1. Whether a given ruling of a foreign court may be legally relevant cannot be determined in advance at the time of recognition. Thus it cannot be anticipated what effects the ruling might have or in what circumstances a given entity might rely on it in the future. Thus the petitioner is right in asserting that Civil Procedure Code Art. 1145 §1 does not provide grounds to refuse recognition of a ruling by a foreign court only because in the view of the court where recognition is sought it will not exert legal effects in Poland.

2. If the petitioner [seeking recognition] appeared as a party in a proceeding before an Austrian court, it not only has a legal interest to have standing in the recognition proceeding before the Polish court, but such interest also means that if the grounds set forth in Civil Procedure Code Art. 1146 do not exist, it may obtain recognition of the award as effective in Poland.

3. A ruling denying a petition to set aside an arbitration award, formally speaking, is a merits decision and not only procedural. Such rulings thus, as a rule, are capable of recognition. It should be pointed out, however, that the dispute between the parties on the merits was resolved by the arbitration court, acting on the basis of the intent of the parties as expressed in the arbitration clause. The judgment in a proceeding to set aside an arbitration award is therefore only a resolution with respect to the state's exercise of oversight of arbitration rulings.

4. A judgment by a domestic court issued in a proceeding upon a petition to set aside an arbitration award must be taken into consideration in a proceeding seeking recognition of a foreign arbitration award only when permitted by the provisions governing such proceeding. As grounds for denial of recognition, the Civil Procedure Code and the New York Convention provide only for the court in the country deciding on recognition of a foreign arbitration award to consider, upon motion of a party, a judgment setting aside the arbitration award.

5. Given the specific nature of an arbitration award, which is issued based on the intent of the parties, and the function performed by a foreign court that denies a petition to set aside an arbitration award, there is no legal basis for

recognition of such judgment by the foreign court, which essentially involves only oversight and not the merits. The connection between such judgment by a foreign court and the arbitration award, and thus the not entirely independent nature of the judgment, is primarily a barrier to treating the judgment as a ruling that may be recognized in Poland under Civil Procedure Code Art. 1145 §1.

Polish Supreme Court
Order dated 6 November 2009
Case No. I CSK 159/09

(full text)
The Supreme Court, in a panel of
Supreme Court Judge Jan Górowski (presiding),
Supreme Court Judge Józef Frąckowiak (reporting),
and Supreme Court Judge Irena Gromska-Szuster,

in the matter upon petition of E.T. Sp. z o.o. with its seat in Siedlce, with participation of the administrator of the bankruptcy estate of E. SA in Warsaw, T.M.D. GmbH with its seat in Bonn, Germany, and the prosecutor from the National Prosecutor's Office, for recognition of a ruling of a foreign court, after consideration at a hearing in the Civil Chamber on 6 November 2009 of a cassation appeal by the petitioner from the order of the Warsaw Appellate Court dated 30 September 2008, denies the cassation appeal and awards against the petitioner in favour of respondents T.M.D. GmbH with its seat in Bonn and the administrator of the bankruptcy estate of E. S.A. in Warsaw in bankruptcy PLN 180 (one hundred eighty Polish zloty) each as reimbursement of the costs of the cassation proceeding.

Justification

Petitioner E.T. Sp. z o.o. ("T.") and T.M.D. GmbH ("TMD") and E. SA took part in an arbitration proceeding before the International Arbitral Centre at the Austrian Federal Economic Chamber in Vienna. On 26 November 2004 the arbitration court issued an award, which the petitioner challenged in the state court by moving to set aside the award.

By legally final judgment dated 10 October 2006 (the "OLG judgment"), the province court (*Oberlandesgericht*) in Vienna upheld the appeals from the judgment of the Commercial Court in Vienna dated 20 December 2005, filed by TMD and E. SA, and amended the judgment appealed from by denying the demand to set aside the award of the International Arbitral Centre at the Austrian Federal Economic Chamber dated 26 November 2004. By order dated 18 December 2006, the Supreme Court in Vienna denied extraordinary review of such ruling, filed by T., because of a lack of standing to sue on its part.

T. moved for recognition as effective in the territory of Poland of the judgment of the *Oberlandesgericht* in Vienna dated 10 October 2006. The respondents in this proceeding are TMD, the administrator of the bankruptcy estate of E. SA, and the prosecutor from the Regional Prosecutor's Office in Warsaw. By order dated 18 January 2008, the Warsaw Regional Court denied the motion. By order dated 30 September 2008, the Warsaw Appellate Court denied the appeal by T.

In the opinion of the Appellate Court, the essence of the dispute in the case at issue goes to the proper interpretation of the term "judgment of a foreign court" as used in Civil Procedure Code Art. 1145 §1, and not, as stressed by the petitioner, whether the grounds for recognition of the OLG judgment under Civil Procedure Code Art. 1146 exist. In analyzing the term used in Civil Procedure Code Art. 1145 §1, particular attention should be given to whether the ruling of the foreign court may also give rise to effects in the Polish legal system. Thus, under the wording of Civil Procedure Code Art. 1145 §1, rulings that are characterized by effectiveness understood as the ability to exert legal effects pursuant to the procedure of recognizing state are subject to recognition.

In consequence, the Appellate Court assumed that only a ruling of a foreign court that exerts legal effects (a legal status) may be recognized, as only then may we refer to being bound by a legal status. In the opinion of the Appellate Court, the ruling of the *Oberlandesgericht* in Vienna denying the petition to set aside the award of the arbitration court does have the characteristic of exerting legal effects in the territory of Poland, and thus there is no purpose for recognition of the ruling. The ruling could not exert the legal effects exerted by an analogous ruling of a Polish court. It is undisputed that in the case under consideration we are dealing with an instance of exclusive jurisdiction of a foreign state. In that situation, in the Polish legal system there is no ability to set aside the award of the arbitration court issued in Austria. None of the parties may assert a demand before a Polish court that would create the hypothetical possibility that the ruling of the foreign court in the

territory of Poland would be characterized by *res judicata*, or would be binding on the parties in any other way provided by law. The lack of such possibility also means that the petitioner does not have a legal interest within the meaning of Civil Procedure Code Art. 1147 §1.

The fact asserted by T. that in the judicial proceedings in Poland, through recognition of this judgment, the petitioner would be able to rely on the grounds for the ruling set forth in the justification for the ruling by the Austrian court, is also irrelevant for assessing the capacity for recognition of the OLG judgment. Recognition would change nothing in this respect, as T. is able to do so without recognition. The OLG judgment, together with the justification, is a foreign official document within the meaning of Civil Procedure Code Art. 1138 and may thus constitute evidence in another proceeding, which is subject to free assessment by the judge (Civil Procedure Code Art. 233). Moreover, the Appellate Court stressed that no judicial proceeding indicated by the appellant concerns the OLG judgment in the sense that the judgment would create a need to assert *res judicata* or would be an element of precedent in the proceeding.

Denial of recognition does not violate the right to a court. Such objection could possibly be justified only if in addition to the lack of jurisdiction of the state that denied recognition there would be no jurisdiction in any other state, and the interested party would not have the ability to assert a relevant claim (in this case to set aside the arbitration award) in the state where the award was issued. That situation does not obtain in this case.

The Appellate Court shared the view of T. that there is a general duty on the part of Polish courts to interpret Polish law, also with respect to recognition of rulings of foreign courts, in accordance with Community law. The Appellate Court also stressed that in the case under consideration the provisions of **Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (EU Official Journal L dated 16 January 2001) and the Convention** on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters made at Lugano on 16 September 1988 (Journal of Laws Dz.U. No. 10 item 133) are not applicable.

In the cassation appeal the petitioner alleged violation of substantive law, namely 1) Civil Procedure Code Art. 1145 §1, by erroneous interpretation thereof; 2) Civil Procedure Code Art. 1145 §1 and Art. 1147 §1, in connection with Art. 91(1) of the Polish Constitution and Art. 2 of the Act Concerning Conditions of Accession and Art. 1 and 2 of the Treaty of

Accession and Art. 61(c), 65 and 293 point four of the Treaty Establishing the European Community, by erroneous interpretation. In the context of this allegation the petitioner moved for the Supreme Court to submit a reference for a preliminary ruling to the European Court of Justice for a clarification of how to interpret the provisions of the Treaty Establishing the European Community cited above in the context of denial of recognition by Polish courts of a ruling of a foreign court; 3) Civil Procedure Code Art. 1147 §1, by erroneous interpretation thereof; 4) Art. 45(1) and Art. 77(2) of the Polish Constitution in connection with Art. 6(1) of the Rome Convention and in connection with Civil Procedure Code Art. 1145 §1, Art. 1146 §1 and Art. 1156, by erroneous application thereof; and 5) Civil Procedure Code Art. 1145 §1 and Art. 1147 §1 in connection with Art. 1146 §1, by erroneous interpretation thereof.

The appellant also alleged violation of procedural regulations having a material influence on the result in the case, namely Civil Procedure Code Art. 1145 §1 in connection with Art. 1146 §1 and 1147 §1 and in connection with Art. 391 §1 and 13 §2, consisting of the Appellate Court's exceeding the bounds of its cognition as a court ruling on recognition of a foreign judgment.

The Supreme Court reasoned as follows:

Recognition of rulings of foreign courts is governed by Civil Procedure Code Art. 1145 – 1147. These provisions were amended by the Act dated 5 December 2008 Amending the Civil Procedure Code and Certain Other Acts (Journal of Laws Dz.U. No. 34 item 1571). The amendment of Civil Procedure Code regulations governing recognition came into force on 1 July 2009. The new, fundamentally amended regulations on recognition of foreign rulings will thus not apply in the case under consideration, as clearly confirmed by Art. 8 of the act, which provides that the provisions of the act apply to proceedings commenced after 1 July 2009. The allegations raised in the cassation appeal are thus subject to assessment on the basis of Civil Procedure Code Art. 1145 – 1147 in their wording from prior to 9 July 2009 [*sic, should be 1 July 2009*].

The allegation of violation of Civil Procedure Code Art. 1145 §1 and Art. 1147 §1, in connection with Art. 91(1) of the Polish Constitution and Art. 2 of the Act Concerning Conditions of Accession and Art. 1 and 2 of the Treaty of Accession and Art. 61(c), 65 and 293 point four of the Treaty Establishing the European Community, is not justified. It expressly appears from Art. 1(2)(d) of **Council Regulation (EC) No 44/2001 of 22**

December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (EU Official Journal L dated 16 January 2001) that arbitration is excluded from the operation of the regulation. This exclusion also applies to a proceeding before state courts for review of a ruling issued in an arbitration proceeding. Contrary to the assertion of the appellant, the express exclusion of arbitration from the scope of application of Regulation 44/2001 cannot be eliminated by way of interpretation in compliance with Treaty norms, which are norms that have to do only with assignment of tasks and competencies. This is the nature of Art. 61(c), 65 and 293 point four of the Treaty Establishing the European Community, cited in the cassation appeal. These are provisions either specifying tasks and competencies of the European Community (Art. 61(c) and 65 in connection with Art. 67 of the Treaty Establishing the European Community), or, as with Art. 293 point four of the Treaty Establishing the European Community, providing the basis for member states to negotiate, as needed, measures intended to simplify formalities concerning mutual recognition and enforcement of judicial and arbitration rulings. Thus the appellant's claim that provisions of this type may serve as a model for interpretation of whether the provisions of the Polish Civil Procedure Code are consistent with norms of Community law is groundless. Until such time as relevant measures are taken by the European Community or by the member states themselves, the member states still have the capacity for independent regulation and interpretation of the concepts questioned in the cassation appeal with respect to arbitration. Because the principle of free flow of rulings does not apply to arbitration awards or judgments issued in a proceeding before state courts for review of such awards, there are no grounds for holding that the principle applies on the basis of Treaty norms that are in the nature of tasks and competencies. Such nature of these norms only enables cooperation with respect to recognition and enforcement of rulings by courts in civil and commercial matters to develop further. Again, it should be repeated that there are no grounds for holding, as argued by the appellant, that they may be a model for an interpretation of norms of Community law which would lead to the conclusion that with respect to rulings by arbitration courts and related judgments involving review thereof there is already an existing principle of the free flow of such rulings. For these reasons as well, the motion included in the cassation appeal for the Supreme Court to apply to the European Court of Justice with a reference for a preliminary ruling is not justified. In the case under consideration, there are not sufficient doubts for purposes of Art. 234(3) of the Treaty Establishing the European Community, which justifies denial of the motion. See Supreme Court judgment dated 12 October 2006 (Case No. I CNP 41/06, OSNC No. 7-8 item 115).

Nor should the allegation of violation of Art. 45(1) and Art. 77(2) of the Polish Constitution in connection with Art. 6(1) of the Rome Convention and in connection with Civil Procedure Code Art. 1145 §1, Art. 1146 §1 and Art. 1156, by erroneous application thereof, be upheld. The appellant argues that denial of recognition of the OLG judgment in a situation in which the Polish courts do not have domestic jurisdiction in the matter decided by the OLG judgment deprives it of the right to a court. The Appellate Court correctly indicated that there may be said to be denial of the right to a court only when the appellant could not file a claim before any court to set aside the arbitration award. Not only did T. file such a claim before the Austrian court, but a proceeding is also pending for recognition of the award before the Polish courts, which do not deny it this right. The right to a court is a right to fair and impartial consideration of the case, and not the right to obtain a judgment that the party regards as in its favour. Fair and impartial consideration of the case should assure protection of the interests of the parties which seek such protection, and thus may not be regarded as an obligation of the court to rule only in favour of one of the parties—particularly as denial of recognition of the OLG judgment in no wise violates the interests of T., which may effectively defend its rights in the proceeding for recognition in Poland of the award of the arbitration court at the Austrian Federal Economic Chamber in Vienna issued on 26 November 2004.

Concerning the soundness of the other allegations, particularly concerning interpretation of the terms used in Civil Procedure Code Art. 1145 and 1147 and the scope of cognition of the court considering recognition of a foreign ruling, it may be agreed with the appellant that their interpretation in the justification for the order appealed from may raise doubts. It is disputed in the doctrine, and the issue is not controlled by the case law, whether these regulations provide a general basis for the court considering recognition to assess the effects that a ruling of a foreign court may exert in Poland. Opponents of this view correctly argue that **whether a given ruling of a foreign court may be legally relevant cannot be determined in advance at the time of recognition. Thus it cannot be anticipated what effects the ruling might have or in what circumstances a given entity might rely on it in the future. Thus the petitioner is right in asserting that Civil Procedure Code Art. 1145 §1 does not provide grounds to refuse recognition of a ruling by a foreign court only because in the view of the court where recognition is sought it will not exert legal effects in Poland.**

It is hard to accept as justified the view of the Appellate Court that T. had a legal interest if we consider its standing to bring suit, but because of a lack of a legal interest it should be denied recognition of the ruling of the foreign court. **If**, as is undisputed, **the petitioner appeared as a party in a proceeding before an Austrian court, it not only has a legal interest to have standing in the recognition proceeding before the Polish court, but such interest also means that if the grounds set forth in Civil Procedure Code Art. 1146 do not exist, it may obtain recognition of the award as effective in Poland.**

It should be pointed out, however, that in interpreting Civil Procedure Code Art. 1145 §1, even opponents of vesting the court considering recognition with general competence to assess the effects that may be exerted in Poland by a ruling of a foreign court admit certain exceptions. For example, there is no doubt that rulings that do not decide a case on the merits are not subject to recognition in Poland, e.g. rejection of a statement of claim or an evidentiary motion by a foreign court. The view may thus be found to be undisputed that there are grounds for examining, within a given scope, not only whether pursuant to foreign law the ruling is a ruling within the meaning of Civil Procedure Code Art. 1145, but this regulation may also provide a basis for assessing whether the foreign ruling is subject to recognition, that is, whether it is capable of recognition. While the OLG judgment does contain a merits determination, because the petition was denied, and for this reason it may be stated, as the petitioner argues, that it is capable of recognition on the basis of Civil Procedure Code Art. 1145 §1, nonetheless other considerations speak against treating it as capable of recognition. Because review of such capacity for recognition cannot be ruled out in advance, it remains to be considered whether there are arguments for denying the capacity for recognition of a judgment of a foreign court denying a petition to set aside an arbitration award.

The OLG judgment is of a specific nature compared to other judgments of foreign courts. It is strictly connected with an arbitration award issued in the territory of the given state. It belongs to the class of judgments issued in a proceeding before state courts for review of rulings by arbitration courts. The state that permits the functioning of arbitration also defines the bounds of its functioning. The effectiveness of awards by foreign arbitration courts may essentially be challenged in two separate proceedings. One of them seeks to set aside the award in the country where the arbitration is seated and thus deprive it of legal effects in that country. The other proceeding is brought in the country where the award is to

be recognized or enforced. Thus it is necessary to clarify whether a ruling of a foreign court that decides on a petition to set aside an arbitration award should be taken into consideration in a proceeding before a Polish court before which the proceeding will be brought for recognition of the same arbitration award on which the foreign court has already ruled. The result of the first proceeding is a ruling by the foreign court in which it decides on the merits whether the award is effective in that country. The question arises whether in light of the specific nature of such a ruling, there are barriers to recognition thereof in the country in which the arbitration award is to be recognized—in other words, whether such a ruling is a ruling by a foreign court that may be recognized on the basis of Civil Procedure Code Art. 1145 §1.

In seeking an answer to this question, it should be pointed out that according to the provisions of Part Five, Title VIII of the Civil Procedure Code, as well as Art. V(1)(e) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards made at New York on 10 June 1958 (Journal of Laws Dz.U. 1962 No. 9 item 41), a party who opposes recognition or enforcement may allege that a competent authority of the country in which or under the law of which the award was issued has set aside or suspended enforcement of the award. Thus if the foreign ruling sets aside or suspends enforcement of the arbitration award, there is no additional need for recognition of such ruling in a special recognition proceeding. Under the Civil Procedure Code and the New York Convention, which is binding on Poland, the Polish court ruling on recognition or enforcement of the arbitration award will deny recognition of the arbitration award on this ground.

The cited section of the Civil Procedure Code and the New York Convention do not, however, provide directly for how to treat a ruling by a foreign court that denies a petition to set aside an arbitration award. There are thus two possible interpretations. The first leads to the conclusion that there is no barrier to recognition of such rulings in Poland. Under the second, it follows from the nature and construction of proceedings for recognition and enforcement of arbitration awards that in the case of a ruling by a foreign court denying a petition to set aside an arbitration award, it is not a ruling that is capable of recognition within the meaning of Civil Procedure Code Art. 1145 §1.

It may speak in favour of the first interpretation that **a ruling denying a petition to set aside an arbitration award, formally speaking, is a merits decision and not only procedural. Such rulings thus, as a rule, are capable of recognition. It should be pointed out, however, that the dispute between the parties on the merits was**

resolved by the arbitration court, acting on the basis of the intent of the parties as expressed in the arbitration clause. The judgment in a proceeding to set aside an arbitration award is therefore only a resolution with respect to the state's exercise of oversight of arbitration rulings. In this respect, there is no uniform view in the doctrine concerning what a petition to set aside an arbitration award is, and its specific nature is emphasized, which combines the features of an extraordinary means of review with a claim seeking to establish a change in the legal status brought about by the arbitration award. The judgment issued in a proceeding initiated by filing of such a petition should also be viewed in light of the specific nature and function performed by the proceeding for review exercised by the state where the arbitration is seated and the state where the arbitration award is to be recognized. It should be stressed that each of these proceedings is separately and autonomously governed within a state that accepts arbitration as a method for resolving disputes. For this reason alone, the argument connected with the legal nature of denial of a petition and the nature of the ruling issued in the proceeding initiated by such petition cannot be decisive. There are other important considerations weighing against giving the capacity for recognition to foreign rulings that deny a petition to set aside an arbitration award.

A proceeding for recognition of an award of a foreign arbitration court in Poland is governed primarily by the provisions of the Civil Procedure Code modelled on the provisions of the New York Convention, binding on Poland, cited above. The New York Convention is clearly designed to foster recognition and enforcement of foreign arbitration awards. On the other hand, it assures each state an appropriate mechanism allowing it to review an arbitration award issued abroad, within a defined scope. For this reason, both the Civil Procedure Code and the New York Convention precisely define the grounds for refusal of recognition of a foreign award in the state in which a party seeks recognition. They also provide that the determination of the existence of a ground for refusal of recognition lies exclusively with the court of the state that is deciding on recognition or enforcement of the award. Thus it is excluded to introduce into this precise, closed system, even indirectly, any additional elements that could influence the discretion of the Polish court when assessing the ability to recognize an arbitration award issued abroad. Thus it is difficult to assume that the silence of the convention and the code concerning a ruling by a foreign court denying a petition to set aside an arbitration award is entirely accidental. This silence should be interpreted to mean that there are no legal grounds for limiting the discretion of a court deciding on recognition of an arbitration award issued abroad through recognition under Civil

Procedure Code Art. 1145 §1 of a judgment of a foreign court denying a petition to set aside the arbitration award.

It should be pointed out that the judgment of a national court on setting aside an arbitration award is strictly connected with the award. As already stated in the context of Council Regulation 44/2001, which literally excludes from its application only a proceeding before an arbitration court, it is accepted that this also concerns rulings by national courts involving review of arbitration awards. This position should be upheld, considering that such rulings do not decide the merits of the case, because the merits determination was already made in the arbitration award, but are designed only to check, within strictly defined bounds, whether the arbitration award violates the law. In consequence, it should be held that **a judgment by a domestic court issued in a proceeding upon a petition to set aside an arbitration award must be taken into consideration in a proceeding seeking recognition of a foreign arbitration award only when permitted by the provisions governing such proceeding. As grounds for denial of recognition, the Civil Procedure Code and the New York Convention provide only for the court in the country deciding on recognition of a foreign arbitration award to consider, upon motion of a party, a judgment setting aside the arbitration award.** Thus we find no basis in these regulations for the court in the country in which recognition is to occur to be required to consider *ex officio*, during the proceeding for recognition of the arbitration award, a judgment denying a petition to set aside the arbitration award. In this situation it should be accepted that in the Civil Procedure Code and the New York Convention there are no grounds, through recognition of such a ruling, to create a state in which the court deciding on enforcement or recognition of a foreign arbitration award would be bound by such a ruling. To accept otherwise, that is, to admit the transfer of the effects of the foreign ruling denying the petition onto the territory of the country whose court is to decide on recognition of the arbitration award, may restrict the discretion of the court, guaranteed by the regulations governing recognition of foreign arbitration awards, in assessing whether grounds exist that would result in refusal to recognize the foreign arbitration award in Poland. It is correctly stressed in the doctrine that the New York Convention governs in an exhaustive manner the issue of the grounds for recognition or enforcement of foreign arbitration awards. The assessment of whether such grounds exist is thus left to the court which will rule on recognition of the foreign arbitration award. In consequence, it should be held that **given the specific nature of an arbitration award, which is issued based on the intent of the parties, and the function performed by a foreign court that**

denies a petition to set aside an arbitration award, there is no legal basis for recognition of such judgment by the foreign court, which essentially involves only oversight and not the merits. The connection between such judgment by a foreign court and the arbitration award, and thus the not entirely independent nature of the judgment, is primarily a barrier to treating the judgment as a ruling that may be recognized in Poland under Civil Procedure Code Art. 1145 §1.

It should also be pointed out that if a ruling as referred to in Civil Procedure Code Art. 1145 were understood also to include the justification for the ruling, as the appellant suggests, the danger of restricting the discretion of the court deciding on recognition of a foreign arbitration award appears much more clearly. A Polish court deciding on recognition of a foreign arbitration award would, via recognition of the judgment of the foreign court, also be bound by the findings that resulted in denial of the petition to set aside the arbitration award. There are no legal grounds in the regulations governing the procedure for recognition of foreign arbitration awards for the court to be bound in this way, and for this reason as well the capacity for recognition of a judgment of a foreign court denying a petition to set aside an arbitration award should be denied.

Refusal to give the OLG judgment the capacity for recognition does not deprive T. of the ability to rely on the operative wording or justification of the judgment in the proceeding before the Polish court for recognition of the arbitration award dated 26 November 2004. The OLG judgment is clearly an official document within the meaning of Civil Procedure Code Art. 244. Upon motion by T., the court deciding on recognition of the arbitration award, within the bounds of discretion in consideration of evidence, will be required to consider it. It will not, however, be bound by such judgment, as there are no grounds for it to be bound in such way under the regulations governing the grounds for recognition of foreign arbitration awards.

As the ruling appealed from complies with the law, under Civil Procedure Code Art. 398^{14} the Supreme Court ruled as stated in the operative wording of the order.

Source: The Supreme Court Research and Analyses Office