

**Warsaw Court of Appeal judgment
dated 24 September 2014
Case No. I ACa 348/14**

Summary by arbitraz.laszczuk.pl:

In an internet domain name dispute between an entity in Cyprus and a Polish limited-liability company, in May 2012 the parties signed a submission to arbitration before the Arbitration Court for Internet Domain Name Disputes at the Polish Chamber of Information Technology and Telecommunications. The Cypriot entity filed a claim in arbitration against the Polish entity in June 2012. On 13 July 2012 the claimant was notified that a panel of three arbitrators had been appointed, and on 13 September 2012 the claimant was notified that the proceedings were closed. An award was issued on 26 September 2012 denying the claim in its entirety. The award was received by the claimant on 14 November 2012.

The claimant filed a petition with the Warsaw Regional Court to set aside the award, alleging that the award violated fundamental rules of the arbitration court and public policy. Specifically, the rules of the arbitration court provide that the arbitrator "should make all efforts" to close the proceedings within 30 days after accepting appointment, and if not should notify the arbitration court of the status of the case every 14 days, with a copy to the parties, until the case is closed. The rules also provide that the award "should be issued within 10 days from the closing of the proceedings." Here it was undisputed that the proceedings were closed late, i.e. more than 30 days after the arbitrators accepted their appointment, and the award was issued late, i.e. 13 days after the proceedings were closed.

The regional court held that the time limitations for closing the proceedings set forth in the rules of the arbitration court were instructional only, not fundamental, and failure to comply with them was not grounds for setting aside the award. The regional court denied the petition accordingly.

On appeal, the Warsaw Court of Appeal adopted the undisputed factual findings of the regional court and also held that there were no valid grounds for setting aside the award, and denied the appeal accordingly.

Excerpts from the text of the court's ruling:

1. A petition to set aside an arbitration award is an extraordinary measure of judicial review by the state court of the activity of the arbitration court. It is a special legal measure combining the features of extraordinary review (against an arbitration award that is legally final, at least formally) and a claim seeking to modify the legal status brought about by the arbitration award. However, it is not an appellate measure, and the state court reviewing the petition generally will not examine the resolution of the arbitration court on the merits, and in particular will not review whether there is a foundation for the award under the cited facts or whether the facts were properly established.

2. Civil Procedure Code Art. 1206 §1(4) refers to the fundamental rules of procedure before the arbitration court, which should be understood as limiting the possibility to set aside an arbitration award only to those instances which resulted in violation of the principles of a fair trial or procedural violations important enough that they could have influenced the arbitration award, for example violation of the principle of the equality of the parties, or a complete failure to admit evidence. This situation did not occur in the proceeding before the arbitration court, as the objection by the petitioner referred to the arbitrators' failure to comply with the 30-day limit for closing the proceeding in the case, late issuance of the award and service on the petitioner, and failure to comply with informational obligations with respect to the petitioner.

3. Fundamental principles of the legal order should be understood as fundamental constitutional principles concerning the socio-economic system, as well as the leading principles governing specific areas of substantive and procedural law. Thus only norms that are mandatorily binding and to which fundamental importance is ascribed may justify reliance on the public policy clause. This clause is not applied to correct all irregularities and defects in arbitration awards, but should protect the integrity of public policy.