

**Warsaw Appellate Court judgment  
dated 8 November 2006  
Case No. I ACa 792/06**

**Summary by arbitraz.laszczuk.pl:**

In April 2000, E. SA entered into a lease of a building in Warsaw with the legal predecessor of T.R. SA as landlord, for five years with an option to extend the term. The lease provided for arbitration by the Court of Arbitration at the Polish Chamber of Commerce. In May 2001 an annex was allegedly signed extending the term by five years, through 2010. In January 2005 E. SA submitted a declaration that it would not be extending the lease.

In February 2005 T.R. SA commenced arbitration against E. SA, seeking a declaration that the lease remained in force and seeking some PLN 800,000 in back rent. During the proceeding, E. SA alleged that the extension of the lease from 2001 had been backdated and forged, sought a stay of the proceeding pending a criminal investigation, and moved to introduce other evidence showing that the lease had not been duly extended. The arbitration court denied these motions and entered an award in favour of the landlord.

E. SA filed a petition to set aside the award, alleging *inter alia* that it had been denied the right to present a defence in the arbitration proceeding, that the arbitration court had failed to give due consideration to the evidence, and that the award violated public policy. The petition was denied by the regional court and on appeal by the appellate court.

**Excerpts from the text of the court's ruling:**

**1. As a rule, the right to a defence in a proceeding before an arbitration court may also be violated by preventing proof of allegations or defences. Mere submission of statements and expression of a position is primarily relevant to explanation and interpretation of legal issues, and may be insufficient for establishing the factual grounds for a decision which is after all not subject to appellate review. It should be added that this has to do with proof of circumstances that in the view of the arbitration court are highly relevant to the decision.**

**2. The rules of the arbitration court did not provide for expansion of the statement of claim, nor did they prohibit it. In such case, the inability to repeat the procedure for selection of arbitrators should, in the view of the Appellate Court, be assessed in light of the type of demand. If this really had to do with a claim not related to the existing claim, but requiring special qualifications of the panel, it could be concluded that there was an infringement of fundamental rules of procedure resulting in setting aside of the award in such part.**

**3. An untrue statement in a document later offered in evidence by a party is not ... grounds for a petition to set aside an arbitration award under Civil Procedure Code Art. 1206 §1(5).**

**4. An arbitration court is not bound by provisions of substantive law. This means that arbitration awards may be reviewed only within a limited scope. Setting aside an arbitration award is thus justified only by an infringement of substantive law that would also bring the decision into conflict with the overriding legal principles in force in the Republic of Poland. In other words, an arbitration award may be unlawful if it results in a decision that violates controlling principles of the rule of law.**

**5. Existence of the grounds set forth in Civil Procedure Code Art. 1206 §2(2) is not determined by the number of provisions violated but by the relation between a specific violation of law to the narrowly defined principles of the legal order of the Republic of Poland.**