

**Cracow Appellate Court judgment**  
**dated 24 April 2001**  
**Case No. I ACa 277/01**

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

Under a 1997 gas supply agreement, an individual (Norbert K.) filed a claim before an *ad hoc* arbitration court against a registered partnership that included a limited-liability company (B. sp. z o.o.), and in 2000 the arbitration court issued an award for Norbert K. for over PLN 600,000 in contractual penalties. The award was signed by all three of the arbitrators, but certain pages of the award were initialled by only two of the arbitrators.

The partnership filed a petition with the Cracow Regional Commercial Court to set aside the award, alleging that the award was improperly signed and that the award violated public policy because the arbitration court followed principles of equity rather than the law by determining the amount of the contractual penalties using estimates, and the amount of the contractual penalties was excessive. The court denied the petition, holding that the award had been properly signed and that the arbitration court was free to follow rules of equity so long as the award did not violate public policy.

The appellate court affirmed, finding that the contractual penalties were properly calculated based on the facts presented and were reduced to only a fraction of the amount demanded by the claimant. Otherwise, the appellate court found that the arbitration court had not ruled arbitrarily, but on the basis of the parties' contract and the law.

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

**1. Pursuant to Civil Procedure Code Art. 712 §1(4), an arbitration award may be set aside if the ruling on the demands of the parties violates the rule of law or principles of social coexistence. This provision enacts a general clause representing the principle of domestic public policy. This means that violation or incorrect interpretation of substantive law, and the resulting defect of the ruling, in and of itself does not constitute a violation of the rule of law. A violation of substantive law must be such that it would result in issuance of a ruling that would by its content violate fundamental principles of the rule of law, particularly**

**situations where a ruling is issued using an institution that is impermissible by operation of law.**

**2. Incorrect interpretation of substantive law and other violations not rising to such level cannot lead to a finding that the grounds for the petition set forth in Civil Procedure Code Art. 712 §1(4) have been met.**