

**Polish Supreme Court ruling
dated 24 October 1938
Case No. C II 800/38**

Summary by arbitraz.laszczuk.pl:

The co-owners of the Rudołowice estate appointed arbitrators to conduct a partition of the property. The regional court set aside the award on the grounds that one of the arbitrators appointed by the petitioner had not participated in the session at which the award was issued and that the award exceeded the bounds of the arbitration clause by awarding the respondent a servitude to use for four years a garden solely owned by the petitioner.

The Polish Supreme Court denied the cassation appeal. It found that the arbitrator in question had failed to take part in the final session, at which the award was issued. The award was found to be unclear because no map showing the partition was enclosed with the award. The court also refused to set aside only the portion of the award allegedly beyond the scope of the arbitration clause because the provisions of the award were so interconnected that the court could not distinguish between them without interfering with the merits of the dispute.

Excerpts from the text of the court's ruling:

1. There are grounds for setting aside the arbitration award under Civil Procedure Code Art. 503 §1(4) because the award issued without enclosing the map for partition of the plot was unintelligible, and because it exceeds the bounds of the arbitration clause....

2. The allegation in the cassation appeal that because of exceeding the bounds of the arbitration clause the arbitration award should be set aside only in part cannot be upheld, because all of the orders issued in the given case by the arbitration court are closely interconnected, and they cannot be distinguished without intruding into the consideration of the case on the merits, and the state courts have no authority to review arbitration awards on the merits.