

**Supreme Court order
dated 17 May 2006
Case No. I CSK 104/05**

Summary by arbitraz.laszczuk.pl:

An arbitration award was issued by the Court of Arbitration at the Polish Chamber of Commerce in June 2001 in the amount of about PLN 4 million. In an order dated December 2001, the arbitration court amended the award, changing the amount to over PLN 14 million.

The respondents moved to set aside the award, but in 2004 the regional court denied the petition as impermissible. In 2005 the appellate court denied the appeal, holding that the order by the arbitration court was not an award because it did not decide the merits of the case.

On cassation appeal the Polish Supreme Court held that the order by the arbitration court in 2001 did not involve mere correction of a obvious error or oversight, but constituted a new and different ruling on the merits of the case. Thus it did not constitute a proper arbitration award and should be set aside. The Supreme Court accordingly vacated the two orders by the lower courts in the case.

Excerpts from the text of the court's ruling:

1. The constitutive elements of an arbitration award are defined by Civil Procedure Code Art. 708 §1, which is a regulation of mandatory applicability. One of these elements is a resolution of the demands of the parties (Art. 708 §1(4)). Thus it should be accepted that any ruling by the arbitration court containing the indicated elements, including a resolution of the demands of the parties, constitutes an arbitration award within the meaning of Book Three of the Civil Procedure Code, regardless of the form given to the ruling by the arbitration court.

2. In its case law, the Supreme Court has stressed on numerous occasions that the type of appellate instrument must be determined by the subject of the

resolution, and not the form which the court gave to the ruling. ... This view applies also to rulings by an arbitration court.