

Polish Supreme Court judgment
dated 11 April 2002
Case No. III CKN 492/01

Summary by arbitraz.laszczuk.pl:

Under a gas supply agreement, an individual (Norbert K.) filed a claim before an *ad hoc* arbitration court against a registered partnership and a partner, 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 partnership filed a petition with the regional court to set aside the award, alleging that the award violated public policy because the amount of the contractual penalties was excessive. The court found no violation and denied the petition. The appellate court affirmed.

On cassation appeal, the Supreme Court held that the arbitral tribunal's failure to reduce excessive contractual penalties pursuant to Civil Code 484 §2 could result in an award that violated public policy. The court thus reversed the judgment below and remanded the case to the appellate court for reconsideration.

Excerpts from the text of the court's ruling:

1. It follows from the nature of a petition to set aside an arbitration award that the state court with jurisdiction to hear the petition may not consider the merits of the dispute, because in deciding the case and issuing its ruling, the arbitration court is not bound by substantive or procedural law, so long as it does not violate the rule of law or principles of [social] coexistence. This means that the state court will not examine whether the arbitration award is consistent with substantive law or is justified by the facts found in the award, or whether such facts were correctly determined. The state court considers the case only in terms of the grounds for setting aside the award, which are exhaustively listed in Civil Procedure Code Art. 712.

2. The failure by the arbitration court to reduce a contractual penalty, in violation of Civil Code Art. 484 §2, may constitute justified grounds for setting aside an arbitration award, if the awards results in a resolution that clearly conflicts with principles of social coexistence. An arbitration award assessing a clearly grossly excessive contractual penalty violates such principles.