

**PROCEDURES FOR
MAINTENANCE
ENFORCEMENT IN
POLAND.**

Polish legal system is based on the continental legal tradition - civil law tradition. The common courts in Poland are the district courts, circuit courts and the courts of appeal. They are competent to hear family cases.

POLAND

COURT SYSTEM IN

SUPREME COURT

extraordinary appeal (cassation)

COURT OF APPEAL

*SECOND
INSTANCE COURTS*

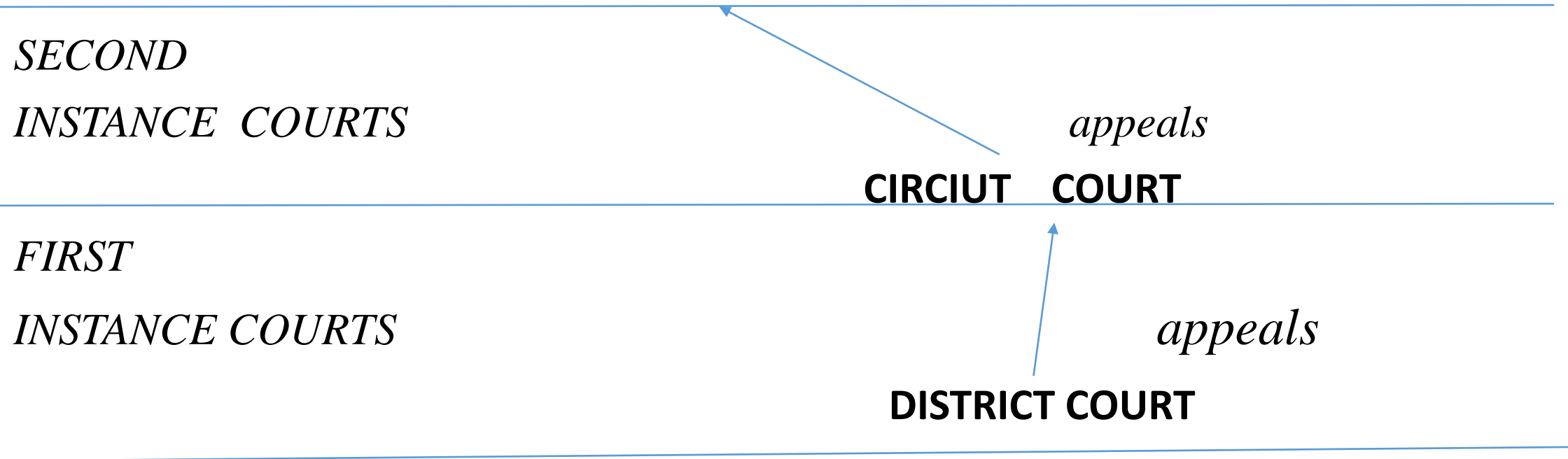
appeals

CIRCUIT COURT

*FIRST
INSTANCE COURTS*

appeals

DISTRICT COURT



The guardianship court (Family and Minors Department of District Court) decides in family cases in particular:

- both child support owed to children and
- former spouses
- and other relatives

with an exception for matrimonial cases as matters relating to divorce, separation and annulment of marriage belong to the competence of circuit courts.

The district court maintenance orders are efficient and enforceable from the moment of their issuance, according to art.333 par.1 of Code of Civil Procedure (KPC). In matters relating to maintenance a court will give judgment in the office on its release into immediate feasibility under certain conditions which will be discussed below.

The circuit court maintenance orders are efficient and enforceable from the time the judgment becomes final divorce.

A ground for starting an enforcement proceeding is a decision of first or second instance court (if records of a case are in this court) with *en officio* statement of enforceability.

According to the Polish law, maintenance are entitled to family members while this includes spouses and former spouses

Polish law does not contain a definition of **a family** either, there is no closed catalogue of family members or the prerequisites of bond creation. That means, a person close to a child is his (her) natural relative, with whom a child is connected by blood bonds (parents, grandparents, brothers and sisters) and also a person with whom this relation was artificially created, by adoption.

Specific issues relating to the enforcement of family law judgments in domestic cases in Poland

1. Legislation under substantive law .

The court decides about the costs of child's living and upbringing and parents' responsibility to pay them. The district court according to art.133-144 of Polish Family and Guardianship Code (KRO) . The circuit court also according to art. 58 par.1 and art.60 KRO.

2.The effect of appeal on enforceability.

Appeal.

It is allowed to appeal against first instance courts' decisions on the merits of the case. The use of measure of appeal will starts an appellation proceeding before the court of higher instance (usually the second instance court). Appeal causes the first instance decision not to be final.

Immediate enforceability of judgments.

But the application of either measure of appeal does not stop the enforcement of a decision. The art. 333 par.1 the Polish Code of Civil Procedure provides that the court will give judgment in the office on its release into immediate feasibility if maintenance awards - as to installments paid after the date of the action, and the installments paid before proceedings are issued for a period not exceeding three months.

3.Procedural law rules relevant for maintenance enforcement.

Law enforcement agencies, their property and management in general is governed by the Polish Code of Civil Procedure in Part II of art.758 and subsequent.

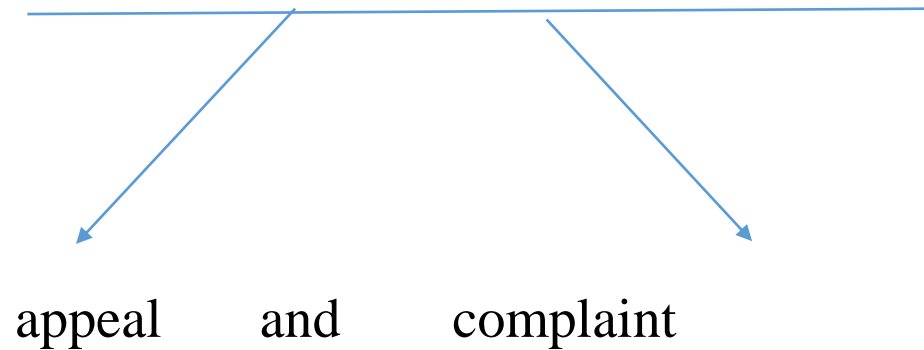
The organisation of organs and institutions involved in enforcement of maintenance orders.

According to mention art.758 enforcement matters within the jurisdiction:

- of the district courts and
- of bailiffs operating at this courts.

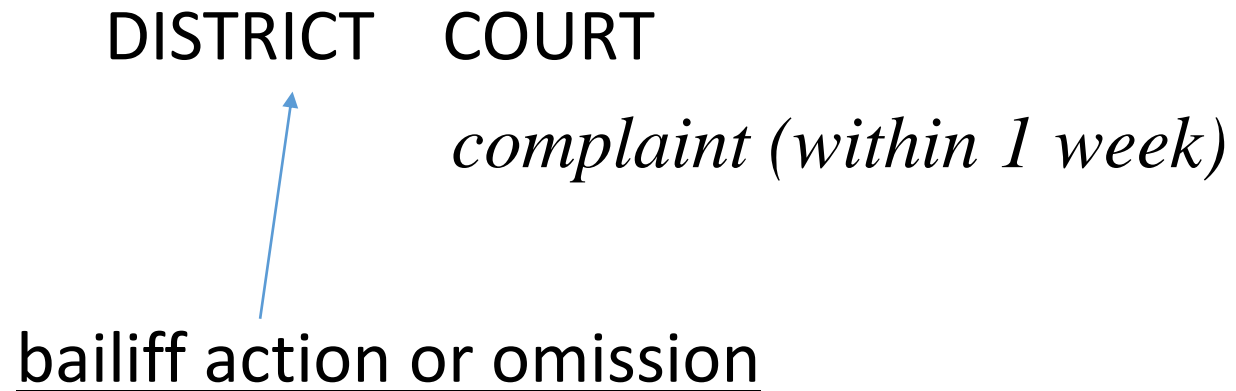
Art. 759 par.2 laid down that the court may order the bailiff office seem designed to ensure the proper performance of execution and remove perceived weaknesses.

There are two ordinary means of appeal in Polish law:



and one extraordinary - cessation.

Art.767 provides that the activities carried out by the bailiff may be appealed against to the district court. Complaint must be filed within 1 week after completion of operations if the party was at the present or from the notification of the action.



- Bailiff conducting enforcement proceedings shall do so on the basis of writ of execution. He may coercive measures to ensure enforcement of maintenance.
- Execution is initiated at the request of the creditor.
- The most popular form of execution is to take remuneration for work. According to art.880 enforcement of payment belongs to bailiffs operating at the district courts of general properties of the debtor. Which in practice means a bailiff relevant to the place of residence of the debtor.

Poland is a party to (of) the following international conventions relevant to enforcement of family judgment:

1. Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations of 1973 (entered into force in Poland in 1996),
2. Convention on the Law Applicable to Maintenance Obligations of 1973 (entered into force in Poland in 1996),
3. New York Convention on the Recovery Abroad of Maintenance of 1956 (entered into force in Poland in 1961);