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Practical Aspects of Performing Duties of the Guardian of a Person Whose Whereabouts Are Unknown by Attorneys-at-Law Designated for This Function in Civil Proceedings

Praktyczne strony wykonywania obowiązków kuratora osoby nieznanej z miejsca pobytu przez radców prawnych wyznaczonych do pełnienia tej funkcji w postępowaniu cywilnym

ABSTRACT

The guardian of a person whose whereabouts are unknown is not only responsible for representing the absent party/participant in civil proceedings until they join the ongoing proceedings, but is also obligated to establish that person's address for service, unknown to the parties to the proceedings and the court hearing the case. Until the judicial correspondence is served to the absent party/participant, the guardian performs all necessary acts in the case on behalf and for the benefit of that person. The guardian of a person whose whereabouts are unknown is not entitled to expect public institutions or authorities to provide information about the absent party/participant in the proceedings. In practice, the actions of guardians related to determining the whereabouts of the party/participant being represented may therefore boil down to searching for such a person in the field or on social networking sites, which may raise legitimate doubts in light of the professional ethics standards applicable to attorneys-at-law and advocates or the provisions on personal data protection.

Keywords: guardian of a person whose whereabouts are unknown; civil proceedings; personal data

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INTRODUCTION

The constitutional norm expressed in the provision of Article 45 of the Polish Constitution,[1] stating the right to a court, has established not only a personal public vested right, but also a basic means of protecting the constitutional freedoms and rights of the individual.[2] In the relevant literature and case law of the Polish Constitutional Tribunal, it is unanimously assumed that the right to a court includes broadly understood access to a court, the right to due process before a court, the right to obtain a court judgment, and the right to enforce a final judgment.[3] A reflection of the validity of the above-mentioned constitutional norm in Polish civil procedure is the regulation of the institution of guardian of a person whose whereabouts are unknown, regulated in the provisions of Articles 144–147 CPC,[4] which remains closely related to the principles governing the civil procedure,[5] including the principle of substantive truth, the principle of disposition, the principle of equality of parties, or the principle of openness. The appointment in civil proceedings of a guardian of a person of unknown whereabouts is a guarantee of protection of the rights of the absent party/participant in the proceedings,[6] who does not take part in the proceedings because of not being aware of the initiation of the proceedings.

The guardian of a person whose whereabouts are unknown is not only responsible for representing the absent party/participant in civil proceedings until they join the ongoing proceedings, but is also obliged to establish that person's address for service, unknown to the parties to the proceedings and the court hearing the case. Until the judicial correspondence is served to the absent party/participant, the guardian performs all necessary acts in the case on behalf and for the benefit of that person. An analysis of the provisions of the Civil Procedure Code governing the status of a guardian appointed for a person of unknown whereabouts, particularly in the context of procedural guarantees and the principles of civil procedure stemming from them, requires recognizing the heterogeneity of the obligations of a guardian of a person of unknown whereabouts. After all, the guardian is obliged

[1] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, no. 78, item 483, as amended). English translation of the Constitution is available at https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm (access: 10.10.2025).

[2] P. Tuleja, *Komentarz do art. 45*, [in:] P. Czarny, M. Florczak-Wątor, B. Naleziński, P. Radziewicz, P. Tuleja, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2023.

[3] P. Sarnecki, *Komentarz do art. 45*, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, eds. L. Garlicki, M. Zubik, vol. 2, Warszawa 2016.

[4] Act of 17 November 1964 – Civil Procedure Code (consolidated text, Journal of Laws 2023, item 1550, as amended).

[5] D. Jakimiec, *Ustanowienie kuratora absentis a prawo strony do obrony jej praw. Glosa do postanowienia Sądu Najwyższego – Izba Cywilna z 14 kwietnia 2016 r., IV CSK 412/15*, "Kwartalnik Krajowej Szkoły Sądownictwa i Prokuratury" 2020, no. 2, p. 74.

[6] See A. Gacka-Asiewicz, *Postępowanie cywilne w pigułce*, Warszawa 2016, p. 9.

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to actively participate in the proceedings as a statutory representative and is also required to search for the person's actual address of stay.

In judicial practice, the role of the guardian of a person whose whereabouts are unknown is very often entrusted to attorneys-at-law or advocates (or trainee attorneys-at-law and trainee advocates) appointed by the bar councils they are affiliated with. While interpretation of the civil procedure provisions makes it possible to clearly define the competence framework for the guardians of persons of unknown whereabouts, the provisions of the law do not confer on the guardians of persons of unknown whereabouts special powers/tools allowing to determine the place of stay of the absent party/participant, and thus to fulfil the obligation to search for an absent party/participant. In particular, the guardian of a person whose whereabouts are unknown is not entitled to expect public institutions or authorities to provide information about the absent party/participant in the proceedings. In practice, the actions of guardians related to determining the whereabouts of the party/participant being represented may therefore boil down to searching for such a person in the field or on social networking sites, which may raise legitimate doubts in light of the professional ethics standards applicable to attorneys-at-law and advocates or the provisions on the protection of personal data.

The institution of a guardian of a person of unknown whereabouts has been regulated in the provisions of Articles 143–147 CPC. The literal wording of these provisions and their arrangement seem to delineate the scope of powers of the guardian of a person of unknown whereabouts, who is authorised by operation of law to perform all actions related to the case on behalf of the party being represented. A guardian for a person whose whereabouts are unknown is appointed by the court, in accordance with the provision of Article 143 CPC, provided that it is demonstrated with high probability that the whereabouts of the party/participant in the proceedings are not known.[7]

Placing the provisions that determine the institution of *curator absentis* among the provisions governing the rules for the service of procedural documents in civil proceedings may suggest that the purpose of appointing a guardian of a person of unknown whereabouts is to guarantee the protection of the rights of the absent party/participant in the proceedings until he or she enters the court proceedings. This protection is embodied in the receipt of court correspondence addressed to an absent person of unknown whereabouts by the guardian, and undertaking all procedural actions beneficial for that person on their behalf and for their benefit, consisting in particular in the formulation of procedural claims and conclusions correlated with them.

[7] E. Stefańska, *Komentarz do art. 144*, [in:] *Kodeks postępowania cywilnego. Komentarz aktualizowany*, vol. 1: *Art. 1–477[16]*, ed. M. Manowska, LEX/el. 2022.

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The representation of a person whose whereabouts are unknown by the guardian is therefore only temporary and should last as long as necessary due to the lack of knowledge of the party/participant about the pending proceedings. Although the guardian's duty to seek the address of the person whose whereabouts are unknown and the obligation to serve correspondence to that person has not been explicitly stated by the legislature, the axioms of civil proceedings, in particular the essence of the principle of substantive truth, should prioritise the need to provide conditions for the party/participant of the proceedings to enter the proceedings in person or by a proxy authorised by him or her. The possibility for the absent party/participant to undertake the protection of rights on one's own, after having appointed a guardian for him or her, will be possible only if he or she is informed about the ongoing proceedings and decides to join the case. In order for this effect to materialise, it is therefore necessary for the guardian to find a communication channel with the absent party/participant of the proceedings and provide him or her with key information by serving the judicial correspondence. This assumption is confirmed by the fact that the guardian has limited possibilities to establish actual facts of the case. Usually, he or she will build his or her perception of the case on the basis of the evidence submitted in the proceedings by the other participants/parties, which by definition will serve to prove their procedural claims, often opposing to claims of the person of unknown whereabouts.[8]

In § 114 of the Regulation of the Minister of Justice of 23 February 2007 – Rules of Operation of Common Courts[9] (no longer in force) the legislature provided that the guardian of a party/participant whose whereabouts are unknown should be, if possible, a person close to that party or familiar with the state of that party's affairs, and in the absence of such persons, the appointment of a candidate may be requested from the relevant authorities. The successive Regulation of 23 December 2015 – Rules of Operation of Common Courts[10] and the Regulation of 18 June 2019 – Rules of Operation of Common Courts[11] currently shaping the system of common courts lacked the same or even a similar solution. Despite the clear lack of legal grounds, common courts still request local bar councils to designate from among their members (whether attorneys-at-law or advocates) candidates for the guardian of a person of unknown whereabouts. It is noted in the literature that the selection of the guardian must take into account the scale of their duties.[12] The Civil Procedure Code does not specify the requirements to be met by a person in order to be appointed a guardian. Given the specificity of the procedure, this function seems

[8] Cf. D. Jakimiec, *op. cit.*, p. 79.
[9] Consolidated text, Journal of Laws 2014, item 259, as amended.
[10] Journal of Laws 2015, item 2316, as amended.
[11] Consolidated text, Journal of Laws 2024, item 867, as amended.
[12] Decision of the Supreme Court of 14 April 2016, IV CSK 412/15, LEX no. 2044488.

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to be entrusted to those with legal education, i.e., advocates, attorneys-at-law, or assistants of the judge.[13] According to D. Rydlichowska, entrusting the function of guardian of a person of unknown whereabouts to members of professions of public trust provides a greater guarantee of ensuring proper representation and care for this person's interests, resulting, i.a., from the fact that advocates and attorneys-at-law are subject to disciplinary liability forcing them to act diligently, and from civil liability insurance.[14]

The purpose of this work is to review and analyze the current state of research regarding the position and competencies of the guardian of a person whose whereabouts are unknown, as well as to identify the challenges associated with the practical execution of this role by a professional representative bound by the deontology of the profession.

For the preparation of this article, the author conducted a review of the literature and judicial rulings, juxtaposing them with her own experiences acquired while serving as the guardian of a person whose whereabouts are unknown in civil proceedings.

POSITION OF THE JUDICATURE TOWARDS THE DUTIES OF THE GUARDIAN OF A PERSON OF UNKNOWN WHEREABOUTS

In the literature and judicial decisions of common courts, attempts have been made to determine the legal status of the guardian of a person of unknown whereabouts, including the characteristics and scope of his/her rights.[15] In court practice, however, there is still a polarisation of views on the function of the guardian of a person whose whereabouts are unknown, which may result from a divergent interpretation of the provisions of civil procedure, limiting the process of interpretation to their literal wording only, or assuming that the analysed fragment of the duties of the guardian of a person of unknown whereabouts is in fact a duplicate of another institution, i.e. service of correspondence by a court enforcement officer, referred to in the provision of Article 139 (1) CPC.

The prevailing view presented in the case law of the Supreme Court marginalises the obligation of the *curator absentis* to search for the absent party/participant in the proceedings and to serve judicial correspondence resulting from pending proceedings in which the latter does not participate. As an example, we can cite

[13] J. Parafianowicz, *Komentarz do art. 144*, [in:] *Kodeks postępowania cywilnego. Postępowanie procesowe. Komentarz aktualizowany*, ed. O.M. Piaskowska, LEX/el. 2023.

[14] D. Rydlichowska, *Rola kuratora dla doręczeń w postępowaniu cywilnym w kontekście zabezpieczenia interesu reprezentowanej strony*, "Palestra" 2016, no. 3, p. 28.

[15] See *ibidem*.

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an excerpt from the substantiation for the Supreme Court's decision of 14 April 2016 (IV CSK 412/15), in which the Court stated that "the guardian of a person whose whereabouts are unknown is obliged to take a position on the claims put forward by the opponent (the applicant, other participants), submit requests and statements, participate in hearings during which evidence is taken and the results thereof are examined, and undertake other actions appropriate to the state of the case, including, if necessary, filing in appellate measures. From the essence of the purpose of appointing a guardian *ad litem* follows that they are not only appointed to serve court documents. They are to take the necessary steps to defend the rights of the absent person throughout the proceedings, and the party/participant represented by the guardian has the right to expect active participation throughout the proceedings". This perspective has been upheld and developed in subsequent rulings by common courts, which have reiterated the above statement literally or paraphrased.[16] However, in the decision of the Supreme Court of 26 April 2022,[17] the Court decided that a guardian of a person whose whereabouts are unknown does not merely operate as an intermediary for the service of correspondence, but primarily acts as their statutory representative, direct substitute, and addressee of all procedural documents, until the party being represented by the guardian appears or until the final conclusion of the proceedings.

In the above-mentioned fragments, the courts ruling on the case completely disregarded the need to seek the absent party and serve the judicial correspondence and actually enable the party to enter the case. There is a noticeable tendency to prefer the promptness and efficiency of proceedings, which notabene is also guaranteed by the presence of the guardian of a person of unknown whereabouts in the proceedings, over the desire to guarantee the absent party/participant the right to actively take part in the proceedings, which is reflected in the adoption and perpetuation in the case law of the paradigm of a guardian acting only as a formal addressee of judicial correspondence. The fact that the courts deciding on the case expect only the timely receipt of court correspondence and response by the guardian may result in the guardian completely refraining from actively seeking the absent party/participant of the proceedings. However, as pointed out by K. Flaga-Gieruszyńska, the promptness of the proceedings is not an absolute value, since it is only relevant while ensuring that the essential objective of the proceedings is achieved.[18] In her opinion, entrusting the function of guardian of a person of unknown whereabouts to an attorney-at-law, who, due to his or her education,

[16] Among others, see judgment of the Court of Appeal in Warsaw of 20 September 2021, VII AGa 1034/20, LEX no. 3371195; judgment of the Court of Appeal in Gdańsk of 18 January 2021, V ACa 542/20, LEX no. 3219688.

[17] III CZ 136/22, OSNC 2023, no. 1, item 11.

[18] See K. Flaga-Gieruszyńska, *Szybkość, sprawność i efektywność postępowania cywilnego – zagadnienia podstawowe*, "Zeszyty Naukowe KUL" 2017, no. 3, p. 6.

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undoubtedly has the appropriate expertise and skills needed to act in the case, does not guarantee optimal protection of the rights of the absent party/participant of the proceedings. This situation may be due to the previously mentioned fragmentation of knowledge of the case or difficulties in obtaining evidence in favour of the absent party/participant in the proceedings. The protection of the interests of the absent party/participant in proceedings may therefore only be illusory or limited to the formulation of objections of a legal-formal nature.

The widespread acceptance and uncritical adoption of the views of the Supreme Court expressed in the substantiations of the above-mentioned decisions may have far-reaching consequences, including those resulting from abuses by a party/participant who, having become aware of the pending proceedings, deliberately decides not to join the proceedings due to the complex legal situation. The guardian of a person whose whereabouts are unknown is still formally obliged to take action in the interest of that person, despite the passive attitude of the party/participant himself or herself. In other words, it will therefore depend on the will of the absent party/participant in the proceedings whether they decide to disclose their address for service and thus release the guardian of the person of unknown whereabouts from further active participation in the case. If the *ratio legis* for introducing the institution of *curator absentis* into the Polish legal system lies in ensuring the possibility of defending the interests of a party when that party has not been informed of the pending judicial proceedings and therefore fails to take appropriate procedural steps, then the guardian's obligation to actively represent the party should be limited only to cases of non-culpable failure to appear by the party/participant in the proceedings, without the need for the guardian to formally join the proceedings.

DISCUSSION AND CONCLUSIONS

The issue of seeking for a person of unknown whereabouts by the guardian is unjustly pushed aside to the periphery of considerations regarding the essence of the institution of *curator absentis*, which is associated with disregarding the problems related to the lack of tools allowing for the quick location of the absent party/participant.

In the Polish legal system, the legislature has not provided for any regulations granting guardians of persons of unknown whereabouts any rights, including the right to submit official inquiries to public administration institutions and bodies, in order to efficiently and effectively determine the address of stay of the absent party/participant. In practice, the activity of a guardian practicing as an attorney-at-law is undertaken on an intuitive basis, in the spirit of compliance with the provisions governing the profession of attorney-at-law, i.e. the provisions of the Attorneys-at-Law

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Act,[19] including in particular the provision of Article 64 regarding the disciplinary liability of attorneys-at-law,[20] and § 10 (1) of the By-laws on Practicing as an Attorney-at-Law,[21] that provide for the ensuring of proper conditions for the storage of documents related to running the case, preventing access by unauthorised persons.

A viable way to determine the person's whereabouts for the guardian is to go to the address previously known to the court and the party who has initiated the judicial proceedings, and possibly to inquire with neighbours about the current whereabouts of the absent party/participant in the proceedings. Considering the absence of the party demonstrated with high probability, which is also indicated by the failure to collect mailing, these field searches entail a high risk of failure.

The ubiquity of the Internet and statistics on its daily use by the public,[22] as well as the unfaltering popularity of social media, may generate high expectations and chance to find online the person represented by the guardian and, if found, to establish quick and direct contact with them. The real problem then becomes identifying the right addressee, which will inevitably force the attorney-at-law to disclose certain data, on the basis of which the absent party/participant in the proceedings will be linked to a specific user of the social media platform. This form of using social media in legal practice does not seem to be very common, so the bar association of attorneys-at-law, focusing on the prevailing doubts in the community, has so far formulated recommendations only on the use of online platforms, in particular industry-specific ones, to present the profiles of attorneys-at-law for the purpose of promoting them and establishing business relationships.[23]

Nonetheless, it cannot be ruled out that the method of searching for a profile of the absent party/participant on online social media platforms, which raises reason-

[19] Act of 6 July 1982 on attorneys-at-law (consolidated text, Journal of Laws 2024, item 499, as amended).

[20] According to Article 64 (1) of the Attorneys-at-Law Act, attorneys-at-law and trainee attorneys-at-law are subject to disciplinary liability for conduct that is contrary to the law, the principles of ethics or the dignity of the profession, or for breach of their professional duties. The grounds listed in Article 64 (1) of the Attorneys-at-Law Act are of a blanket nature, so they do not allow for determining whether a particular conduct meets the statutory characteristics of a disciplinary offence. In order to find disciplinary liability, it is necessary not only to determine which of the listed forms the disciplinary court sees as the basis for the liability of the accused, but also to indicate a specific norm.

[21] See Resolution No. 94/IX/2015 of the National Council of Attorneys at Law on the By-laws on Practicing as an Attorney-at-Law of 13 June 2015.

[22] See Główny Urząd Statystyczny, *Społeczeństwo informacyjne w Polsce w 2023 roku*, 14.12.2023, https://stat.gov.pl/obszary-tematyczne/nauka-i-technika-spoleczenstwo-informacyjne/spoleczenstwo-informacyjne/spoleczenstwo-informacyjne-w-polsce-w-2023-roku,1,17.html (access: 10.10.2025).

[23] Krajowa Izba Radców Prawnych, *Aktywność radcy w social mediach a zasady etyki zawodowej. Część 1*, https://radcaprawny.kirp.pl/aktualnosci/aktywnosc-radcy-w-social-mediach-a-zasady-etyki-zawodowej-czesc-1 (access: 10.10.2025); Okręgowa Izba Radców Prawnych w Warszawie, *Radca prawny w sieci*, https://www.oirpwarszawa.pl/wykonywanie-zawodu/radca-prawny-w-sieci (access: 10.10.2025).

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able ethical and legal doubts, will become a popular and attractive alternative to the traditional, but ineffective forms of establishing contact with the absent party/participant in court proceedings. Undoubtedly, the ease of fulfilling the obligation to find the represented party/participant in the proceedings and enabling them to join the proceedings, as well as allowing the prospect of being exempted from the obligation to represent them further in the case, could be undeniably encouraging. However, regardless of the actual motives of the attorney-at-law, getting involved in the process of searching for the absent party/participant in the proceedings on social networks will, in any case, raise the question of the admissibility of such a practice.

Despite the lack of regulations governing the use of electronic means of communication by attorneys-at-law in their professional practice for contacting clients,[24] the Polish legal system does have regulations governing the processing of data, in particular clients' personal data in the digital environment, obtained by attorneys-at-law in the course of their professional activities.[25] These regulations also extend to cases where an attorney-at-law provides legal assistance as a guardian of a person of unknown whereabouts, and who attempts to locate the represented party/participant in the proceedings using social media.

In this context, the wording of the provision of Article 3 of the Attorneys-at-Law Act in conjunction with the provision of Article 9 of the Code of Ethics of Attorneys-at-Law[26] stating an obligation of professional secrecy, and the provisions of the General Data Protection Regulation[27] and the Act of 10 May 2018 on the protection of personal data[28] specifying the obligations of the personal data controller, becomes particularly important.

The attorney's-at-law obligation of professional secrecy covers any information relating to the client and client's affairs or obtained in connection with the

[24] D. Szostek, *Bezpieczeństwo danych i IT w kancelarii prawnej radcowskiej/adwokackiej/notarialnej/komorniczej. Czyli jak bezpiecznie przechowywać dane w kancelarii prawnej*, Warszawa 2017, p. 7.

[25] Rada Adwokatur i Stowarzyszeń Prawniczych Europy, *Wytyczne Rady Adwokatur i Stowarzyszeń Prawniczych Europy w zakresie korzystania przez prawników z usług pracy w chmurze*, https://kirp.pl/wp-content/uploads/2017/08/2012-09-07-wytyczne-ccbe-w-zakresie-korzystania-przez-prawnikow-z-uslug-pracy-w-chmurze.pdf (access: 10.10.2025), p. 8. English version: Council of Bars and Law Societies of Europe, *CCBE Guidelines on the Use of Cloud Computing by Bars and Lawyers*, 27.2.2025, https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Guides_recommendations/EN_ITL_20250227__CCBE-guidelines-on-the-use-of-cloud-computing-by-lawyers.pdf (access: 10.10.2025).

[26] Annex to resolution No. 884/IX/2023 of the Presidium of the National Council of Attorneys at Law of 7 February 2023 – Code of Ethics of Attorneys-at-Law.

[27] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119/1, 4.5.2016, as amended), hereinafter: GDPR.

[28] Consolidated text, Journal of Laws 2019, item 1781, as amended.

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performance of any professional activity by the attorney-at-law, irrespective of the source of information and of the form and means of recording.[29] The obligation of secrecy is also expressed in the prohibition on disclosure of information and documents,[30] or the obligation to protect any information covered by professional secrecy against unauthorised disclosure.[31]

In light of the wording of Article 4 (7) GDPR, the controller of personal data is the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data. Currently, there is no doubt in the scholarly opinion that attorneys-at-law, while performing their professional practice, enjoy the status of a personal data controller due to their independence in providing legal services and the obligation of professional secrecy. However, having the status of personal data controller is inextricably linked to a number of obligations, including the legal, fair, transparent processing of data, the limitation of the purpose of processing, the restriction of storage and the minimisation of the data being processed.[32]

However, the regulations shaping the personal data protection system and the rules for practicing as attorney-at-law combined can effectively undermine the permissibility of applying new technologies and modern forms of communication to simplify processes and overcome barriers arising from difficulties in physically determining the location of the represented party.

As it seems, the structure and content of the provisions of the Polish Civil Procedure Code leave no doubt as to the essence of the function of the guardian of a person whose whereabouts are unknown. The guardian of a person of unknown whereabouts is obliged to attempt to serve to the absent party/participant the procedural documents addressed to the latter. However, the above does not rule out the taking by the guardian of a person of unknown whereabouts, on a temporary basis, all activities related to the case on behalf and for the benefit of the absent party/participant of the proceedings, until the party being represented is found and enters the proceedings. Based on the structure of regulations and the axiology adopted in civil proceedings, it should be assumed that the priority for the guardian of a person of unknown whereabouts is to conditionally undertake actions for the party being represented until the person of unknown whereabouts is actually found, the place of his or her stay is determined, the court correspondence is served to them and the conditions for him or her to join the pending proceedings are provided. The lack of formal powers and tools allowing for the official acquisition of address data of

[29] See Article 15 (1) of the Code of Ethics of Attorneys-at-Law.

[30] See Article 16 of the Code of Ethics of Attorneys-at-Law.

[31] See Article 23 of the Code of Ethics of Attorneys-at-Law.

[32] M. Jackowski, M. Ciesielska, *Adwokat według RODO – administrator czy procesor*, 2018, https://palestra.pl/pl/czasopismo/wydanie/10-2018/artykul/adwokat-wedlug-rodo-administrator-czy-procesor (access: 10.10.2025).

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the absent party/participant, combined with the dominance in the Supreme Court's case law of the view that marginalises the importance of the act of search by the guardian for the actual place of stay of the absent party/participant of the proceedings, will lead to the abandoning the actual search for absent parties/participants by attorneys-at-law performing these functions, and undertaking ineffective and sometimes even apparent actions instead, or will force them to use practices that may sometimes be effective, but questionable from the point of view of ethical standards and legal regulations, thus putting their interest at risk.

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ABSTRAKT

Kurator osoby nieznanej z miejsca pobytu ma za zadanie nie tylko zastąpić nieobecną stronę/uczestnika postępowania cywilnego do czasu jego wstąpienia do toczącego się postępowania, lecz także jest zobowiązany do ustalenia jego adresu do doręczeń, który nie jest znany stronom postępowania i sądowi orzekającemu w sprawie. Do czasu doręczenia korespondencji sądowej nieobecnej stronie/uczestnikowi kurator podejmuje wszystkie niezbędne czynności w sprawie w jego imieniu i na jego rzecz. Kurator osoby nieznanej z miejsca pobytu nie jest uprawniony do oczekiwania udzielenia danych na temat nieobecnej strony/uczestnika postępowania przez instytucje czy organy administracji publicznej. Działania kuratorów w zakresie ustalania miejsca pobytu zastępowanej strony/uczestnika w praktyce mogą się więc sprowadzać do terenowych poszukiwań takiej osoby lub na portalach społecznościowych, co może budzić słuszne wątpliwości w świetle obowiązujących radców prawnych i adwokatów norm etyki zawodowej czy przepisów dotyczących ochrony danych osobowych.

Słowa kluczowe: kurator osoby nieznanej z miejsca pobytu; postępowanie cywilne; dane osobowe