

Success Stories 2021

25^{YRS} GWW 



Dear Clients,

Thank you for your continued confidence and for entrusting us with the care your business. We realise how important it is for you to feel secure in the knowledge that your interests are in safe hands.

We are certain in our belief that you will meet the challenges that the coming year will bring and may each of these challenges be an opportunity to further develop your business. We have worked on hundreds, if not thousands, of projects this year, many deserving special attention. Outlined within are those projects that were, from our point of view, the most demanding and which stand out as being exceptional in terms of client satisfaction.

TAX ADVISORY SERVICES

TAX ADVICE ON SALE OF POLKOMTEL INFRASTRUCTURE

GWW acted as counsel to the **Polsat Group** of companies in respect of the agreement with **Cellnex Telecom**, Europe's leading operator of wireless telecommunications and broadcasting infrastructure, concerning the sale of 99.99% of shares in **Polkomtel Infrastruktura**, being the owner of the mobile telephony infrastructure of Grupa Polsat in Poland. Polkomtel Infrastruktura is the operator of passive infrastructure comprising approximately 7,000 telecommunication towers and cell sites in addition to active infrastructure composed of approximately 37,000 radio carriers covering all bands used by 2, 3, 4 and 5G, approximately 11,300 km of fibre optic backbone networks

and fibre backhaul networks, as well as the national network of microwave radio links. The agreement included an investment of **PLN 7 billion** on the part of Cellnex Telecom plus an expansion programme to 1,500 locations, as well as additional investment in active infrastructure equipment, mainly for 5G, for approximately PLN 2.7 billion over the next 10 years. Partners of GWW responsible for the service were tax advisors **Andrzej Próchnicki** and **Mariusz Tkaczyk** and tax and legal adviser **Sebastian Gumiela**. Also involved in the project were Justyna Mańczak, Paweł Fabianowski, Jan Leuenberger, Ewa Leszczyńska, Mateusz Pietranek, Artur Bubrowiecki and Łukasz Czyż.

VICTORY BEFORE THE SUPREME ADMINISTRATIVE COURT IN A CASE TO DETERMINE TAX LIABILITY

On 11 August 2021, GWW successfully represented **Elektrim SA** in a dispute before the Supreme Administrative Court. The court administrative proceedings were initiated by a complaint from Elektrim against the decision of the Director of the Warsaw Tax Chamber of August 2016 concerning determination of tax liability in respect of corporate income tax for 2011. The subject of the appeal amounted to over **PLN 526 million** (with interest, approximately PLN 900 million). The attorney in this case was **Andrzej Ladziński**, tax adviser and GWW partner.

The judgment was significant for taxpayers as, in accordance with the established line of judicial decisions, the judgment confirms that tax authorities do not have the right to question the beneficial tax effects of significant legal transactions occurring before 2016, i.e.,



before the entry into force of the general anti-avoidance clause (GAAR). It is also significant that the Supreme Administrative Court pointed to the necessity of tax authorities to carry out full verification of the correctness of the declaration submitted by the taxpayer and not only focus on those values which may lead to an increase of the amount of tax in comparison with the declared amount. The above judgment limits the opportunity of waiving service by means of electronic communication in favour of traditional service without detailed justification stating the reasons for deviating from the principles adopted.

Details of the entire case is available at [www:https://www.pl/pl/aktualnosci/case-study-wygranasprawa-dla-elektrim-sa-przed-ns/](https://www.pl/pl/aktualnosci/case-study-wygranasprawa-dla-elektrim-sa-przed-ns/)

TAX CONSULTANCY ON THE SALE SKY TOWER, WROCLAW

GWW advised **Develia Group** in connection on the sale of Sky Tower, the tallest building in Wrocław and still one of the tallest in Poland. The preliminary agreement was signed in the second half of 2021 with a Hungarian-Cypriot fund managed by Adventum Group which included all the shares that Develia owned in the project. Develia Group was advised by **Mariusz Tkaczyk**, tax advisor and partner at GWW, and tax advisor **Artur Bubrowiecki**.

TAX ADVICE ON EOBUWIE SHARE PURCHASE TRANSACTION BY DIGITAL POLSAT

GWW provided tax advice in connection with the acquisition of 10% of **eObuwie.pl SA** shares by **Cyfrowy Polsat SA**. In-depth due diligence of internal tax procedures and tax arrangements of eObuwie.pl SA was conducted with respect to obligations arising from Polish tax law. This resulted in comprehensive tax analysis of eObuwie.pl SA and its tax position, including an indication of potential tax risks, which provided for a more informed decision-making process preceding the transaction. Cyfrowy Polsat SA made the decision to sign a preliminary agreement on the sale of shares in eObuwie.pl SA for a price of **PLN 500 million**. Partners responsible for advisory were tax advisors **Andrzej Próchnicki** and **Mariusz Tkaczyk**. GWW's side throughout the project also involved Justyna Mańczak, Jan Leuenberger, Łukasz Czyż and Artur Bubrowiecki.

TAX ADVICE ON ESTABLISHING A SERVICE CENTRE IN POLAND

GWW provided tax advice to **Nikon BV** on the design of customs and logistics processes in connection with the expansion of a Nikon Service Center for Nikon products.

Under the proposal, goods would be transported from the territory of the United Kingdom and other countries from outside the European Union to Poland by courier delivery where they would be repaired and then exported back.

The entire process would be based on the principle of inward processing inward processing. Hence, in addition to process design it was necessary to obtain authorization for an inward processing procedure.

The attorney in this case was **Sebastian Gumiela**, tax adviser and partner at GWW.

A grayscale image of the American flag, showing the stars and stripes, serves as a background for the left side of the page.

TAX CONSULTANCY FOR NEW YORK ART GALLERY

GWW's Individual Client Advisory team advised a New York art gallery on aspects of Polish tax including VAT, customs and excise duties and various scenarios of cross-border transactions, including sales. The gallery dealt with works of art being the legacy of a famous contemporary sculptor of Polish origin whose creations have broken auction records.

The GWW partner in this case was legal advisor **Aldona Leszczyńska-Mikulska**, supported by the tax team comprising tax and legal advisor and partner **Sebastian Gumiel** and tax advisor **Jan Leuenberger**.

LEGAL ADVISORY



LEGAL ADVICE DURING TENDER FOR THE ESTABLISHMENT OF THE KUJAWSKO-POMORSKIE TELECENTRE AND MAINTENANCE TELECARE SYSTEM

GWW advised **SiDLY**, an innovative Polish tech company, in the course of a public procurement procedure for the for the creation of the Kujawsko-Pomorskie Telecentre and maintenance telecare system. This was the largest tender for a telecare system in Poland since 2018. As part of the project, 2,300 seniors were to be equipped with telemedicine wristbands manufactured by the client to provide a 24/7 remote monitoring service. The project would include the provision of 24/7 access to the Telecentre operated by paramedics. The value of the contract won by SiDLY was circa PLN 2.2 million.

We supported SiDLY throughout the proceedings before the National Appeal Chamber and during preparation of explanations submitted in the course of the tender procedure. This case was administered by **Marta Lipińska**, legal adviser and **Paweł Rożyński**, lawyer, of counsel.

LEGAL ADVICE TO PKP PLK SA IN DEVELOPING NEW BASIC CONDITIONS

For 9 years, GWW has been successfully advising **PKP Polskie Linie Kolejowe SA**, the Polish railway infrastructure manager, throughout implementation of infrastructure investments. During 2020-2021, in addition to ongoing legal services in this area, the client has entrusted us with the preparation of boilerplate contracts for works contracts of the "design and build" formula and in the "build" formula for multi-million dollar investments co-financed with European Union funds. Creating new templates was necessary

in order for the contracts to meet the requirements of the amended public procurement law.

GWW was responsible for implementing the provisions of the so-called risk matrix, being issues connected with copyright protection, acceptance, investor supervision or liability for defects in project documentation. Legal advice was provided by legal adviser and partner **Michał Sękowski** and legal adviser **Marta Lipińska**.

ADVISING EUVIC IN THE ACQUISITION OF CONTROL OF eo NETWORKS SA

GWW advised Polish company **Euvic Sp. z o.o.** and its shareholders in a multi-stage and cross-border transaction by which Euvic acquired control of **eo Networks SA**. Our support covered legal and tax aspects both at the stage of adopting the transaction assumptions and preparation of draft documents as well as at the negotiation stage. The project required cooperation between with Cypriot and Polish advisors. Legal advisory in this transaction was handled by counsel and GWW partner **Ryszard Bartkowiak** and legal advisers **Bartłomiej Wyjatek** and **Michał Modrzejewski**.

VICTORY BEFORE THE SUPREME ADMINISTRATIVE COURT IN A PRECEDENT-SETTING CASE OF AN ATTEMPT TO ANNUL A BUILDING PERMIT OF AN EXISTING CONSTRUCTION

After almost 5 years of proceedings, GWW obtained a legally valid refusal for authorities to declare the construction permit of a hotel building invalid.

The building permit had been annulled and its implementation suspended at the final stage of construction of the hotel immediately before its commercial and service area was put into use. The main reason the annulment of the permit was based on what turned out to be an erroneous interpretation of the provisions of the local zoning plan. The investor learned about the suspension of construction works before he was served with the notice of initiation of proceedings for declaration of invalidity

of the construction permit. As a result of the ruling issued, construction works were suspended for many months.

The Supreme Administrative Court confirmed, as the result of arguments presented by GWW throughout the proceedings, that it is impossible to speak of a gross violation of law in a situation when one of the possible variants was the interpretation of a provision, in this case a regulation resulting from the local zoning plan.

The case was led by **Joanna Sebzda-Zaluska**, legal adviser and GWW partner, and legal adviser **Dorota Chramega**.





WIN BEFORE THE SUPREME COURT IN PROCEEDINGS TO SET ASIDE AN ARBITRATION AWARD IN A DISPUTE CONCERNING SETTLEMENT OF A FICID-BASED CONSTRUCTION WORKS CONTRACT FOR A CLIENT OPERATING WITHIN THE CONSTRUCTION INDUSTRY

After winning before the Court of Appeal two years ago, on 15 June 2021 the Supreme Court dismissed the other party's cassation appeal in accordance with our client's request. The Supreme Court shared our view on the need to fully understand the grounds for challenging the judgment, in particular the public policy clause and the allegation of deprivation of opportunity to defend one's rights. The value of the subject of the appeal exceeded PLN 20 million. The case was led by GWW partner and attorney at law **Jacek Olma**.

ESSENCE OF THE CASE

The judgment confirms the need for the independence of arbitration courts and interpretation of grounds for challenging the judgments of these courts in accordance with UNICITRAL Model Law.

MARRIAGE ON A PRIVATE ISLAND LOCATED IN THE SOUTH-WESTERN PACIFIC ARCHIPELAGO OF THE FIJI ISLANDS

GWW has successfully concluded a legal dispute with the authorities in Poland concerning the registration of a marriage at a hotel on Matangi, a private island. The task was demanding since, in addition to presenting convincing legal arguments, we had to tackle prevailing beliefs and mentality of a bygone regime.

On a picturesque island of just 240 acres (less than 1 km²) there is an exclusive boutique resort being an attractive destination for those dreaming of a unique, intimate and fairy-tale-like setting to experience the special events in their lives. This was the case for our client who decided to get to get married in this very place. The private island which was to be the actual place of the marriage gave the officials a headache as in their opinion it was not possible to register a marriage if it was not possible to determine the locality in which the marriage took place.

Matangi is an island where officially there is no village, and the address of the nearest post office is on the neighbouring island. This posed a problem due to the officials being unable to fill in the section in the marriage certificate indicating the locality in which the marriage took place.

However, we were successful in getting the marriage recognized under Polish law even though the marriage had been solemnized on an island without an address. This case was the responsibility of **Aldona Leszczyńska-Mikulska**, partner at GWW and legal adviser.



With best wishes
The GWW team

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