

Unofficial English translation of Part V of the Polish Civil Procedure Code following amendments introduced by the Act of 10 September 2015 Amending Certain Acts to Encourage Amicable Methods of Dispute Resolution (Journal of Laws Dz.U. 2015 item 1595) – translation: arbitraz.laszczuk.pl

## **POLISH CIVIL PROCEDURE CODE**

### **Part Five. Arbitration**

#### **Title I. General provisions**

**Art. 1154.** The provisions of this part shall apply if the place of the proceeding before an arbitral tribunal is within the territory of the Republic of Poland, and also in instances stipulated in this part where the place of the proceeding before an arbitral tribunal is outside the borders of the Republic of Poland or unspecified.

**Art. 1155.** §1. The place of the proceeding before an arbitral tribunal shall be specified by the parties, or if not specified by the parties shall be determined by the arbitral tribunal, taking into consideration the subject of the proceedings, the circumstances of the case and the convenience of the parties.

§2. If neither the parties nor the arbitral tribunal has determined the place of the proceeding before an arbitral tribunal, the place of the proceeding shall be deemed to be within the territory of the Republic of Poland if the award ending the proceeding in a given case is issued within such territory.

**Art. 1156.** Polish courts shall have domestic jurisdiction in cases governed by the provisions of this part if the place of the proceeding before the arbitral tribunal is within the territory of the Republic of Poland. The Polish courts shall also have domestic jurisdiction if the provisions of this part provide for action by the court in connection with a proceeding before an arbitral tribunal whose location is outside the borders of the Republic of Poland or unspecified.

**Art. 1157.** Unless otherwise provided by a specific regulation, the parties may submit to arbitration disputes regarding property rights and non-property rights which may be subject to a judicial settlement, excluding cases for support [*alimenty*].

**Art. 1158.** §1. Whenever this part refers to the court, it shall be understood as the court which would have had jurisdiction if the parties had not made an arbitration agreement.

§2. The provisions of this part shall apply as relevant both to an *ad hoc* arbitral tribunal appointed to resolve a particular dispute and to an arbitral tribunal appointed under a permanent arbitration court.

**Art. 1159.** §1. In matters governed by this part, the court may act only as provided by statute.

§2. An interlocutory appeal from a court order will lie only in cases provided by statute.

§3. In instances referred to in Art. 1171, 1172, 1177, 1178 and 1179, the court may rule *in camera*. Prior to the ruling, the court may hear the parties, which hearing may be held upon written submissions by the parties. Should the need arise, the court may request that such submission be signed with the signature certified by a notary.

**Art. 1160.** §1. Unless otherwise agreed by the parties, written notice shall be deemed served if delivered personally to the addressee or delivered to the addressee's registered office, place of usual residence, or postal address indicated by the addressee.

§2. If the addressee is a business entity entered in a relevant court register or other public register, notice shall be deemed served if delivered to the address indicated in such register, unless the party has indicated another service address.

§3. If none of the places specified above can be established despite reasonable inquiry, notice shall be deemed served if sent to the last known address of the registered office or the last known place of usual residence of the addressee. In such case notice shall be deemed served on the last day of the period when the postal item could have been collected by the addressee.

§4. The foregoing sections do not apply to service effected by the court.

## **Title II. Arbitration agreement**

**Art. 1161.** §1. Submission of a dispute to arbitration requires an agreement between the parties defining the subject of the dispute and the legal relationship under which the dispute has arisen or may arise (an arbitration agreement).

§2. Provisions of an arbitration agreement in breach of the principle of equality of the parties, in particular provisions entitling only one party to bring a case before the arbitral tribunal indicated in the arbitration agreement or before a court, shall be ineffective.

§3. An arbitration agreement may indicate a permanent arbitral tribunal for resolution of the dispute. Unless otherwise agreed by the parties, the parties are bound by the rules of such arbitral tribunal in force as of the date of the conclusion of the arbitration agreement.

**Art. 1162.** §1. The arbitration agreement shall be in writing.

§2. The requirement as to the form of the arbitration agreement shall also be met if the agreement is contained in correspondence exchanged between the parties or statements made using telecommunications enabling the content thereof to be recorded. Reference in a contract to a document containing a provision on submission of a dispute to arbitration shall meet the requirement as to the form of the arbitration agreement if the contract is made in writing and the reference is such that it makes the clause an integral part of the contract.

**Art. 1163.** §1. An arbitration agreement included in the articles of association or statute of a commercial company concerning disputes arising out of the corporate relationship shall be binding upon the company and its shareholders.

§2. §1 shall apply as relevant to arbitration agreements included in the statute of a cooperative or an association.

**Art. 1164.** An arbitration agreement concerning disputes involving labour law may be made only after the dispute has arisen and shall be in writing. Art. 1162 §2 shall not apply.

**Art. 1165.** §1. In case of filing in court of a dispute subject to an arbitration agreement, the court shall dismiss the statement of claim or the application to commence a non-adversarial proceeding if the defendant or the respondent in a non-adversarial proceeding asserts the plea of the arbitration agreement before joining issue on the merits of the case.

§2. §1 shall not apply if the arbitration agreement is invalid, ineffective, unenforceable or expired, or if the arbitral tribunal has ruled that it lacks jurisdiction.

§3. Filing of a case in court shall not prevent the arbitral tribunal from hearing the case.

§4. The preceding sections shall also apply if the place of the proceeding before the arbitral tribunal is outside the borders of the Republic of Poland or unspecified.

**Art. 1166.** §1. Submission of a dispute to arbitration shall not exclude the possibility of the court's securing the claims pursued before the arbitral tribunal.

§2. §1 shall also apply if the place of the proceeding before the arbitral tribunal is outside the borders of the Republic of Poland or unspecified.

**Art. 1167.** A power of attorney to perform a legal act granted by a business entity shall also include authority to enter into an arbitration agreement with respect to disputes arising under such legal act, unless the power of attorney provides otherwise.

**Art. 1168.** §1. If a person appointed in an arbitration agreement to be an arbitrator or the presiding arbitrator refuses to perform such function or if performance of such function by such person proves impossible for other reasons, then the arbitration agreement shall cease to be in effect, unless the parties agreed otherwise.

§2. Unless otherwise agreed by the parties, the arbitration agreement shall cease to be in effect if the arbitral tribunal indicated in the agreement refused to accept the case for hearing or for other reasons it is impossible for the tribunal to hear the case.

### **Title III. Composition of arbitral tribunal**

**Art. 1169.** §1. The parties may specify the number of arbitrators in their agreement.

§2. If not specified, an arbitral tribunal composed of three arbitrators shall be appointed.

§3. Provisions of an agreement granting one party more rights in appointment of the arbitral tribunal shall be ineffective.

**Art. 1170.** §1. A natural person with full legal capacity, irrespective of nationality, may serve as an arbitrator.

§2. A state judge cannot serve as an arbitrator. This does not apply to retired judges.

**Art. 1171.** §1. The parties may agree upon the manner of appointment of the arbitrators.

§2. Failing such agreement, the arbitrators shall be appointed in the following manner:

1) if the case is to be heard by an arbitral tribunal composed of an odd number of arbitrators, each party shall appoint an equal number of arbitrators, and then the arbitrators shall appoint the presiding arbitrator; if a party fails to appoint an arbitrator or arbitrators within one month from the date of receipt of the request of the other party to do so, or if the arbitrators appointed by the parties fail to appoint the presiding arbitrator within one month from the date of their appointment, the arbitrator, arbitrators, or presiding arbitrator shall be appointed by the court upon application of any of the parties;

2) if the case is to be heard by a single arbitrator, and the parties fail to appoint the arbitrator within one month from the date when one of the parties requested that an arbitrator be jointly appointed, then the arbitrator shall be appointed by the court upon application of any of the parties;

3) if the case is to be heard by an arbitral tribunal composed of an even number of arbitrators, each party shall appoint an equal number of arbitrators and the arbitrators shall appoint the presiding arbitrator from among themselves; if a party fails to appoint an arbitrator or arbitrators within one month from the date of receipt of the request of the other party to do so, or if the arbitrators appointed by the parties fail to appoint the presiding arbitrator within one month from the date of their appointment, the arbitrator, arbitrators or presiding arbitrator shall be appointed by the court upon application of any of the parties.

§3. A party or parties may appoint a substitute arbitrator in case of death, resignation, dismissal (or expiration of appointment) of an arbitrator they have appointed.

**Art. 1172.** If it was agreed by the parties that an arbitrator or the presiding arbitrator is to be appointed by a third party, who has failed to do so within the time specified by the parties, or if the parties failed to specify such time then within one month from the date of a request addressed to such third party to do so, either party may file an application with the court for appointment of the arbitrator or presiding arbitrator, unless otherwise agreed by the parties.

**Art. 1173.** §1. When appointing an arbitrator, the court shall take into consideration the qualifications which the arbitrator should possess in accordance with the parties' agreement, as well as other circumstances assuring appointment of an independent and impartial person to serve as arbitrator.

§2. When appointing the sole arbitrator or presiding arbitrator in a dispute between parties who have their places of residence or registered offices in different countries, the court shall consider the need to appoint a person not associated with any of those countries.

**Art. 1174.** §1. A person appointed to serve as an arbitrator shall submit a statement in writing as to his or her impartiality and independence to each of the parties and the other arbitrators. A person appointed to serve as an arbitrator shall immediately disclose to the parties any circumstances which might raise doubts as to his or her impartiality or independence.

§2. An arbitrator may be challenged solely in circumstances which raise doubts as to his or her impartiality or independence, or if he or she lacks qualifications specified in the agreement between the parties. A party who has appointed an arbitrator or participated in the arbitrator's appointment may challenge the arbitrator solely for reasons it has learned of after the appointment of the arbitrator.

**Art. 1175.** An arbitrator may resign at any time. If the resignation occurs without substantial cause, the arbitrator shall be liable for injury resulting therefrom.

**Art. 1176.** §1. The parties are free to determine the procedure for challenge of an arbitrator.

§2. If an arbitrator is not removed within one month from the date when a party filed a challenge with the arbitral tribunal in the manner specified by the parties, then the party filing the challenge may, within the following two weeks, file an application with the court challenging the arbitrator. Provisions of the agreement between the parties to the contrary shall be ineffective.

§3. Unless otherwise agreed by the parties, the party challenging an arbitrator shall, within two weeks from the date it learned of the appointment or from the date it learned about circumstances referred to in Art. 1174 §2, notify all arbitrators appointed to resolve the dispute as well as the opposing party in writing. The notice, which shall be sent to all of the

aforementioned persons at the same time, shall state the circumstances justifying the challenge.

§4. If the arbitrator does not resign within two weeks from the date the arbitrator is served with a notice of challenge of the arbitrator pursuant to §3, or is not dismissed under mutual written statements by the parties, then the party challenging the arbitrator may file an application with the court within the following two weeks challenging the arbitrator.

§5. If the arbitrator resigns or is dismissed by the parties in connection with a challenge, this shall not mean *per se* that the challenge was justified.

§6. Filing of an application with the court as referred to in §2 or 4 shall have no effect on the course of the proceeding before the arbitral tribunal unless the arbitral tribunal decides to stay the proceeding until the court decides the application.

**Art. 1177.** §1. The parties may at any time file a mutual written statement dismissing any of the arbitrators.

§2. Upon application of any party, the court may dismiss an arbitrator if it is clear that the arbitrator will not perform his or her duties within the applicable time or is in delay in performance thereof without due cause.

**Art. 1178.** §1. If an arbitrator's appointment ends, a new (substitute) arbitrator shall be appointed in the manner stipulated for the appointment of an arbitrator.

§2. If the arbitrator appointed by one of the parties resigns or is dismissed by the parties or the court twice, the other party may demand that the court appoint a new (substitute) arbitrator instead of the opposing party. Such request may be made by a party within one week from the date when the party learned that the new (substitute) arbitrator appointed by the other party has resigned or been dismissed.

**Art. 1179.** §1. An arbitrator shall have the right to a fee for his or her activities and to reimbursement of expenses incurred in connection with performance of such activities. The parties shall be jointly and severally liable therefor.

§2. If the arbitrator and the parties fail to agree on the fee and reimbursement of expenses, the arbitrator may demand that the court determine the arbitrator's fee, in accordance with

the amount of work performed and the amount in dispute, as well as the expenses subject to reimbursement.

§3. The order of the court is subject to interlocutory appeal.

#### **Title IV. Jurisdiction of arbitral tribunal**

**Art. 1180.** §1. The arbitral tribunal may rule on its own jurisdiction, including the existence, validity or effectiveness of the arbitration agreement. Invalidity or expiration of the underlying agreement containing the arbitration agreement shall not *per se* result in invalidity or expiration of the arbitration agreement.

§2. A plea that the arbitral tribunal does not have jurisdiction may be asserted no later than upon submission of the statement of defence or other time specified by the parties, unless prior to such deadline the party did not know and with reasonable inquiry could not have learned of the grounds for such plea, or if such grounds arose only after such deadline. In either instance the arbitral tribunal may consider a plea asserted after the deadline if it considers the delay justified. Appointment of an arbitrator by a party or participation in appointment of an arbitrator shall not deprive the party of the right to assert such plea. A plea that a demand by the opposing party asserted during the course of the proceeding exceeds the scope of the arbitration agreement shall be asserted promptly after such demand is asserted. The arbitral tribunal may consider a plea asserted after the deadline if it considers the delay justified.

§3. The arbitral tribunal may rule on a plea referred to in §2 in a separate order. If in such order the arbitral tribunal dismisses the plea, then either party may seek a ruling from the court within two weeks from the date of service of the order upon the party. Initiation of a proceeding before the court shall not stay hearing of the case by the arbitral tribunal. Art. 1207 shall apply as relevant to the proceeding before the court. The order of the court is subject to interlocutory appeal.

**Art. 1181.** §1. Unless otherwise agreed by the parties, upon application of a party which has substantiated its claim, the arbitral tribunal may decide on application of such security as it deems proper in view of the subject of the dispute. In issuing such order, the arbitral tribunal may make enforcement thereof contingent upon provision of appropriate security.



§2. Upon application of a party, the arbitral tribunal may amend or set aside an order issued under §1.

§3. An order by the arbitral tribunal on application of interim security measures shall be enforceable upon issuance of an enforceability clause thereto by the court. Art. 1214 §§ 2 and 3 and Art. 1215 shall apply as relevant.

**Art. 1182.** If application of an interim security measure ordered by the arbitral tribunal was clearly unwarranted, the party for whom such interim measure was applied shall be liable for injury resulting therefrom. A claim for redress of injury may also be pursued in the proceeding pending before the arbitral tribunal.

## **Title V. Procedure before arbitral tribunal**

**Art. 1183.** In a proceeding before the arbitral tribunal the parties shall be treated equally. Each party shall have the right to be heard and to present its arguments and evidence in support thereof.

**Art. 1184.** §1. Unless otherwise provided by statute, the parties may agree upon the rules and procedure before the arbitral tribunal.

§2. Unless otherwise agreed by the parties, the arbitral tribunal may, subject to statutory provisions, conduct the arbitration in such manner as it considers appropriate. The arbitral tribunal shall not be bound by the provisions on procedure before the court.

**Art. 1185.** Unless otherwise agreed by the parties, the arbitral tribunal may, irrespective of the specified place of the proceeding, hold session at any place it considers appropriate for consultation among its members or for hearing evidence.

**Art. 1186.** Unless otherwise agreed by the parties, the proceedings before the arbitral tribunal shall commence on the date when the respondent is served with the request for the case to be heard in a proceeding before the arbitral tribunal (request for arbitration). The request for arbitration shall specify the parties and the subject of the dispute and shall indicate the arbitration agreement under which the proceeding is to be conducted, and shall include appointment of an arbitrator if the party making the request for arbitration is entitled to do so.

**Art. 1187.** §1. The parties may agree on the language or languages in which the proceeding is to be conducted. Failing such agreement, the arbitral tribunal shall determine the language or languages of the proceeding. Such agreement or determination, unless otherwise provided therein, shall apply to all written statements by the parties, the hearing, and any rulings and notices by the arbitral tribunal.

§2. The arbitral tribunal may order that any document be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

**Art. 1188.** §1. Within such time as agreed by the parties, or if not otherwise agreed by the parties within a time set by the arbitral tribunal, the claimant shall file a statement of claim, and the respondent may file a statement of defence. The parties may submit with their statements all documents they consider to be relevant.

§2. Unless otherwise agreed by the parties, either party may amend or supplement the statement of claim or a statement of defence during the course of the arbitral proceeding, unless the arbitral tribunal considers it inappropriate to allow such amendment as being untimely.

§3. §§ 1 and 2 shall also apply to counterclaims.

**Art. 1189.** §1. Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold a hearing for the parties to present their arguments and evidence in support thereof, or whether the proceedings shall be conducted on the basis of documents and other materials without holding a hearing. However, unless the parties have agreed that no hearing shall be held, the arbitral tribunal shall hold a hearing if so requested by a party.

§2. The parties shall be given sufficient advance notice of any hearing and any sessions of the arbitral tribunal for the purpose of taking evidence.

§3. Any submissions to the arbitral tribunal by a party shall be served upon the other party. Both parties shall also be served with any expert reports or other written evidence which the arbitral tribunal may rely on when resolving the dispute.

**Art. 1190.** §1. The arbitral tribunal shall discontinue the proceeding if the claimant fails to file its statement of claim in accordance with Art. 1188.

§2. If the respondent fails to file a statement of defence in accordance with Art. 1188, the arbitral tribunal shall continue the proceeding. Failure to file a statement of defence shall not be deemed as admission of the facts alleged in the statement of claim.

§3. If a party fails to appear at a hearing or produce documents which the party was obliged to produce, the arbitral tribunal may continue the proceeding and issue an award on the basis of the evidence collected.

§4. §§1–3 shall not apply if the party justifies its failure to act or its absence, unless otherwise agreed by the parties.

**Art. 1191.** §1. The arbitral tribunal may hear witnesses, examine documentary evidence and make inspections, as well as examine any other necessary evidence, but it may not apply coercive measures.

§2. Unless otherwise agreed by the parties, the arbitral tribunal may also:

- 1) appoint one or more experts to provide an opinion,
- 2) require a party to provide the expert any relevant information or to produce or provide access to any relevant documents or other property for inspection by the expert.

§3. Unless otherwise agreed by the parties, upon request of a party, or if the arbitral tribunal deems it necessary, the expert shall, after delivery of his or her written or oral report, participate in a hearing where the parties have the opportunity to put questions to the expert and request explanations.

**Art. 1192.** §1. The arbitral tribunal may apply to the district court for the district in which evidence is to be taken or other action performed to take evidence or perform other action which the arbitral tribunal is unable to perform. The parties and the arbitrators may participate in the evidentiary proceeding before the district court and shall have the right to put questions.

§2. §1 shall also apply if the place of the proceeding before the arbitral tribunal is outside the borders of the Republic of Poland or unspecified.

**Art. 1193.** If any provision of this part from which the parties may derogate or any of the rules of procedure agreed by the parties are violated, a party who knew of such violation may not assert such violation before the arbitral tribunal or rely on such violation in a petition to set aside the arbitral award if the party failed to assert such violation promptly or within such time as set by the parties or by the provisions of this part.

## **Title VI. Award and termination of proceedings**

**Art. 1194.** §1. The arbitral tribunal shall resolve the dispute in accordance with the law applicable to the given relationship, and if expressly authorized to do so by the parties, in accordance with general principles of law or equity.

§2. In any event, however, the arbitral tribunal shall take into consideration the provisions of the agreement and established customs applicable to the given legal relationship.

§3. In the case of disputes arising out of contracts to which a consumer is a party, resolution of the dispute in accordance with general principles of law or principles of equity must not result in depriving the consumer of the protection afforded to him by mandatory provisions of law governing the given relationship.

**Art. 1195.** §1. In arbitral proceedings with more than one arbitrator, rulings of the arbitral tribunal shall be made by a majority vote, unless otherwise agreed by the parties. Procedural rulings may be made by the presiding arbitrator individually if so authorized by the parties or the other members of the arbitral tribunal.

§2. An arbitrator who voted against the position of the majority may note a dissenting opinion in the award, next to his or her signature.

§3. Justification of a dissenting opinion shall be drawn up within two weeks after preparation of the reasons for the ruling and included in the record.

§4. If in issuing an award the required unanimity or majority of votes cannot be reached with respect to all or part of the dispute, the arbitration agreement shall cease to be in effect in such respect.

**Art. 1196.** §1. If the parties settle the dispute before the arbitral tribunal, the arbitral tribunal shall discontinue the proceeding. The terms of the settlement shall be noted in the record and confirmed by the signatures of the parties.

§2. Upon request of the parties, the arbitral tribunal may record the settlement in the form of an award. An arbitral award issued pursuant to a settlement by the parties shall meet the requirements of Art. 1197 and shall state that it is an arbitral award. Such award shall have the same effect as any other award.

**Art. 1197.** §1. The arbitral award shall be made in writing and shall be signed by the arbitrators who issued it. If the award is issued by a panel of three or more arbitrators, the signatures of the majority of the arbitrators shall suffice, with a statement of the reason for the absence of the other signatures.

§2. The arbitral award shall state the reasons for the decision.

§3. The arbitral award shall indicate the arbitration agreement under which the award was issued, the names of the parties and the arbitrators, and the date and place of issuance. If each of the arbitrators signs the award in a different country and the parties did not specify the place of issuance of the award, the place of issuance shall be specified by the arbitral tribunal.

§4. The arbitral award shall be served on the parties.

**Art. 1198.** In addition to instances referred to in Art. 1190 §1 and Art. 1196 §1, the arbitral tribunal shall issue an order discontinuing the arbitral proceeding if:

1) the claimant withdraws its claim, unless the respondent objects and the arbitral tribunal finds that the respondent has a legitimate interest in obtaining a final resolution of the dispute, or

2) the arbitral tribunal finds that continuation of the proceedings has for any reason become unnecessary or impossible.

**Art. 1199.** After the issuance of an award or an order discontinuing the proceeding or any other order ending the proceeding in the case, the duties of the arbitrators shall terminate, except for the duties set forth in Art. 1200–1203 and Art. 1204 §1.

**Art. 1200.** §1. Within two weeks from the date of receipt of the award, unless some other time has been agreed by the parties:

1) a party may, with notice to the other party, request that the arbitral tribunal correct any ambiguities, typographical or computational errors or other obvious mistakes;

2) a party may, with notice to the other party, request that the arbitral tribunal resolve any doubts as to the wording of the award.

§2. If the arbitral tribunal finds the request to be justified, it shall make the correction or provide the interpretation within two weeks from the date of receipt of the request. An interpretation shall become an integral part of the award.

**Art. 1201.** Within one month from the date of issuance of an award, the arbitral tribunal may correct any typographical or computational errors or other obvious mistakes on its own initiative. The arbitral tribunal shall notify the parties of the corrections made.

**Art. 1202.** Unless otherwise agreed by the parties, within one month from the date of receipt of an award, a party may, with notice to the other party, request that the arbitral tribunal supplement the award as to claims presented in the arbitral proceeding but omitted from the award. After consideration of the request, the arbitral tribunal shall supplement the award within two months from filing of the request.

**Art. 1203.** §1. The arbitral tribunal, if it considers it necessary, may extend the time to file a request for correction, interpretation or supplementation of the award.

§2. Art. 1195 and 1197 shall apply as relevant to correction, interpretation or supplementation of an award.

**Art. 1204.** §1. The record in the case, together with the original award, shall be filed with the court by the arbitral tribunal.

§2. Permanent arbitral tribunals may store the records in their own archives, in which case they shall make them available to the court or to other competent authorities upon request.

§3. In case of rehearing of the case by an arbitral tribunal, the arbitral tribunal shall have the right to review the stored record.

## **Title VII. Petition to set aside arbitral award**

**Art. 1205.** §1. An arbitral award issued in the Republic of Poland may be set aside by the court solely in a proceeding initiated by filing of a petition to set aside the award, in accordance with the provisions hereinbelow.

§2. If the parties agreed that the proceeding before the arbitral tribunal shall include more than one instance, §1 shall apply to the final arbitral award resolving the claims of the parties.

**Art. 1206.** §1. A party may by petition demand that an arbitral award be set aside if:

1) there was no arbitration agreement, or the arbitration agreement is invalid, ineffective or no longer in force under the provisions of applicable law;

2) the party was not given proper notice of the appointment of an arbitrator or the proceeding before the arbitral tribunal or was otherwise deprived of the ability to defend its rights before the arbitral tribunal;

3) the arbitral award deals with a dispute not covered by the arbitration agreement or exceeds the scope of the arbitration agreement; however, if the decision on matters covered by the arbitration agreement is separable from the decision on matters not covered by the arbitration agreement or exceeding the scope thereof, then the award may be set aside only with regard to the matters not covered by the arbitration agreement or exceeding the scope thereof; exceeding the scope of the arbitration agreement cannot constitute grounds for vacating an award if a party who participated in the proceeding failed to assert a plea against hearing the claims exceeding the scope of the arbitration agreement;

4) the requirements with regard to the composition of the arbitral tribunal or fundamental rules of procedure before such tribunal, arising under statute or specified by the parties, were not observed;

5) the award was obtained by means of an offence or the award was issued on the basis of a forged or altered document; or

6) a legally final court judgment was issued in the same matter between the same parties.

§2. An arbitral award shall also be set aside if the court finds that:

1) in accordance with statute the dispute cannot be resolved by an arbitral tribunal, or

2) the arbitral award is contrary to fundamental principles of the legal order of the Republic of Poland (public order clause).

**Art. 1207.**

§1. Art. 368 shall apply as relevant to a petition to set aside an arbitral award.

§2. Unless otherwise provided herein, the provisions governing an appeal shall apply as relevant to a petition to set aside an arbitral award.

**Art. 1208.** §1. A petition to set aside an arbitral award shall be filed with the court of appeal whose territory includes the court that would have been proper to hear the case if the parties had not made an arbitration agreement, or if such basis is absent, the Warsaw Court of Appeal, within two months after service of the award, or if a party has applied for supplementation, correction or interpretation of the award, within two months after service by the arbitral tribunal of the ruling on the application.

§2. If a petition to set aside an arbitral award is based on grounds provided in Art. 1206 §1 (5) or (6), the deadline for filing the petition shall run from the date when the party learned of such grounds. However, a party cannot demand that an award be set aside more than five years after the date of service of the award.

§3. A cassation appeal shall lie against the judgment issued in the proceeding to set aside an arbitral award. Renewal of a proceeding completed with a legally final judgment on setting aside of an arbitral award, or declaration of the unlawfulness of a legally final judgment on this matter, may also be sought.

**Art. 1209.** §1. The court with which a petition to set aside an arbitral award has been filed may, upon application of a party, stay the proceeding for a definite period in order to give the arbitral tribunal an opportunity to renew the arbitral proceeding in order to eliminate the grounds for vacating the award.



§2. In the renewed arbitral proceeding, the arbitral tribunal shall perform the actions indicated by the court. Art. 1202 shall apply as relevant. The parties shall not however have the right to file a separate petition to set aside an arbitral award issued under this procedure. Allegations with respect to the actions of the arbitral tribunal or against the award issued shall be considered by the court following the renewed proceeding.

**Art. 1210.** In closed session, the court may stay enforcement of an arbitral award, but may condition the stay on submission of security. An interlocutory appeal to another panel of the same court shall lie against the order of the court.

**Art. 1211.** If an arbitral award is set aside, that shall not result in expiration of the arbitration agreement, unless the parties agreed otherwise.

### **Title VIII. Recognition and enforcement of arbitral award or settlement made before arbitral tribunal**

**Art. 1212.** §1. An arbitral award or a settlement made before an arbitral tribunal shall have legal effect equal to a court judgment or a settlement made before a court, upon recognition or enforcement thereof by the court.

§2. An arbitral award or settlement made before an arbitral tribunal, irrespective of the country of issuance, shall be subject to recognition or enforcement in accordance with the rules set forth in this title.

**Art. 1213.** §1. The court shall rule on recognition or enforcement of an arbitral award or a settlement made before an arbitral tribunal upon application of a party. The party shall enclose with the application the original award or settlement or a copy thereof certified by the arbitral tribunal, as well as the original arbitration agreement or an officially certified copy thereof. If the arbitral award, settlement made before an arbitral tribunal, or arbitration agreement is not in Polish, the party shall enclose a certified Polish translation.

§2. A party may present its position on the matter to the court within two weeks after service of the application.

**Art. 1213<sup>1</sup>.** §1. The court of appeal whose territory includes the court which would have been proper to hear the case if the parties had not made an arbitration agreement shall rule

on recognition or enforcement of an arbitral award or a settlement made before an arbitral tribunal, or if such basis is absent, the Warsaw Court of Appeal.

§2. The provisions governing an appeal shall apply as relevant to a proceeding for recognition or enforcement of an arbitral award or a settlement made before an arbitral tribunal.

**Art. 1214.** §1. The court shall rule in an order issued in closed session on recognition of an arbitral award or settlement made before an arbitral tribunal which is not capable of enforcement by way of execution.

§2. The court shall confirm the enforceability of an arbitral award or settlement made before an arbitral tribunal which is capable of enforcement by way of execution by issuing an enforcement clause for it. An arbitral award or settlement made before an arbitral tribunal whose enforceability has been confirmed is a writ of enforcement.

§3. The court shall refuse recognition or enforcement of an arbitral award or a settlement made before an arbitral tribunal if:

1) in accordance with statute the dispute cannot be resolved by an arbitral tribunal, or

2) recognition or enforcement of the arbitral award or settlement made before an arbitral tribunal would be contrary to fundamental principles of the legal order of the Republic of Poland (public order clause).

§4. An interlocutory appeal to another panel of the same court shall lie against the order of the court of appeal on recognition or enforcement of an arbitral award issued in the Republic of Poland or a settlement made before an arbitral tribunal [in the Republic of Poland].

**Art. 1215.** §1. The court shall rule on recognition or enforcement of an arbitral award issued abroad or a settlement made before an arbitral tribunal abroad after conducting a hearing.

§2. In addition to the grounds set forth in Art. 1214, upon application of a party the court shall refuse recognition or enforcement of an arbitral award issued abroad or a settlement made before an arbitral tribunal abroad if the party demonstrates that:

1) there was no arbitration agreement, or the arbitration agreement is invalid, ineffective or no longer in force under the provisions of applicable law;

2) the party was not given proper notice of the appointment of an arbitrator or the proceeding before the arbitral tribunal or was otherwise deprived of the ability to defend its rights before the arbitral tribunal;

3) the arbitral award deals with a dispute not covered by the arbitration agreement or exceeds the scope of the arbitration agreement; however if the decision on matters covered by the arbitration agreement is separable from the decision on matters not covered by the arbitration agreement or exceeding the scope thereof, recognition or enforcement of the arbitral award may be refused only with regard to the matters not covered by the arbitration agreement or exceeding the scope thereof;

4) the composition of the arbitral tribunal or the procedure before the tribunal was inconsistent with the agreement of the parties, or if there was no agreement in this respect, was inconsistent with the law of the country in which the proceeding before the arbitral tribunal was conducted; or

5) the arbitral award has not yet become binding on the parties, or it was set aside or enforcement thereof was stayed by the court of the country in which or in accordance with the laws whereof the award was issued.

§3. An order of the court of second instance on recognition or enforcement of an arbitral award issued abroad and/or a settlement made before an arbitral tribunal abroad shall be subject to cassation appeal; there shall also be a right to demand that proceedings concluded with a final order on recognition or enforcement of an arbitral award be resumed or that a final order in this respect be declared inconsistent with the law.

§3. A cassation appeal shall lie against the legally final order of the court on recognition or enforcement of an arbitral award issued abroad or a settlement made before an arbitral tribunal abroad. Renewal of a proceeding completed with a legally final order on recognition or enforcement, or declaration of the unlawfulness of a legally final order on this matter, may also be sought.

**Art. 1216.** §1. If a petition is filed to set aside an arbitral award pursuant to Title VII, the court with which an application for recognition or enforcement of the award was filed may

postpone consideration of the case. The court may also, upon application of the party demanding recognition or enforcement of the award, order the other party to provide appropriate security.

§2. §1 shall apply as relevant if a petition to set aside an arbitral award issued abroad was filed in a country in which or in accordance with the laws whereof the award was issued.

§3. §§ 1 and 2 shall apply as relevant to a settlement made before an arbitral tribunal.

**Art. 1217.** In a proceeding for recognition or enforcement of an arbitral award issued in the Republic of Poland or a settlement made before an arbitral tribunal in the Republic of Poland, the court shall not examine the circumstances referred to in Art. 1214 §3 if a petition to set aside the arbitral award was denied with legal finality.