

**Polish Supreme Court order
dated 29 August 2000
Case No. I CKN 161/00**

Summary by arbitraz.laszczuk.pl:

G. sp. z o.o. filed a timely bid in a limited tender in a public procurement procedure conducted by the Polish customs service. After being notified that another bidder had been selected, G. sp. z o.o. filed a protest, which was dismissed. The bidder sought review by a panel of arbitrators at the Public Procurement Office, which denied the review without a hearing.

The bidder received the decision of the arbitration panel on 15 December 1997, and filed a petition with the district court to set aside the decision by the arbitration panel. The district court set aside the decision by the arbitration panel on the grounds that it should have held a hearing.

On appeal, the regional court set aside the judgment of the district court and dismissed the "statement of claim" because it was filed too late (more than 7 days after service of the decision by the panel of arbitrators). The petition was received by the court on 5 January 1998. The bidder claimed that it had posted the petition on the deadline, 22 December 1997, but otherwise failed to present evidence that the petition was posted prior to the deadline.

On cassation appeal, the Supreme Court agreed that the bidder had failed to prove that it had filed the petition to set aside the decision of the panel of arbitrators before the statutory deadline. The Supreme Court amended the order of the regional court to dismiss the "petition" rather than the "statement of claim," and denied the cassation appeal.

Excerpt from the text of the court's ruling:

If under Art. 87 of the Public Procurement Law the appellate proceeding is governed by the arbitration provisions of the Civil Procedure Code (unless otherwise provided by statute), the petition to set aside must be dismissed if the deadline to file the petition is not met.