

ACT
of 17 November 1964
CODE OF CIVIL PROCEDURE
(consolidated text)

Copyright note:

Translation of the official text into English based on the translations available in legal databases “Lex” by WoltersKluwer Polska S.A. and “Legalis” by Wydawnictwo C.H. Beck sp. z o.o. corrected, amended and supplemented by dr Andrzej Olaś, att. at law.

Legend:

Issues not covered by UNCITRAL Model Law on International Commercial Arbitration of 1985 (with amendments as adopted in 2006)

[Informative headings added by A.O.- reference to a corresponding provision of UNCITRAL Model Law]

Z komentarzem [u1]: A quotation from a corresponding provision of UNCITRAL Model Law

PART FIVE
ARBITRAL TRIBUNAL
TITLE I
GENERAL PROVISIONS

Article 1154 [Territorial jurisdiction - Article 1 sect. 2 Model Law]. The provisions of this Part apply if the place (seat) of arbitration is in the Republic of Poland and also, in the instances referred to in this Part, if the place of arbitration is outside the Republic of Poland or is not determined.

Article 1155 § 1 [Place / seat of arbitration - Article 20 sect. 1 Model Law]. The place (seat) of arbitration shall be designated by the parties or, if the parties fail to designate it, by the arbitral tribunal, having regard to the relief sought (the subject matter of the arbitration), circumstances of the case, including the convenience of the parties.

Z komentarzem [u2]: The provisions of this Law, except articles 8, 9, 17 H, 17 I, 17 J, 35 and 36, apply only if the place of arbitration is in the territory of this State.

Z komentarzem [u3]: 1. The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

2. Notwithstanding the provisions of paragraph (1) of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents => see the Article 1185 CCP

§ 2. If the place (seat) of arbitration is not determined either by the parties or by the arbitral tribunal, it shall be deemed to be located in the Republic of Poland if the final award was issued there.

Article 1156 [Domestic jurisdiction of state courts – in a limited scope Article 6 Model Law]. Polish courts shall have domestic jurisdiction in cases governed by the provisions of this Part if the place (seat) of arbitration is in the Republic of Poland. Polish courts shall also have domestic jurisdiction if the provisions of this Part provide for judicial actions related to arbitration where the place of arbitration is located outside the Republic of Poland or has not been determined.

Article 1157 [Objective scope of application / Arbitrability – in a limited scope Article 1 Model Law]. Except as otherwise provided for in specific laws & regulations, the parties may bring before an arbitral tribunal:

1) disputes involving property rights (proprietary disputes), except maintenance cases (child & spousal support / payment of alimony),

2) disputes involving non-property rights (non-proprietary disputes) which may be resolved by a court settlement.

Article 1158 § 1 [The notion of the court & subject-matter jurisdiction of state courts - in a limited scope Article 2 point c) Model Law]. Any reference in this Part to a court includes a court which would be competent to hear a case if the parties had not concluded an arbitration agreement.

§ 2 [The meaning of the arbitral tribunal - Article 2 point a) Model Law]. The provisions of this Part shall apply to an arbitral tribunal appointed to resolve a particular dispute (*ad hoc* arbitral tribunal) as well as an arbitral tribunal appointed within a framework of a permanent arbitral institution.

Article 1159 § 1 [Extent of court intervention - Article 5 Model Law]. To the extent regulated by the provisions of this Part, the court may only take actions (intervene in the arbitral process) if the law so provides.

§ 2. Decisions of the court may be appealed in the instances specified in the law.

§ 3. In events as referred to in Article 1171, 1172, 1177, 1178 and 1179, the court may decide a case in camera. Before deciding the case, the court may hear the parties; the parties may also be heard by submitting their written statements. If necessary, the court may request that signatures on the written submissions be certified by a notary.

Article 1160 § 1 [Receipt of written communications - Article 3 Model Law]. Except as

Z komentarzem [u4]: The functions referred to in articles 11(3), 11(4), 13(3), 14, 16(3) and 34(2) shall be performed by ... [Each State enacting this model law specifies the court, courts or, where referred to therein, other authority competent to perform these functions.]

Z komentarzem [u5]: Article 1. Scope of application
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(1) This Law applies to international commercial² arbitration, subject to any agreement in force between this State and any other State or States.
(2) The provisions of this Law, except articles 8, 9, 17 H, 17 I, 17 J, 35 and 36, apply only if the place of arbitration is in the territory of this State. (Article 1(2) has been amended by the Commission at its thirty-ninth session, in 2006)
(3) An arbitration is international if:
(a) the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States; or
(b) one of the following places is situated outside the State in which the parties have their places of business: (i) the place of arbitration if determined in, or pursuant to, the arbitration agreement; (ii) any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or
(c) the parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one country.
(4) For the purposes of paragraph (3) of this article:
(a) if a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement;
(b) if a party does not have a place of business...

Z komentarzem [u6]: "court" means a body or organ of the judicial system of a State;

Z komentarzem [u7]: "arbitration" means any arbitration whether or not administered by a permanent arbitral institution;

Z komentarzem [u8]: In matters governed by this Law, no court shall intervene except where so provided in this Law.

Z komentarzem [u9]: (1) Unless otherwise agreed by the parties: (a) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place...

otherwise agreed by the parties, a written notice shall be considered served if it is delivered to the addressee in person or delivered to his registered office or place of usual stay (habitual residence) or to the postal address indicated by the addressee (mailing address).

§ 2. If an addressee is an entrepreneur registered in a relevant court register or other public register, notice shall be considered delivered if it is delivered to the address specified in the register, unless a party provided another address for delivery.

§ 3. If none of the places referred to in the preceding Clauses may be determined despite due diligence, a written notice shall be considered delivered when sent to the last known address of the addressee's usual stay. In such event, notice shall be considered delivered on the last day of the period in which mail could have been collected by the addressee.

§ 4. The preceding paragraphs do not apply to court services.

TITLE II

ARBITRATION AGREEMENT

Article 1161 § 1 [Definition of an arbitration agreement - Article 7 sect. 1 Model Law].

In order to submit a dispute to arbitration, the parties must conclude an agreement specifying the matter at issue or the legal relationship from which a dispute has arisen or may arise (arbitration agreement).

§ 2. Provisions of an arbitration agreement which violate the principle of equality of the parties, in particular provisions which entitle only one of the parties to bring a dispute before an arbitral tribunal specified in the arbitration agreement or before a court, shall be ineffective.

§ 3. An arbitration agreement may identify a permanent arbitral tribunal as competent to resolve a dispute. Except as otherwise agreed by the parties, the parties shall be bound by the arbitral rules of such permanent arbitral tribunal in force on the date of the submission of a statement of claim.

Article 1162 § 1 [Form of an arbitration agreement - Article 7 sect. 2 sentence 1 Model Law in original wording]. An arbitration agreement shall be in writing.

§ 2. [Article 7 sect. 2 sentence 2 part 1 & sentence 3 Model Law in original wording]. An arbitration agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters or declarations by means of telecommunication which provide a record of the agreement. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

Article 1163 § 1 [Arbitration agreements in commercial companies]. An arbitration clause in the articles (memorandum) of association of a commercial company concerning

Z komentarzem [u10]: "Arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not

Z komentarzem [u11]: The arbitration agreement shall be in writing.

Z komentarzem [u12]: An arbitration agreement is in writing if it is contained in a document signed by the parties or in the exchange of letters, telex, telegrams, or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by the other. The reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

disputes arising from company relationships is binding on the company, its shareholders, the company's bodies (organs) and their members.

§ 2. In cases for setting aside or declaration of nullity of a resolution of the meeting of shareholders of a limited liability company or the general meeting of a joint-stock company, an arbitration clause is effective if it provides for the obligation to announce the commencement of proceedings in a manner required for company announcements at the latest within one month from the date of its commencement; the announcement may also be published by a claimant. In these matters, each shareholder may join one of the parties in the proceedings within one month from the date of announcement. The composition of the arbitral tribunal designated in the earliest initiated case shall be competent to hear all other cases for setting aside or declaration of nullity of the same resolution of the meeting of shareholders of a limited liability company or the general meeting of a joint-stock company.

§ 3. The provisions of § 1 apply accordingly to arbitration clauses in the memorandum of association of a cooperative or association.

Article 1164 [Arbitration agreements in labor law disputes]. An arbitration agreement pertaining to labor law disputes may be made only after the dispute has arisen and shall be in writing. Article 1162 § 2 does not apply.

Article 1164¹ § 1 [Arbitration agreements in consumer contracts]. An arbitration agreement covering disputes arising from a contract concluded by the consumer may only be made after a dispute has arisen and shall be made in writing. The provision of Article 1162 § 2 shall not apply.

§ 2. The arbitration agreement referred to in § 1 shall also contain, under the pain of nullity, an indication that the parties are aware of the effects of the arbitration agreement, in particular with regard to the legal force of an arbitral award or of a settlement concluded before an arbitral tribunal equal to a court judgment or a settlement concluded before a court after their recognition or enforcement by a court.

Article 1165 § 1 [Enforceability of arbitration agreements - Article 8 Model Law]. If an action is brought before a court concerning a dispute covered by the scope of arbitration agreement, the court shall reject a statement of claim or a petition to institute non-contentious proceedings if the respondent or participant to non-contentious proceedings invokes an arbitration agreement before entering defense on the substance of the dispute.

§ 2. The provisions of § 1 shall not apply if an arbitration clause is null and void, inoperative, incapable of being performed or **has expired, and if the arbitral tribunal declines its jurisdiction.**

§ 3. Bringing an action before the state court shall not preclude the arbitral tribunal from hearing the case.

§ 4. The preceding paragraphs shall also apply if the place (seat) of arbitration is outside the Republic of Poland or has not been determined.

Z komentarzem [u13]: (1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.
(2) Where an action referred to in paragraph (1) of this article has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

Article 1166 § 1 [Interim measures issued by courts in support of arbitration proceedings - Article 9 Model Law]. Submission of a dispute to arbitration shall not preclude the court from granting interim measures for claims sought in arbitration.

§ 2. The provision of § 1 shall also apply if the seat of arbitration is outside the Republic of Poland or has not been determined.

Article 1167 [Power of attorney granted by entrepreneur]. A power of attorney to perform an act in law granted by an entrepreneur shall authorize its holder to enter an arbitration agreement on behalf of the principal with respect to disputes arising out of that act in law, unless the power of attorney stipulates otherwise.

Article 1168 § 1 [Expiry of the arbitration agreement]. If a person indicated in an arbitration agreement as an arbitrator or presiding arbitrator refuses to serve or otherwise proves incapable of serving in such capacity, the arbitration agreement shall expire, unless the parties decide otherwise.

§ 2. Except as otherwise agreed by the parties, an arbitration agreement shall expire if the arbitral tribunal indicated therein refuses to hear the case or otherwise proves incapable of hearing the case.

TITLE III

COMPOSITION OF AN ARBITRAL TRIBUNAL

Article 1169 § 1 [The number of arbitrators - Article 10 sect. 1 Model Law]. The parties are free to determine the number of arbitrators in their agreement.

§ 2 [Article 10 sect. 2 Model Law]. Failing such determination, the number of arbitrators shall be three.

§ 2¹. If an action is filed by two or more persons or two or more persons are sued, they shall appoint the arbitrator unanimously, unless the arbitration agreement provides otherwise.

§ 3. Provisions of the agreement which confer on one party more rights with respect to the appointment of the arbitral tribunal shall be ineffective.

Article 1170 § 1. [Capacity to act as an arbitrator- Article 11 sect. 1 Model Law]. A natural person with full capacity to perform acts in law, irrespective of his or her nationality, may serve as an arbitrator.

§ 2. A state judge may not serve as an arbitrator. However, this shall not apply to retired judges.

Z komentarzem [u14]: It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

Z komentarzem [u15]: (1) The parties are free to determine the number of arbitrators.

Z komentarzem [u16]: (2) Failing such determination, the number of arbitrators shall be three

Z komentarzem [u17]: (1) No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.

Article 1171 § 1 [Appointment procedure - Article 11 sect. 2 Model Law]. The parties are free to agree on a procedure of appointing the arbitrators.

§ 2 [Article 11 sect. 3 Model Law]. If the parties do not agree on such procedure, arbitrators shall be appointed in the following manner:

- 1) if the case is to be heard by a panel composed of an uneven number of arbitrators, each party shall appoint the same number of arbitrators and the arbitrators thus appointed shall appoint the presiding arbitrator; if a party fails to appoint the arbitrator or arbitrators within one month of receipt of a request of the other party to do so, or if the arbitrators appointed by the parties fail to agree on the presiding arbitrator within one month of their appointment, the arbitrator or arbitrators or the presiding arbitrator shall be appointed by the court at the request of any of the parties;
- 2) if the case is to be heard by a sole arbitrator and the parties fail to appoint the arbitrator within one month of a receipt of a request that the arbitrator be jointly appointed, the arbitrator shall be appointed by the court at the request of any of the parties;
- 3) if the case is to be heard by a panel composed of an even number of arbitrators, each party shall appoint the same number of arbitrators and the arbitrators thus appointed shall appoint the presiding arbitrator from among themselves; if a party fails to appoint the arbitrator or arbitrators within one month of receipt of a request from the other party to do so, or if the arbitrators appointed by the parties fail to appoint the presiding arbitrator within one month of their appointment, the arbitrator or arbitrators or the presiding arbitrator shall be appointed by the court at the request of any of the parties.

§ 3. A party or parties may appoint a substitute arbitrator in case of death, resignation, removal (or termination of mandate) of the arbitrator they have appointed.

Article 1172 [Lack of appointment by third party nomination body - Article 11 sect. 4 point c Model Law]. If, according to an agreement between the parties, an arbitrator or a presiding arbitrator is to be appointed by a third party who fails to do so within the time limit determined by the parties or, if the parties did not determine an appropriate time limit, within one month from the day of being requested to do that, each party may request the court to appoint an arbitrator or presiding arbitrator, unless the parties have agreed otherwise.

Article 1173 § 1 [Appointment by the court - Article 11 sect. 5 Model Law]. When appointing an arbitrator, the court shall give due regard to any qualifications required of the arbitrator by the parties' agreement and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator.

§ 2. When appointing the sole arbitrator or presiding arbitrator in a dispute between parties who have their respective places of residence or places of business (registered offices) in different states, the court shall take into consideration the advisability of appointing an arbitrator of a nationality other than those of the parties.

Article 1174 § 1. [Independence & impartiality of arbitrators - Article 12 sect. 1 Model

Z komentarzem [u18]: The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this article.

Z komentarzem [u19]: (3) Failing such agreement, (a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court or other authority specified in article 6; (b) in an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon request of a party, by the court or other authority specified in article 6.

Z komentarzem [u20]: (4) Where, under an appointment procedure agreed upon by the parties, (c) a third party, including an institution, fails to perform any function entrusted to it under such procedure, any party may request the court or other authority specified in article 6 to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

Z komentarzem [u21]: A decision on a matter entrusted by paragraph (3) or (4) of this article to the court or other authority specified in article 6 shall be subject to no appeal. The court or other authority, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

Law]. A person appointed as an arbitrator shall provide each of the parties and other arbitrators with a statement confirming their impartiality and independence. A person appointed as an arbitrator shall immediately disclose to the parties any circumstances that could raise doubts as to their impartiality or independence.

§ 2. **[Grounds for challenging arbitrators - Article 12 sect. 2 Model Law].** An arbitrator may only be challenged if there are circumstances giving rise to justifiable doubts as to its impartiality or independence, or if it does not possess the required qualifications, as agreed to by the parties. The party which appointed or participated in the appointment of an arbitrator may only challenge it for reasons which that party became aware of after the appointment.

Article 1175 [Resignation of the arbitrator]. An arbitrator may withdraw from its office at any time. When resigning without justifiable cause, the arbitrator shall be liable for any damage resulting thereof.

Article 1176 § 1 [Procedure for challenging arbitrators Article 13 sect. 1 Model Law]. The parties are free to agree on a procedure for challenging an arbitrator.

§ 2 **[Article 13 sect. 3 Model Law].** If the arbitrator is not disqualified within one month of the party giving a notice of challenge to the arbitral tribunal in the manner agreed upon by the parties, the challenging party may, within the two following weeks, apply to the court for the recusal of the arbitrator. Provisions of the agreement between the parties to the contrary shall be ineffective.

§ 3 **[Article 13 sect. 2 Model Law].** Unless the parties have agreed otherwise, the challenging party shall, within two weeks of becoming aware of the appointment of the challenged arbitrator, or after becoming aware of any circumstance referred to in Article 1174 § 2, give written notice thereof to all arbitrators appointed to resolve the case and to the opposing party. The notice, which shall be sent to all of the aforementioned persons at the same time, shall state the reasons for the challenge.

§ 4 **[Article 13 sect. 3 Model Law].** If the challenged arbitrator neither withdraw from his office nor is removed under joint written statements by the parties within two weeks of being served with the notice of challenge in accordance with § 3, the challenging party may, within two weeks, apply to the court for the arbitrator to be recused.

§ 5 **[Article 14 sect. 2 Model Law].** If the arbitrator resigns or is removed by the parties as a result of the notice of challenge, this shall not by itself imply acceptance of the validity of the grounds for the challenge.

§ 6 **[Article 13 sect. 3 Model Law].** The filing of the application referred to in § 2 and § 4 with the court shall not affect the arbitration, unless the arbitral tribunal decides to stay the proceedings pending the consideration of the application.

Z komentarzem [u22]: When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him.

Z komentarzem [u23]: (2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made

Z komentarzem [u24]:
(1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of paragraph (3) of this article.

Z komentarzem [u25]:
(3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this article is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the court or other authority specified in article 6 to decide on the ...

Z komentarzem [u26]: Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in article 12(2), send a written statement of th ...

Z komentarzem [u27]:
(3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this article is not successful, the challenging party may request, within thirty days after having received notice of the decisio ...

Z komentarzem [u28]: If, under this article or article 13(2), an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this article ...

Z komentarzem [u29]:
(3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this article is not successful, the challenging party may request, within thirty days after having received notice of the decisio ...

Article 1177 § 1 [Removal of the arbitrator by the court]. The parties may at any time file a joint written statement of removal of each of the arbitrators.

§ 2 [Article 14 sect. 1 Model Law]. At the request of either party, the court may remove the arbitrator if it is clear that the arbitrator will be unable to timely perform his duties or if it unduly delays with the performance of its duties.

Article 1178 § 1 [Appointment of substitute arbitrator - Article 15 Model Law]. In the event of expiry of the mandate of an arbitrator, a substitute arbitrator shall be appointed in accordance with the arbitrator appointment procedure.

§ 2. If an arbitrator appointed by one of the parties resigns or is removed twice by the parties or by the court, the other party may request the court to appoint a substitute arbitrator on behalf of the adverse party. A party may file a relevant petition within one week from the day on which it learns that the substitute arbitrator appointed by the adverse party has resigned or has been removed.

Article 1179 § 1 [Remuneration and reimbursement of arbitrators' expenses]. An arbitrator shall be entitled to a remuneration for its service and to reimbursement of expenses incurred in connection with the performance of its duties. The parties shall be jointly and severally liable therefor.

§ 2. If the arbitrator and the parties fail to agree on the remuneration and reimbursement of expenses, the arbitrator may request the court to determine the arbitrator's remuneration in proportion to the amount of work performed, amount in dispute and reimbursable expenses.

§ 3. A court decision may be appealed.

TITLE IV

JURISDICTION OF AN ARBITRAL TRIBUNAL

Article 1180 § 1 [Competence-Competence & the separability of the arbitration agreement - Article 16 sect. 1 Model Law]. The arbitral tribunal may rule on its own jurisdiction, including the existence, validity or effectiveness of the arbitration agreement. Invalidation or expiration of the underlying contract in which the arbitration agreement was included shall not in and of itself mean the invalidity or expiration of the arbitration agreement.

§ 2 [Challenge to the jurisdiction of the arbitral tribunal - Article 16 sect. 2 Model Law]. The party should make an objection to jurisdiction in a statement of defence or at any other time specified by the parties, unless prior to such time the party did not learn and could not reasonably have learned of the grounds for such objection, or if such grounds arose at a later date. The arbitral tribunal may, in either case, hear a plea raised at a later date if it considers the delay

Z komentarzem [u30]:

(1) If an arbitrator becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court or other authority specified in article 6 to decide on the termination of the mandate, which decision shall be subject to no appeal.

Z komentarzem [u31]: Where the mandate of an arbitrator terminates under article 13 or 14 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

Z komentarzem [u32]: The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.

Z komentarzem [u33]: A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the

justified. A party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the claim brought by the other party in the course of proceedings exceeds the scope of the arbitration agreement should be raised immediately after such a claim is brought. The arbitral tribunal may hear a late objection if it considers the delay justified.

§ 3 [Article 16 sect. 3 Model Law]. The arbitral tribunal may rule on the objection referred to in § 2 in a separate decision. If such decision dismisses the objection, either party may, within two weeks of being served with the decision, seek resolution from a court. Initiation of court proceedings shall not stay the arbitration. Article 1207 applies mutatis mutandis to court proceedings. A court decision may be appealed.

Article 1181 § 1 [Interim measures granted by the arbitral tribunal Article 17 Model Law'1985]. Except as otherwise agreed by the parties, the arbitral tribunal may, at the request of the party which has substantiated its claim, grant such interim measures as it considers appropriate considering the matter at issue. When issuing a relevant decision, the arbitral tribunal may make the enforcement of an order to grant an interim measure contingent upon appropriate security being provided.

§ 2. At the request of a party, the arbitral tribunal may modify or terminate an order issued under § 1.

§ 3 [Art. 17d Model Law]. An order issued by the arbitral tribunal granting an interim measure shall be enforced after the court has issued a writ of enforcement for that order. Article 1214 § 2 and § 3 and Article 1215 shall apply accordingly.

Article 1182 [Damages for the unduly enforcement of interim measures - Article 17G]. If the implementation of an interim measure ordered by the arbitral tribunal was manifestly unfounded, the party to whom such measure was granted shall be liable for any resulting damage. A claim for redress of damage may also be pursued in arbitration.

TITLE V

PROCEEDINGS BEFORE THE ARBITRAL TRIBUNAL

Article 1183 [Equal treatment of parties and the right to be heard - Article 18]. In arbitration proceedings the parties shall be treated equally. Each party shall be given an opportunity to present its case and to present evidence.

Article 1184 § 1 [Procedural autonomy - Article 19]. Unless otherwise provided for by this Code, the parties may determine the principles and the procedural rules of proceedings before the Arbitral Tribunal

§ 2. Except as otherwise agreed by the parties, the arbitral tribunal may, subject to the provisions of this Code, conduct proceedings in such manner as it considers appropriate. The

Z komentarzem [u34]: The arbitral tribunal may rule on a plea referred to in paragraph (2) of this article either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, the court specified in article 6 to decide the matter, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

Z komentarzem [u35]: Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute. The arbitral tribunal may require any party to provide appropriate security in connection with that measure.

Z komentarzem [u36]: The arbitral tribunal may modify, suspend or terminate an interim measure or a preliminary order it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative

Z komentarzem [u37]: The party requesting an interim measure or applying for a preliminary order shall be liable for any costs and damages caused by the measure or the order to any party if the arbitral tribunal later determines that, in the circumstances, the measure or the order should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings

Z komentarzem [u38]: The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

Z komentarzem [u39]: (1) Subject to the provisions of this Law, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings. (2) Failing such agreement, the arbitral tribunal may, subject to the provisions of this Law, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

arbitral tribunal shall not be bound by the provisions on judicial proceedings.

Article 1185 [Meetings for special purposes - Article 20 sect 2]. Except as otherwise agreed by the parties, the arbitral tribunal may, regardless of the agreed place of arbitration, meet at any place it considers appropriate for consultation among its members or taking of evidence.

Article 1186 [Request for arbitration - Article 21]. Except as otherwise agreed by the parties, arbitration shall commence on the date on which a request for a dispute to be referred to arbitration is received by the respondent (request for arbitration / notice of arbitration). **The request for arbitration should specify the parties and the matter at issue, identify the arbitration agreement that is invoked and include the appointment of an arbitrator if the party making the request for arbitration is entitled to do so.**

Article 1187 § 1 [Language - Article 22]. The parties may indicate the language or languages of the arbitration. Failing such agreement, the arbitral tribunal shall choose the language of arbitration. Unless specified otherwise, the language agreed by the parties or chosen by the arbitral tribunal shall apply to all written statements made by the parties (pleadings / submissions), hearings and awards, decisions or other notices issued by the arbitral tribunal.

§ 2. The arbitral tribunal may order that **any document** be accompanied by a translation into the language of arbitration agreed by the parties or chosen by the arbitral tribunal.

Article 1188 § 1 [Statement of claim; statement of defense - Article 23]. The claimant should file a statement of claim and the respondent may respond within the time limit agreed by the parties or, unless the parties have agreed otherwise, within the time limit set by the arbitral tribunal. The parties may attach such documents as they consider relevant to the statement of claim and statement of defense.

§ 2. Except as otherwise agreed by the parties, either party may modify or supplement its statement of claim or statement of defense, as the case may be, in the course of arbitral proceedings unless the arbitral tribunal does not allow so having regard to the delay in making it without sufficient justification.

§ 3. **The provisions of § 1 and 2 shall also apply to counterclaims.**

Article 1189 § 1 [Holding a hearing - Article 24]. Except as otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold an oral hearing to enable the parties to present their arguments and evidence or to conduct proceedings on the basis of documents and other written submissions, without scheduling a hearing. However, the arbitral tribunal shall hold a hearing if a party so requests.

§ 2. The arbitral tribunal shall give the parties sufficient advance notice of oral hearings and of meetings of the tribunal for the purpose of taking of evidence.

§ 3. All statements, documents or other information submitted to the arbitral tribunal by one party shall be communicated to the other party. The arbitral tribunal shall communicate to the parties any expert reports or other documents on which it may rely on in resolving the dispute.

Z komentarzem [u40]: Notwithstanding the provisions of paragraph (1) of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents

Z komentarzem [u41]: Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

Z komentarzem [u42]: (1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Z komentarzem [u43]: (1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(2) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in ...

Z komentarzem [u44]: (1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party. (2) The parties shall be given sufficient advance ...

Article 1190 § 1 [Default of the parties - Article 25 a] The arbitral tribunal shall terminate proceedings if the claimant fails to submit its statement of claim in accordance with Article 1188.

§ 2 [Article 25 b]. If the respondent fails to submit a statement of defense in accordance with Article 1188, the arbitral tribunal shall continue proceedings. Failure to respond to a statement of claim shall not be considered as an admission (acknowledgment) of the claimant's factual allegations.

§ 3 [Article 25 c]. If a party fails to appear at an oral hearing or to produce documents which the party is obliged to produce, the arbitral tribunal may continue the arbitration and issue an award on the basis of evidence before it.

§ 4 [Article 25]. Except as otherwise agreed by the parties, the provisions of § 1 to § 3 do not apply if the party justifies its failure to act or to appear.

Article 1191 § 1 [Taking of evidence]. The arbitral tribunal may hear witnesses, examine documents and make inspections, as well as examine any other necessary evidence. However, it may not apply coercive measures.

§ 2 [Article 26 sect. 1]. Unless otherwise agreed by the parties, the arbitral tribunal may also:

- 1) appoint one or more experts to provide a report (expert opinion / expert testimony);
- 2) require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for inspection.

§ 3 [Article 26 sect. 2]. Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after giving a written or oral expert testimony, participate in a hearing in which the parties may question the expert and demand explanations.

Article 1192 § 1 [Court assistance in taking of evidence - Article 27]. The arbitral tribunal may request a district court in whose district evidence is to be taken or another judicial act performed to take evidence or perform another judicial act which the arbitral tribunal is not empowered or unable to perform. The parties and arbitrators may participate in the taking of evidence before the district court and shall have the right to ask questions.

§ 2. The provisions of § 1 shall also apply if the seat of arbitration is outside the Republic of Poland or is unspecified.

Article 1193 [Objection as to the violation of procedural rules and waiver of right to object Article 4]. 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, the party who was aware of such violation may not allege such breach before the arbitral tribunal or in an application to set aside the arbitral award if the party failed to do so without undue delay or within the time limited specified by the parties or by the provisions of this Part.

Z komentarzem [u45]: Unless otherwise agreed by the parties, if, without showing sufficient cause, (a) the claimant fails to communicate his statement of claim in accordance with article 23(1), the arbitral tribunal shall terminate the proceedings;

Z komentarzem [u46]: Unless otherwise agreed by the parties, if, without showing sufficient cause, (b) the respondent fails to communicate his statement of defence in accordance with article 23(1), the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations;

Z komentarzem [u47]: Unless otherwise agreed by the parties, if, without showing sufficient cause, (c) any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

Z komentarzem [u48]: Unless otherwise agreed by the parties, if, without showing sufficient cause,

Z komentarzem [u49]: (1) Unless otherwise agreed by the parties, the arbitral tribunal (a) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal; (b) may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

Z komentarzem [u50]: Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing where the parties have the opportunity to put questions to him **and to present expert witnesses in order to testify on the points at issue**

Z komentarzem [u51]: The arbitral tribunal **or a party with the approval of the arbitral tribunal** may request from a competent court of this State assistance in taking evidence. **The court may execute the request within its competence and according to its rules on taking evidence.**

Z komentarzem [u52]: A party who knows that any provision of this Law from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

TITLE VI

ARBITRAL AWARD AND TERMINATION OF PROCEEDINGS

Article 1194 § 1 [Rules applicable to substance of dispute - Article 28 sect. 1-3]. The arbitral tribunal shall resolve a dispute in accordance with the law applicable to a given relationship or, if expressly authorized to do so by the parties, in accordance with general rules of law or equity.

§ 2. [Article 28 sect. 4]. In all cases, however, the arbitral tribunal shall take into consideration the terms of the contract and trade customs applicable to the legal relationship concerned.

§ 3. In the case of disputes arising from consumer contracts, the settlement of a dispute in accordance with the general rules of law or rules of equity shall not lead to deprivation of consumers of protection afforded to them by the mandatory provisions of law applicable to a given relationship.

Article 1195 § 1 [Decision-making by the arbitral tribunal - Article 29]. If the dispute is decided by more than one arbitrator, an arbitral award or any other decision shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, procedural questions may be decided by the presiding arbitrator alone, if so authorized by the parties or the remaining members of the arbitral tribunal.

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

§ 3. The statement of reasons for a dissenting opinion shall be issued within two weeks of the reasons for the award being given and included in the case files.

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

Article 1196 § 1 [Settlement of dispute - Article 30 sect. 1]. If the parties settle the dispute during arbitral proceedings, the arbitral tribunal shall terminate proceedings. The terms of the settlement agreement shall be noted in the record (minutes of the hearing) or separate document forming part of the record and confirmed by the signatures of the parties.

§ 2 [Consent award - Article 30 sect. 1 and 2]. If requested by the parties, the arbitral tribunal may record the settlement agreement in the form of a consent award. The consent award should meet the requirements set out in Article 1197 and contain a note that it is an award. Such arbitral award shall produce the same effects as any other award.

Article 1197 § 1 [Arbitral award - Article 31 sect. 1]. The arbitral award should be made in writing and signed by the arbitrators by whom it was issued. If the award was issued by three or more arbitrators, the signatures of the majority of all members of the arbitral tribunal shall be sufficient, provided that the reasons for the missing signatures are stated.

Z komentarzem [u53]: (1) The arbitral tribunal shall decide the dispute in accordance with such rules of law **as are chosen by the parties as applicable** to the substance of the dispute. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.

(2) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

(3) The arbitral tribunal shall decide ex aequo et bono or as amiable compositeur only if the parties have expressly authorized it to do so.

Z komentarzem [u54]: (4) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

Z komentarzem [u55]: In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

Z komentarzem [u56]: (1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

Z komentarzem [u57]: (1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(2) An award on agreed terms shall be made in accordance with the provisions of article 31 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

Z komentarzem [u58]:

§ 2 [Article 31 sect. 2]. The arbitral award shall state the reasons on which it is based.

§ 3 [Article 31 sect. 3]. The arbitral award shall indicate the arbitration agreement on the basis of which it was rendered, the names of the parties and the arbitrators, and the date and place of its issuance. If each arbitrator signs the award in a different country and the parties have not specified the place of issuance of the award, the place of issuance shall be specified by the arbitral tribunal.

§ 4. [Article 31 sect. 4]. The arbitral award shall be served on each party.

Article 1198 [Termination of proceedings - Article 32 sect. 2]. In addition to instances referred to in Article 1190 § 1 and Article 1196 § 1, the arbitral tribunal shall issue an order terminating proceedings if:

1) the claimant withdraws its claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on respondent's part in having the dispute finally resolved;

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

Article 1199 [Termination of mandate of arbitrators - Article 32 sect. 3]. After the issuance of a final arbitral award, an order terminating proceedings or any other decision bringing proceedings to an end, the mandate of the arbitrators shall terminate, subject to Articles 1200 to 1203 and Article 1204 § 1.

Article 1200 § 1 [Correction and interpretation of award - Article 33 sect. 1]. Within two weeks of receiving the arbitral award, unless another period has been agreed upon by the parties:

- 1) each party may, with notice to the other party, request the arbitral tribunal to correct any clerical (typographical) or computational errors or any other manifest errors;
- 2) each party may, with notice to the other party, request the arbitral tribunal to resolve any doubts as to the formulation (wording) of the award.

§ 2. If the arbitral tribunal considers the request to be justified, it shall correct the award or provide an interpretation thereof within two weeks of receiving the request. The interpretation shall constitute integral part of the award.

Article 1201 [Corrections made ex officio - Article 33 sect. 2]. The arbitral tribunal may on its own motion correct any clerical or computational errors or any other manifest errors within one month following the issuance of the award. The arbitral tribunal shall notify the parties of any corrections made.

Article 1202 [Additional / supplementary award Article 33 sect. 3]. Unless otherwise agreed by the parties, a party may, with notice to the other party, request the arbitral tribunal, within one month of receiving the arbitral award, to make an additional award as to the claims

Z komentarzem [u59]: The award shall state the reasons upon which it is based, **unless the parties have agreed that no reasons are to be given** or the award is an award on agreed terms under article 30.

Z komentarzem [u60]: The award shall state its date and the place of arbitration **as determined in accordance with article 20(1). The award shall be deemed to have been made at that place**

Z komentarzem [u61]: After the award is made, a copy signed by the arbitrators in accordance with paragraph (1) of this article shall be delivered to each party.

Z komentarzem [u62]: (2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:
(a) the claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute;
(b) **the parties agree on the termination of the proceedings;**
(c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

Z komentarzem [u63]: (3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of articles 33 and 34(4).

Z komentarzem [u64]: (1) **Within thirty days** of receipt of the award, unless another period of time has been agreed upon by the parties:
(a) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature;
(b) **if so agreed by the parties**, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award. If the arbitral tribunal considers the request to be justified, it...

Z komentarzem [u65]: The arbitral tribunal may correct any error of the type referred to in paragraph (1)(a) of this article on its own initiative within thirty days of the date of the award.

Z komentarzem [u66]: (3) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from th(...

that were presented in the arbitration proceedings but omitted from the original award. Having considered the request, the arbitral tribunal shall make an additional award within two months following submission of the request.

Article 1203 § 1 [Extension of the time-limit for correction or interpretation of an award or for rendering an additional award - Article 33 sect. 4]. The arbitral tribunal may extend, if necessary, the time-limit to file a request for correction or interpretation of an award or for rendering an additional award.

§ 2 [Article 33 sect. 5]. Articles 1195 and 1197 apply to the correction or interpretation of an award or to the rendering of an additional award.

Article 1204 § 1 [Storage of case files]. The arbitral tribunal shall hand over to the court the records (case files) of the case along with original of the arbitral award.

§ 2. Permanent arbitral institutions may keep the case files in their archives, in such event they shall make them available to the court and other competent authorities at their request.

§ 3. When reconsidering the case, the arbitral tribunal shall be entitled to access the case files.

TITLEVII

APPLICATION FOR SETTING ASIDE ARBITRAL AWARD

Article 1205 § 1 [Application for setting aside as exclusive recourse against arbitral award - Article 34 sect. 1]. An arbitral award issued in the Republic of Poland may only be set aside by the court in proceedings initiated by the filing of an application for setting aside arbitral award, in accordance with the provisions below.

§ 2. If the parties have agreed that the arbitral proceedings will involve more than one instance, the provisions of § 1 apply to the final award resolving the claims of the parties.

Article 1206 § 1 [Grounds for setting aside arbitral awards - Article 34 sect. 2 a]. A party may apply for setting aside arbitral award if:

- 1) there was no arbitration agreement or the arbitration agreement is null and void, unenforceable or expired (ceased to have effect) in accordance with applicable law;
- 2) the applicant was not given proper notice of the appointment of an arbitrator or of the arbitration or was otherwise deprived of the right to present its case or respond to the other party's case before the arbitral tribunal;
- 3) the arbitral award deals with a dispute not contemplated by the arbitration agreement or contains a decision on a matter that goes beyond the scope of such agreement, provided that if it is possible to separate the decisions on matters covered by the arbitration agreement from those not so submitted, the court shall only set aside that part of the award which contains decisions on matters not submitted to arbitration; **the court shall not set aside an award on the**

Z komentarzem [u67]: The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation or an additional award under paragraph (1) or (3) of this article.

Z komentarzem [u68]: The provisions of article 31 shall apply to a correction or interpretation of the award or to an additional award.

Z komentarzem [u69]: Recourse to a court against an arbitral award may be made only by an application for setting aside in accordance with paragraphs (2) and (3) of this article.

Z komentarzem [u70]: (2) An arbitral award may be set aside by the court specified in article 6 only if: (a) the party making the application furnishes proof that: (i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of this State; or (ii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Law from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Law; or

grounds that it decided on a matter falling beyond the scope of the arbitration agreement if the party to the arbitration failed to object to its inclusion in the dispute;

- 4) the requirements regarding the composition of the arbitral tribunal or the fundamental rules of procedure before such tribunal, as provided for by the law or specified by the parties, were not complied with;
- 5) the award was obtained by means of a criminal offence or on the basis of a forged or altered document;
- 6) a final and non-appealable court judgment has been issued in the same matter between the same parties.

§ 2. [Article 34 sect. 2 b]. An arbitral award shall also be set aside if the court finds that:

- 1) the dispute cannot be resolved by arbitration in accordance with the law;
- 2) the award is contrary to the fundamental principles of the legal order of the Republic of Poland (public policy / *ordre public* clause).
- 3) arbitral award deprives a consumer of the protection afforded by the mandatory provisions of the law applicable to the agreement to which the consumer is a party, and where the applicable law is a law selected by the parties - the protection afforded to the consumer by the mandatory provisions of the law which would be applicable should no law have been selected.

Article 1207 § 1 [The form and contents of the application for setting aside arbitral award]. The provision of Article 368 shall apply accordingly to a petition to set aside an arbitral award.

§ 2 [The setting aside proceedings]. Unless otherwise specified herein, provisions on appeal in the court proceedings shall apply accordingly to proceedings following an application for setting aside arbitral award.

Article 1208 § 1 Time-limit for filing and the court competent to hear application for setting aside arbitral award - [Article 34 sect. 3]. An application for setting aside arbitral award shall be filed with the appellate court in the district of the court which would be competent to hear the case if the parties had not concluded an arbitration agreement or, failing that, with the Court of Appeal in Warsaw, within two months after the award is served or, if a request for correction or interpretation of the award or for the rendering of an additional award is made, within two months after a corresponding decision is served by the arbitral tribunal.

§ 2. If an application for setting aside arbitral award is based on the grounds provided in Article 1206 § 1(5) or (6), the time limit to file the application starts running on the day when the party learns of such grounds. However, a party may not apply for the award to be set aside after five years have elapsed from the date on which the award was served.

§ 3. A judgement rendered in proceedings initiated by the filing of an application to set aside arbitral award may be appealed to the Supreme Court by means of a cassation-appeal. A party may also request that the proceedings which ended with a final and non-appealable judgment be re-opened or that a final and non-appealable judgment rendered in this respect be declared

Z komentarzem [u71]: (b) the court finds that: (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of this State; or (ii) the award is in conflict with the public policy of this State.

Z komentarzem [u72]: (3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award or, if a request had been made under article 33, from the date on which that request had been disposed of by the arbitral tribunal.

unlawful.

Article 1209 § 1. [Stay of the setting aside proceedings and resumption of the arbitral proceedings - Article 34 sect.4]. The court seized with an application to set aside an arbitral award may, if so requested by a party, stay the setting aside proceedings for a period determined by it in order to give the arbitral tribunal the opportunity to resume the arbitration in order to eliminate the grounds for setting aside an arbitral award.

§ 2. In the resumed proceedings, the arbitral tribunal shall take actions indicated by the court. Article 1202 shall apply *mutatis mutandis*. However, the parties may not file a separate application to set aside an award issued pursuant to this procedure. Objections against the actions of the arbitral tribunal or against the award issued in this procedure shall be considered by the court upon resumption of the setting aside proceedings.

Article 1210 [Adjournment of the enforcement of an award pending setting aside proceedings Article 36 sect.2]. The court may decide in camera to adjourn the enforcement of an arbitral award, but may subject such adjournment to the provision of security. The court decision may be appealed by means of complaint to another panel of that court.

Article 1211 [Impact of setting aside award on the arbitration agreement]. Unless otherwise agreed by the parties, the setting aside of an arbitral award shall not result in the expiration of the arbitration agreement.

TITLE VIII

RECOGNITION AND ENFORCEMENT OF AN ARBITRAL AWARD OR A SETTLEMENT AGREEMENT MADE BEFORE AN ARBITRAL TRIBUNAL

Article 1212 § 1 [Effects of arbitral awards and settlements]. An arbitral award or a settlement agreement made before an arbitral tribunal shall have legal effects equal to a court judgment or a settlement agreement made before the court after it is recognized or declared enforceable by the court.

§ 2 [Presumptive validity and enforceability of the arbitral awards - Article 35 sect. 1]. An award or a settlement agreement made before an arbitral tribunal, irrespective of the state in which it was made, shall be recognized or declared enforceable in accordance with the rules set forth in this Title.

Article 1213 § 1 [Application for recognition or enforcement - Article 35 sect. 2]. The court shall, on application of the party, decide on the recognition or enforcement of an award or a settlement agreement made before an arbitral tribunal. The application should be accompanied by the original award or settlement agreement or a copy thereof certified by the arbitral tribunal, as well as the original arbitration agreement or a duly certified copy thereof. If

Z komentarzem [u73]: The court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitration proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside

Z komentarzem [u74]: (2) If an application for setting aside or suspension of an award has been made to a court referred to in paragraph (1)(a)(v) of this article, the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

Z komentarzem [u75]: Sect. 1059 (5) German ZPO. Setting aside the arbitral award shall, in the absence of any indication to the contrary, result in the arbitration agreement becoming operative again with respect to the subject-matter of the dispute.

Z komentarzem [u76]: An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to the competent court, shall be enforced subject to the provisions of this article and of article 36.

Z komentarzem [u77]: The party relying on an award or applying for its enforcement shall supply the original award or a copy thereof. If the award is not made in an official language of this State, the court may request the party to supply a translation thereof into such language.4

the arbitral award, settlement agreement made before the arbitral tribunal or the arbitration agreement is made in a language other than Polish, the Party shall provide a certified translation into Polish.

§ 2. A party may present its case to the court within two weeks after the application is delivered to the court.

Article 1213¹ § 1 [Proceedings to recognize or enforce an award or a settlement agreement]. An arbitral award or a settlement agreement made before an arbitral tribunal shall be recognized or declared enforceable by the appellate court in the district of the court which would be competent to hear the case if the parties had not concluded an arbitration agreement or, failing that, by the Court of Appeal in Warsaw.

§ 2. The provisions on appeals apply correspondingly to proceedings to recognize or declare enforceable an award or a settlement agreement made before an arbitral tribunal.

Article 1214 § 1 [Issuing of a writ of enforcement]. The court shall in camera decide on the recognition of an arbitral award or a settlement agreement made before an arbitral tribunal which is not subject to enforcement.

§ 2. The court shall enforce an award or a settlement agreement made before an arbitral tribunal, if enforceable by way of enforcement, by issuing a writ of enforcement. An award or a settlement agreement made before an arbitral tribunal, which has been declared enforceable, shall constitute an enforcement title.

§ 3 [~~Article 36 sect. 1b~~]. **Grounds for refusal of the recognition or enforcement of a domestic arbitral award or settlement concluded before the arbitral tribunal.** The court shall refuse to recognize or enforce an award or settlement agreement made before an arbitral tribunal if:

- 1) the dispute cannot be resolved by arbitration in accordance with the law;
- 2) recognition or enforcement of an arbitral award or a settlement agreement made before an arbitral tribunal would be contrary to the fundamental principles of the legal order of the Republic of Poland (public policy / *ordre public* clause).
- 3) an arbitral award or a settlement concluded before an arbitral tribunal deprives a consumer of the protection afforded to it by the mandatory provisions of the law applicable to the agreement to which the consumer is a party, and where the applicable law is a law selected by the parties - the protection afforded to the consumer by the mandatory provisions of the law which would be applicable should no law have been selected.

§ 4. The decision of the appellate court on the recognition or enforcement of an award issued in the Republic of Poland or of a settlement agreement made before that court may be appealed to another panel of that court by means of a complaint.

Article 1215 § 1 [Recognition or enforcement of a foreign arbitral award and settlements] The court shall decide on the recognition or enforcement of an award issued abroad or a settlement agreement made before an arbitral tribunal abroad following an oral hearing.

Z komentarzem [u78]: Article 36. Grounds for refusing recognition or enforcement
(1) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:
(b) if the court finds that: (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of this State; or (ii) the recognition or enforcement of the award would be contrary to the public policy of this State.

§ 2 [Grounds for refusal of the recognition or enforcement of a foreign arbitral award or settlement concluded before the arbitral tribunal - Article 36 sect. 1a-]. Notwithstanding the grounds set forth in Article 1214, the court shall, at the request of a party, refuse to recognize or enforce an arbitral award issued abroad or a settlement agreement made before an arbitral tribunal abroad if the party demonstrates that:

1) there was no arbitration agreement or the arbitration agreement is null and void, unenforceable or expired (ceased to have effect) in accordance with applicable law;

2) the applicant was not given proper notice of the appointment of an arbitrator or of the arbitration proceedings or was otherwise deprived of the right to present its case or respond to the other party's case before the arbitral tribunal;

3) the arbitral award deals with a dispute not contemplated by the arbitration agreement or contains a decision on a matter that goes beyond the scope of such agreement, provided that if it is possible to separate the decisions on matters covered by the arbitration agreement from those not so submitted, the court shall only set aside that part of the award which contains decisions on matters not submitted to arbitration; the court shall not set aside an award on the grounds that it decided on a matter falling beyond the scope of the arbitration agreement if the party to the arbitration failed to object to its inclusion in the dispute;

4) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the arbitration agreement or, failing such agreement, with the law of the state where the arbitral proceedings took place;

5) the arbitral award has not yet become binding on the parties or has been set aside or suspended by a court of the state in which, or under the law of which, that award was made.

§ 3. A cassation-appeal may be filed against a final court decision concerning the recognition or enforcement of an arbitral award issued abroad or a settlement reached before an arbitral tribunal abroad. A party may also request that the proceedings which ended with a final and non-appealable judgment be re-opened or that a final and non-appealable judgment rendered in this respect be declared unlawful.

Article 1216 § 1 [Adjournment of a hearing due to a pending setting aside proceedings and provision of security - Article 36 sect. 2]. If an application for setting aside an arbitral award is filed in accordance with the provisions of Title VII, the court seized with a petition to recognize or declare enforceability of that award may adjourn the hearing of the case. That court may also, on the motion of a party requesting the recognition or declaration of enforceability of an award, order the other party to provide appropriate security.

§ 2. The provisions of § 1 apply correspondingly if an application for setting aside foreign arbitral award was filed in the state in which, or under the law of which, the award was issued.

§ 3. The provisions of § 1 and 2 apply accordingly to a settlement reached before an arbitral tribunal.

Article 1217 [Impact of a dismissal of the petition to set aside domestic award]. In proceedings for recognition or enforcement of an arbitral award issued in the Republic of Poland

Z komentarzem [u79]: (1) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only: (a) at the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that: (i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or (ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

Z komentarzem [u80]: If an application for setting aside or suspension of an award has been made to a court referred to in paragraph (1)(a)(v) of this article, the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

or a settlement agreement made before an arbitral tribunal in the Republic of Poland, the court shall not examine the grounds referred to in Article 1214 § 3 if an application to set aside the award is dismissed in a final and non-appealable judgment.