykcja krajowa w postępowaniu egzekucyjnym* [in:] *Aurea praxis. Aurea theoria. Księga pamiątkowa ku czci Profesora Tadeusza Erecińskiego. Tom I*, red. *Gudowski J., Weitz K.*, Warszawa 2011, 1107; *Błaszczak Ł.*, *Postępowanie sądowe w sprawach mediacyjnych* [in:] *Mediacja w sprawach gospodarczych. Praktyka – teoria – perspektywy*, red. *A. Torbus*, Warszawa 2015, 284-285.

¹⁸ *Ereciński T.*, *Kodeks postępowania...*, art. 183(14).

¹⁹ *Dolniak P.*, *Ugoda mediacyjna w zakresie roszczeń nieobjętych przedmiotem sporu – uwagi na tle nowelizacji kodeksu postępowania cywilnego z 9 marca 2023 r.*, [in:] “*Roczniki Administracji i Prawa*”, No. 2, vol. 23 (2023), 213-114.

elementary principles of contractual honesty and loyalty. Circumvention of the law should also be said when the parties, under the cover of seemingly legal provisions, aim to achieve hidden illegal goals. On the other hand, an internal contradiction in a settlement occurs when its individual provisions are in conflict with each other, making it impossible to perform them simultaneously. On the other hand, an incomprehensible settlement is one whose content is ambiguous, imprecise or so ambiguous that it makes it impossible to determine the will of the parties and its effective implementation²⁰.

It should be emphasized that the above grounds for refusal to approve a settlement do not directly relate to the issue of the parties exceeding the objective scope of the court dispute in the settlement. Nevertheless, it is impossible to ignore the doubts raised by the practice of courts approving settlements that cover claims that go beyond the subject matter of consideration in a given proceeding. This is because it may – in certain factual and legal configurations – bear the hallmarks of circumvention of procedural law, in particular those norms that limit the limits of adjudication and the admissibility of a court ruling²¹. Moreover, it should be pointed out that the court is obliged to refuse to approve a settlement concluded before a mediator in a situation where the subject matter of the case still remains an area of a significant, unresolved dispute between the parties, and the concluded settlement does not lead to the actual end of the conflict. It is inadmissible to approve an agreement that does not reflect the consensual will of the parties, especially if one of them expresses a clear, unambiguous and consistently maintained objection to the content of the settlement – also at further stages of instance control, including in cassation proceedings. In order for a settlement to be approved, it must demonstrate not only formal correctness, but also factual consensual character, constituting a manifestation of an authentic procedural agreement between the parties²².

A settlement concluded before a mediator, after its approval by the court, acquires a special legal character, going beyond an ordinary civil law contract. Pursuant to Civil Procedure Code Art. 183¹⁵ §1, an approved mediation settlement acquires legal force equal to the settlement concluded before the court. Thus, mediation is not only an alternative method of resolving a dispute, but also allows to achieve a formal result equivalent to a court ruling. In this approach, it should be noted that even in a situation where approval is made by granting an enforcement clause to the settlement, the proceedings do not take on a merely formal character. Unlike in classic clause proceedings, the court does not limit itself to examining formal premises, but also performs a substantive verification of the content of the settlement – including its compliance with the applicable legal order, principles of social coexistence, as well as in terms of internal consistency and unambiguity of provisions. For this reason, these proceedings cannot be reduced to the status of a purely technical act initiating enforcement, but should be seen as a separate form of judicial approval of consensual dispute resolution, which is part of the broader context of alternative dispute resolution²³. It is worth noting, however, that the above regulations do not prejudice the provisions concerning the specific form of legal transactions. This means that if in a given case the provisions of civil law require a specific form for a given legal

²⁰ *Flaga-Gieruszyńska K., Zieliński A.*, Kodeks postępowania cywilnego. Komentarz, Warszawa 2022, Legalis, art. 183¹⁴.

²¹ *Dolniak P.*, op.cit., 214-215.

²² Postanowienie SN z 1.12.2022 r. I CSK 1717/22, LEX nr 3437896.

²³ *Mendrek A.*, op. cit., 478.

transaction (e.g. the form of a notarial deed), the mediation settlement will also have to be concluded in this form in order to have the desired legal effects²⁴.

4. Settlement as an Enforceable Title

The basic prerequisite for initiating enforcement proceedings in the Polish legal system is the existence of an enforceable title, which authoritatively constitutes the existence of a specific obligation of the debtor – most often the obligation to pay a specified amount of money to the creditor. Pursuant to Article 776 of the Civil Procedure Code, an enforceable title is an enforcement title with an enforcement clause. The concept of an enforcement title refers to an official document that confirms both the existence and scope of the creditor's due claim and the corresponding legal obligation on the part of the debtor. Only when such a document is provided with an enforcement clause does it have the character of an enforceable title, which in turn entitles the creditor to initiate compulsory enforcement proceedings. In this context, the source of the document is important – only acts enumerated in the provisions of the Act, issued by authorized bodies or approved in the manner provided for by law, may serve as an enforcement title. As a consequence, only documents of appropriate formal and material rank, meeting the criteria of legality and authenticity, may constitute the basis for effective enforcement of claims²⁵.

Pursuant to Article 777 § 1 of the Code of Civil Procedure, the legislator establishes an enumerative catalogue of documents to which it grants the status of writs of enforcement, i.e. those which, after being provided with an enforcement clause, become enforceable titles and constitute the basis for initiating enforcement proceedings. This catalogue includes in particular: (1) court decisions having the value of finality or subject to immediate enforcement, as well as settlements concluded before the court; (11) decisions of the court referendary corresponding to the same characteristics of effectiveness; (3) other acts, settlements and judgments which are enforceable by the courts in force of applicable law; (4–6) and a special type of private documents, such as notarial deeds, in which the debtor, by submitting an appropriate declaration of intent, submits to enforcement within the scope of a specific obligation²⁶.

The postulate to declare the catalogue of writs of execution specified in Art. 777 of the Civil Procedure Code closed is justified only with respect to official documents issued or approved by national public authorities. In this context, the position of the settlement concluded before the mediator requires a special analysis, the significance of which in the enforcement proceedings is actualized only when it is approved by the court by granting it an enforcement clause. A mediation settlement, although after approval by the court acquires legal force equivalent to a settlement concluded before the court (cf. Civil Procedure Code Art. 183¹⁵ §1), cannot be equated with a "settlement concluded before the court" within the meaning of Civil Procedure Code Art. 777 §1(1). which excludes the possibility of extending the scope to settlements concluded out of court, even if they have been

²⁴ *Piaskowska O.*, Kodeks postępowania cywilnego. Komentarz. Art. 1–505(39). Tom I, Warszawa 2024, pp. 483.

²⁵ *Sikorski G.*, Egzekucja z rachunków bankowych, Sopot 2011, 115-130.

²⁶ *Gudowski J.*, art. 777. [tytuły egzekucyjne] [in:] Kodeks postępowania cywilnego. Orzecznictwo. Piśmiennictwo. Vol. 5, Warszawa 2025.

approved by the court pursuant to Civil Procedure Code Art. 183¹⁴ §3. This means that it is only when the settlement is granted an enforcement clause that it becomes possible to recognize it as an enforceable title, in accordance with Civil Procedure Code Art. 776.²⁷

Therefore, it should be assumed that due to its initial nature, a settlement concluded before a mediator is a private document, devoid of independent enforcement power. Only after its judicial approval – provided that the content of the settlement is suitable for enforcement by state coercion – does it acquire the value of an enforceable title within the meaning of Civil Procedure Code Art. 776, which allows for the enforcement of the benefits specified therein. Thus, unlike in the case of a court settlement, which takes the form of an enforcement title upon conclusion and becomes an enforceable title after it has been provided with an enforcement clause, a mediation settlement acquires full enforcement effect, so to speak, "ex post" – as a result of approval by the court, which is associated with making it enforceable. This difference highlights the different formal and legal regimes applicable to these two categories of settlements, although they may ultimately lead to analogous effects in the area of judicial enforcement²⁸.

5. Enforceability of a Court Settlement as an Enforcement Title in Practice

A sine qua non condition for granting an enforcement clause to a court decision or a settlement concluded in civil proceedings is their substantive enforceability – understood as the ability of a given act to forcibly perform the obligation to perform by means of enforcement measures. It is a well-established view in the case law that the court may grant an enforcement clause only to a judgment or settlement which, due to its content, is enforceable by way of enforcement. A settlement in which the creditor releases the debtor from the debt in exchange for the transfer of ownership of an item to the debtor – for example, a motor vehicle – does not meet this requirement, as it does not specify a compulsory obligation²⁹.

In the light of Civil Procedure Code Art. 777 §1(1), a settlement concluded before a state court may also be an enforceable title, but – importantly – only if it has been formally entered into the minutes of the hearing (Civil Procedure Code Art. 223 §1) or attached thereto as a separate document bearing the signatures of the parties. Only such a settlement may be considered a "settlement concluded before the court" within the meaning of the provision and thus constitute the basis for granting an enforcement clause. Constructions providing for the incorporation of agreements concluded outside the protocol into the content of a court settlement – with the proviso that they will constitute an integral part of the protocol and the basis for enforcement – should be considered unlawful. Such objections are invalid, and the court conducting the conciliation proceedings is obliged to refuse to take them into account in the content of the settlement³⁰.

²⁷ *Ślawicki P.*, Charakter prawny ugody zawartej przed mediatorem w świetle nowelizacji k.p.c. z dnia 16 września 2011 roku, [in:] "Studia Prawnicze KUL". No. 4, 2016, 127-144.

²⁸ *Dominowska J.*, Ugoda zawarta przed mediatorem a ugoda sądowa, [in:] "Przegląd prawa handlowego", No. 6, 2018, 38; *Sieńko M.* [in:] Kodeks postępowania cywilnego. Komentarz, t. 2, Art. 506–1217, red. *Manowska M.*, Warszawa 2015, komentarz do art. 777 k.p.c.

²⁹ Orzeczenie SN z 27 maja 1958 r., 1 CR 354/58.

³⁰ Orzeczenie SN z 29.11.1960 r., 3 CZ 128/60, OSNC 1962, nr 1, poz. 28.

A settlement concluded before a common court may also constitute an enforcement title in the case of periodic performance, the maturity of which occurs successively over time. An example may be a settlement in which a person occupying a residential unit without a legal title undertakes to pay a certain amount of money to the owner of the premises as compensation, payable by a specific day of each month. Such a settlement – if it was concluded before the court and properly entered in the record – constitutes an enforcement title within the meaning of Civil Procedure Code Art. 777 §1(3) with respect to benefits that became due due on the expiry of the payment deadlines provided for therein³¹.

In the context of concluding a mediation settlement in maintenance proceedings concerning the issue of the amount of the current maintenance pension (ex Art. 445² of the Civil Procedure Code), the prevailing view in the civil law doctrine is that it is a legal act admissible in the light of the applicable procedural regulations. Nevertheless, it should be unequivocally emphasized that a consensual solution of this type is inadmissible both with regard to the very existence of the maintenance obligation and future periodic payments, which results from the imperative norms of family law. In the context of maintenance enforcement, the doctrine does not question the admissibility of submitting by the maintenance debtor a declaration of intent to submit to enforcement in the form of a notarial deed, because this type of legal actions are admissible in the case of civil law obligations, for which the Act provides for both judicial and enforcement ways of pursuing claims³².

The Supreme Court's view on settlements concluded before an arbitration court can be applied by analogy to mediation settlements. It should be noted that they obtain effectiveness comparable to a ruling of a state court only to the extent that they are suitable for enforcement under the enforcement procedure. It should be emphasized that the mere conclusion of a settlement before the arbitration court is not sufficient to make it enforceable – it requires approval by the state court in accordance with the procedure provided for in the provisions on civil procedure. Only after this condition is met can it be considered an enforcement title in the strict sense³³.

It is also apparent from the case-law that an enforceable title, whether in the form of a judgment or a settlement, which covers several obligations of the debtor, may be enforced only in the part relating to obligations that can be enforced. Even if the material scope of the enforcement clause has not been directly limited (contrary to the principle under Civil Procedure Code Art. 783 §1), the unenforceable elements of such an act do not have legal effects. Consequently, the enforceable title may be partially deprived of enforceability on the basis of an action under Civil Procedure Code Art. 840 §1(2³⁴).

It should be noted that not every form of settlement concluded outside of formal court proceedings generates effects in the enforcement area. For example, a settlement concluded before a social conciliation committee – although it may express a consensus of the parties and the end of the dispute – is not an act to which the law grants the character of an enforcement order. Consequently, it cannot be the basis for initiating enforcement proceedings or for granting an enforcement clause³⁵.

³¹ Postanowienie SN z 24.09.1986 r., III CRN 178/86, OSPiKA 1989.

³² *Urbańska S.*, 5. Uгода sądowa i pozasądowa [in:] *Prawo alimentacyjne. Zagadnienia systemowe i proceduralne*, red. *Łukasiewicz J. M.*, I. Ramus, Toruń 2015.

³³ Orzeczenie SN z 26.10.1936 r., II C 1371/36, OSN 1937, nr 4, poz. 160.

³⁴ Wyrok SN z 23.06.1980 r., III CRN 43/80, OSNC 1981, nr 2-3, poz. 34.

³⁵ Postanowienie SN z 24.04.1978 r., IV CZ 157/77, OSNC 1979, nr 3, poz. 53.

6. Conclusion

The institution of a mediation settlement as an enforceable title in Polish civil proceedings is an example of a harmonious combination of the autonomy of the parties' will with the guarantees of enforcement effectiveness provided by the state. As shown in this study, a settlement concluded before a mediator, after meeting the requirements set out in Civil Procedure Code Art. 183¹–183¹⁵ and after its approval by the court, acquires the value of an enforceable title, which allows for the initiation of enforcement proceedings. This process reflects the evolution of the Polish legal system towards strengthening alternative dispute resolution methods, while maintaining legal protection standards.

The key aspect of the analysed issue is the dualism of the nature of the mediation settlement – on the one hand, it is a manifestation of the freedom to shape legal relations by the parties, and on the other hand, in order to function as an enforceable title, it requires legitimacy by a public authority. Granting an enforceability clause to a settlement is not only a formal act, but also includes a review of its compliance with *jus cogens* standards, principles of social coexistence and the requirements of internal cohesion. In this context, the court acts as a guarantor of the rule of law, eliminating from legal circulation settlements aimed at circumventing the law or violating the interests of third parties.

In the light of the case law and doctrine, a mediation settlement, although it derives from an out-of-court mediation process, is equated with a court settlement after approval. There is no doubt, however, that differences in the procedure for its conclusion and approval result in a different legal regime, which requires practitioners to pay special attention when constructing its provisions. It is worth noting that extending the scope of the settlement beyond litigation, although admissible, may not lead to a violation of procedural rules, in particular those concerning the jurisdiction of the court and the admissibility of claims.

The prospect of further development of the institution of mediation in Poland should take into account the need to increase its procedural efficiency, e.g. by introducing simplified mechanisms for approving settlements in cases of low value of the subject of the dispute, while maintaining due judicial review. At the same time, it is necessary to deepen the reflection on the limits of admissibility of mediation settlements in cases related to family law or alimony law, where the imperative to protect the weaker party may limit the freedom to shape the content of the agreements.

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