

**Supreme Court judgment
dated 31 March 2006
Case No. IV CSK 93/05**

Summary by arbitraz.laszczuk.pl:

In two awards dated February 2003 against P.T.S. SA, arising out of the same contract, the Court of Arbitration at the Polish Chamber of Commerce awarded contractual penalties of PLN 60,000 to Wojciech D. and Janusz D. and PLN 45,000 to Łukasz D. and Barbara D. The basis for the award was a 2000 agreement in which the respondent undertook to issue shares to the claimants.

In December 2003, in joined cases, the Łomża Regional Court denied the respondent's petition to set aside the award. The appellate court denied the appeal from that order. The lower courts held that the arbitration award was properly justified and did not violate public policy.

On cassation appeal, the Polish Supreme Court held that the grounds for a cassation appeal in joined cases had to be met for each of the joined cases individually. One of the requirements for a cassation appeal was that the amount in dispute be at least PLN 50,000, which threshold was not met in the case involving Łukasz D. and Barbara D. Thus the court dismissed the cassation appeal with respect to them as impermissible.

With respect to the other claimants, the court denied the cassation appeal. The court found that the respondent was essentially alleging that the award violated public policy because the award did not include a thorough justification of the grounds for the award. The court held that to set aside an award as contrary to public policy, the award itself, and not the procedures under which the award was issued, must violate public policy. In any event, the court found that the written justification for the award in this case was legally sufficient.

Excerpts from the text of the court's ruling:

1. The defectiveness of an arbitration award in violating the rule of law must appear from the very wording of the ruling, and not from violation of

regulations concerning proceedings before such court. Procedural violations might justify only some other ground for setting aside the arbitration award.

2. The minimum requirements that must be met by the justification for an arbitration award are set forth in Civil Procedure Code Art. 708 §1(5). If the grounds by which the arbitration court was guided when ruling on the demands of the parties may be deduced from the justification, that is sufficient for these requirements to be deemed to be satisfied.

3. The view cannot be accepted ... that the duty to conduct a thorough investigation of the circumstances necessary to resolve the case (Civil Procedure Code Art. 705 §2, third sentence) is performed by assessing the allegations of the parties and indicating why some of them are found to be valid and others not. Such assessment is made at the stage of making the ruling, and is expressed in the justification for the ruling made. Investigation of the circumstances that are relevant (essential) to the case occurs at an earlier phase of the proceeding and consists of hearing the parties, permitting them to submit statements with respect to the motions and allegations of the opposing party and the result of the evidentiary proceedings, and finally receiving evidence necessary to illuminate the circumstances essential to resolve the case.